

UNITED NATIONS ENVIRONMENT PROGRAMME

SELECTED  
MULTILATERAL TREATIES  
IN THE FIELD OF THE  
ENVIRONMENT

VOLUME 2

EDITED BY

Iwona Rummel-Bulska

and

Seth Osafo



GROTIUS

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MULTILATERAL TREATIES  
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VOLUME TWO

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# INTRODUCTION

In the last two decades, the evolution of international environmental law has kept pace with the accelerating momentum of international agreements to protect the environment.

A major consequence of the rapid development of international environmental law since the United Nations Conference on Human Environment, held in Stockholm in 1972, is that even specialists may find it difficult to keep abreast with the number of conventions and protocols on environmental protection being adopted at the sub-regional, regional and global levels.

Since 1975, the Governing Council of the United Nations Environment Programme (UNEP), in accordance with its decisions 24(III)/1975, 66(IV)/1976 and UN General Assembly resolution 3456(XXX)/1975, have requested UNEP to keep them informed 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 Governing Council.

In response to these requests, the first Register of International Treaties and Other Agreements in the Field of the Environment was published in 1977. Subsequently the Register was supplemented, updated and submitted to the Governing Council on a yearly and biennial basis, the latest being published in 1991 (UNEP/GC.16/Inf.4). The Register lists relevant conventions, giving the full title, objectives of the agreement, summary of its provisions, entry into force and details concerning signatures and/or ratifications.

In 1982 the need for a comprehensive publication which would provide the full texts as well as the summaries of binding legal instruments in the field of the environment resulted in the publication by UNEP of the first volume of *Selected Multilateral Treaties in the Field of the Environment* (UNEP, Nairobi, 1983). That publication brought together most of the international agreements concerning the protection of the environment, covering conventions, protocols and agreements between more than two States in the period up to 1979.

The first volume has been found useful to participants in meetings and conferences as well as to scholars and students in university libraries or other legal and scientific institutions. For teaching purposes it is useful to have the texts of conventions, protocols and agreements set in an orderly and logical manner together with a comprehensive listing of the parties to the instruments.

Since the first volume was published, a number of important developments have taken place at the regional and global levels, all aimed at protecting and improving the environment. The whole area of environmental protection is rapidly expanding on several fronts, to embrace issues such as atmospheric interference, climatic changes, nuclear accidents, biological diversity and management and movement of hazardous wastes and chemicals.



## INTRODUCTION

Thus, the discovery of the ozone hole over Antarctica galvanized the global community into adopting in 1985 the Vienna Convention for the Protection of the Ozone Layer and two years later the Montreal Protocol on Substances that Deplete the Ozone Layer. The growing menace in later years of traffic and dumping of hazardous wastes in developing countries led the international community to adopt in 1989 the Basle Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

Furthermore, since the publication of the first volume, the Regional Seas Programme, administered by the Oceans and Coastal Areas Programme of UNEP and initiated in 1976 through the adoption of the Convention for the Protection of the Mediterranean Sea against Pollution, has been extended to various regions. So far 23 regional seas conventions and protocols have been adopted under UNEP auspices involving over 100 States and the European Economic Community and with the co-operation of more than 50 international organizations.

The frequent requests received by UNEP from institutions and individuals all over the world for texts of international agreements on the environment made UNEP aware that there was a growing need for publication of the numerous multilateral treaties on the environment that have been adopted since the publication of the first volume.

The present, second volume of *Selected Multilateral Treaties in the Field of the Environment* contains legally binding international instruments adopted in the period between 1979 and 15 December 1990. It further includes a few conventions adopted before 1979 which were not included in the first volume.

Like the first volume, this publication is divided into two parts. The first part provides a summary of the relevant provisions of each convention, including its full official title, date and place of adoption, date of signature and entry into force, contracting parties, languages used and depositary. The second part reproduces the texts of the conventions and their protocols in the same chronological order as the summaries. However, protocols have been reproduced following the text of the convention to which they are related. In the case of a protocol that was adopted after 1979 but is related to a convention reproduced in the first volume, a footnote is provided in the summary to indicate the separation.

As an aid to the reader a classification of the treaties has been added to this volume. This covers conventions and protocols found in this volume as well as in the first volume. The classification divides the legal instruments into comprehensive categories such as biological diversity, marine environment, atmospheric pollution, energy, cultural heritage, working environment, peace and environment, ozone layer protection and toxic and hazardous substances.

For further clarification a chronological index covering both volumes I and II has been included.

The English texts reproduced in this volume are all official with the exception of the Agreement Concerning the Protection of the Waters of the Mediterranean Shores, Monaco, 1976 and the Benelux Convention on

## INTRODUCTION

Nature Conservation and Landscape Protection, Brussels, 1982, which are both translations made by UNEP.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of UNEP concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries.\*

My hopes are that all who work in the field of international environmental protection will find this volume of *Selected Multilateral Treaties in the Field of the Environment* a useful contribution to the global development and implementation of this very important subject that aims to preserve the environment for present and future generations of mankind.

Dr. Iwona Rummel-Bulska  
Chief, Environmental Law and Institutions Unit  
United Nations Environment Programme

*July 1991*

\* In the present publication, references to "China" are to be understood in the light of the UN General Assembly resolution 2758(XXVI)/1971.

**PART 1**

**BASIC DATA**

## EUROPEAN CONVENTION FOR THE PROTECTION OF ANIMALS KEPT FOR FARMING PURPOSES [1]

### Objectives

To protect animals kept for farming purposes, particularly in modern intensive stock farming.

### Provisions

(a) Applies to the keeping, care and housing of animals and in particular to animals in modern intensive stock-farming systems (art. 1);

(b) Animals shall be housed and provided with food, water, care, freedom of movement, lighting, heating, humidity, ventilation and other environmental conditions, having regard to their species and to their degree of development, adaptation and domestication, which are appropriate to their physiological and ethological needs in accordance with established experience and scientific knowledge (arts. 2-7);

(c) A Standing Committee to be set up within a year of the entry into force of the Convention, with responsibility for the drafting and adoption of recommendations to be effective six months after the date of their adoption. Each Party to report on its implementation of the recommendations, or its reasons for not implementing them. If two or more Parties do not implement a recommendation it shall cease to have effect (arts. 8-10).

### Membership

Open for signature by the Member States of the Council of Europe and by the European Economic Community and also subject to ratification, acceptance or approval.

Date of adoption	10. 3.1976
Place of adoption	Strasbourg
Date of entry into force	10. 9.1978
Languages	English, French
Depository	Council of Europe

### Parties and dates of entry into force

Belgium	14. 3.1980
Cyprus	10. 9.1978
Denmark	29. 7.1980
France	10. 9.1978
Germany, Federal Republic of	10. 9.1978
Greece	13. 5.1985
Iceland	20. 3.1990
Ireland	8.10.1986
Italy	8. 8.1986
Luxembourg	20. 7.1979
Netherlands	22.10.1981
Norway	26. 8.1980
Portugal	21.10.1982
Spain	6.11.1988
Sweden	10. 9.1978
Switzerland	25. 3.1981
United Kingdom of Great Britain and Northern Ireland	9. 7.1979
European Economic Community	19. 4.1989

## AGREEMENT CONCERNING THE PROTECTION OF THE WATERS OF THE MEDITERRANEAN SHORES [2]

### Objectives

To maintain co-operation between the three coastal States in preventing pollution and improving the quality of the waters of the Mediterranean shores, in the coastal region between longitude 6°7' east and longitude 9°8' east.

### Provisions

(a) An international commission established (arts. 1 and 2);

(b) The commission to be responsible for research into the nature, importance and sources of pollution, and to propose measures to the Parties to protect the waters of the Mediterranean shores (art. 3);

(c) The commission to establish relations as necessary with other organizations concerned with water pollution (art. 9).

### Membership

Restricted to the three coastal States.

Date of adoption	10. 5.1976
Place of adoption	Monaco
Date of entry into force	1. 1.1981
Languages	French, Italian
Depository	Monaco

### Parties and dates of entry into force

France	1. 1.1981
Italy	1. 1.1981
Monaco	1. 1.1981

## CONVENTION ON THE PROTECTION OF THE RHINE AGAINST POLLUTION BY CHLORIDES [3]

### Objectives

To protect the Rhine against chloride pollution with the purpose of ameliorating water standards.

### Provisions

(a) The discharge of chlorides into the Rhine shall be reduced by an annual average of at least 60 kilograms (art. 2). Annex I gives details concerning an installation for subsoil disposal to be built by the French Government and funded jointly;

(b) The Parties to take the necessary steps to avoid a rise in the amount of chloride ions discharged into the catchment area of the Rhine. Each Party shall provide the International Commission for the Protection of the Rhine against Pollution with an annual report on concentrations of chloride ions in the Rhine water (art. 3). Annex II gives permissible concentrations of chloride ions from discharges of over 1 kilogram in certain sections of the Rhine;

(c) The International Commission, within four years of the entry into force of the Convention, to submit to the Parties proposals for the gradual reduction of concentrations of chloride ions along the entire course of the Rhine (art. 6);

(d) If a Party notes a sudden rise in the amount of chloride ions in the water of the Rhine, or learns of an accident likely seriously to endanger the quality of the water, it shall immediately inform the International Commission and Parties that may be affected (art. 11).

### Membership

Restricted to the Contracting Parties.

Date of adoption	3.12.1976
Place of adoption	Bonn
Date of entry into force	5. 7.1985
Languages	Dutch, French, German
Depository	Switzerland

### Parties and dates of entry into force

France	5. 7.1985
Germany, Federal Republic of	5. 7.1985
Luxembourg	5. 7.1985
Netherlands	5. 7.1985
Switzerland	5. 7.1985

## CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES\* [4]

### Objectives

To promote the conservation and optimum utilization of the fishery resources of the North-West Atlantic area within a framework appropriate to the regime of extended coastal State jurisdiction over fisheries, and accordingly to encourage international co-operation and consultation with respect to these resources.

### Provisions

(a) The Convention to apply to all fishery resources within the Convention Area defined in article I. Regulatory Area is also defined in article I;

(b) The Parties to establish and maintain an international organization, the North-West Atlantic Fisheries Organization, whose object shall be to contribute through consultation and co-operation to the optimum utilization, rational management and conservation of the fishery resources of the Convention Area (art. II);

(c) The Organization shall consist of a General Council, a Scientific Council, a Fisheries Commission and a Secretariat (art. II);

(d) The functions of the General Council shall consist *inter alia* of supervising and co-ordinating the financial and other internal affairs of the Organization, including the relations among its constituent bodies and its external relations, and reviewing and determining the membership of the Fisheries Commission (art. III);

(e) The functions of the Scientific Council shall generally consist of providing a forum for consultation and co-operation among Parties with respect to the study, appraisal and exchange of scientific information and views relating to the Convention Area (art. VI);

(f) The Fisheries Commission shall be responsible *inter alia* for the management and conservation of the fishery resources of the Regulatory Area (art. XI(1));

(g) The Secretariat shall *inter alia* provide services to the Organization in the exercise of its duties and functions (art. XV).

### Membership

Open for ratification, acceptance or approval by the Signatories represented at the Diplomatic Conference on the Future of Multilateral Co-operation in the North-West Atlantic Fisheries. Also open for adhesion.

Date of adoption	24.10.1978
Place of adoption	Ottawa

\* Supersedes the International Convention for the North-West Atlantic Fisheries (Washington, 8.2.1949), which was terminated on 2.8.1979.

Date of entry into force	1. 1.1979
Language	English
Depository	Canada

**Parties and dates of entry into force**

Bulgaria	6. 6.1979
Canada	1. 1.1979
Cuba	1. 1.1979
Denmark**	22. 5.1979
German Democratic Republic	1. 1.1979
Iceland	1. 1.1979
Japan	4. 1.1980
Norway	1. 1.1979
Poland	6.11.1979
Portugal	25. 5.1979
Romania	5. 3.1979
Union of Soviet Socialist Republics	1. 1.1979
European Economic Community	1. 1.1979

**EUROPEAN CONVENTION FOR THE PROTECTION OF ANIMALS FOR SLAUGHTER [5]****Objectives**

To ensure the protection of animals which are to be slaughtered.

**Provisions**

(a) Applies to the movement, lairaging, restraint, stunning and slaughter of domestic solipeds, pigs, rabbits and poultry (art. 1);

(b) Each Contracting Party to ensure that the design, construction, facilities and operation of slaughterhouses are such as to ensure that the provisions of the Convention are complied with in order to spare animals any avoidable excitement, pain or suffering (art. 2);

(c) The Convention deals specifically with the delivery of animals to slaughterhouses and their lairaging until they are slaughtered (art. 3); the moving of animals within the precincts of slaughterhouses (arts. 4-6); and their lairaging (art. 7), care (arts. 8 and 9) and slaughtering (arts. 12-19).

**Membership**

Open for signature by Member States of the Council of Europe and by the European Economic Community, and also subject to ratification, acceptance or approval.

Date of adoption	10. 5.1979
Place of adoption	Strasbourg
Date of entry into force	11. 6.1982
Languages	English, French
Depository	Council of Europe

**Parties and dates of entry into force**

Denmark	11. 6.1982
Germany, Federal Republic of	25. 8.1984
Greece	13. 5.1985
Ireland	11. 6.1982
Italy	8. 8.1986
Luxembourg	11. 6.1982
Netherlands*	28.12.1986
Norway	13.11.1982
Portugal	11. 6.1982
Sweden	27. 8.1982

\*\* Extended to the Faeroe Islands.

\* For all parts of the Kingdom.

## CONVENTION FOR THE CONSERVATION AND MANAGEMENT OF THE VICUNA [6]

### Objectives

To continue to promote the conservation and management of the vicuna.

### Provisions

(a) The signatory Governments to place the vicuna under strict State control, applying such technical methods of wildlife management as the competent official authorities may determine (art. 1);

(b) The hunting of and illegal trade in the vicuna, its products and derivatives to be prohibited within the territory of the signatory Governments (art. 2);

(c) The export of fertile vicuna semen or other reproductive material to be prohibited, except to member countries for research and/or repopulation (art. 4);

(d) National parks, reserves and other protected areas to be maintained and areas of repopulation managed as wildland areas, and be extended as a matter of priority under State control (art. 5);

(e) Continued comprehensive research on the vicuna agreed upon, as well as an active interchange of information through a multinational Documentation Centre (art. 6);

(f) Technical assistance for management and repopulation, including training of personnel, dissemination and extension of activities aimed at the conservation and management of the vicuna, is agreed to (art. 7);

(g) A Technical Administrative Commission created (art. 8).

### Membership

Open for signature by Argentina, and for ratification by Bolivia, Chile, Ecuador and Peru. The Convention is not open for accession by any other countries due to its specific nature.

Date of adoption	20.12.1979
Place of adoption	Lima
Date of entry into force	20.12.1979 (provisional) 19. 3.1982 (definitive)
Date of expiration	31.12.1989
Language	Spanish
Depositary	Peru

### Parties and dates of entry into force

Bolivia	19. 3.1982
Chile	19. 3.1982
Ecuador	7. 5.1982
Peru	19. 3.1982

## CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL [7]

### Objectives

To facilitate the safe transfer of nuclear material and to establish effective measures for its physical protection.

### Provisions

The Parties undertake:

(a) To ensure that during international nuclear transport, nuclear material within their territories, or on board a ship or aircraft under their jurisdiction, is protected at the levels described in Annex 1 (art. 3);

(b) Not to export nuclear material unless they have received assurances that such material will be protected during the international transport (art. 4(1));

(c) Not to import nuclear material from a State not a Party to this Convention unless they have received assurances that such material will during the international nuclear transport be protected (art. 4(2));

(d) Not to allow the transit of their territories by land or internal waterways or through their airports or seaports of nuclear material between States that are not Parties to this Convention unless they have received assurances that this nuclear material will be protected during international nuclear transport (art. 4(3)).

### Membership

The Convention is open to all States, international organizations and regional organizations. The instruments of ratification, acceptance, approval or accession shall be deposited with the Director General of the International Atomic Energy Agency.

Date of adoption	3. 3.1980
Place of adoption	Vienna and New York
Date of entry into force	8. 2.1987
Languages	Arabic, Chinese, English, French, Russian, Spanish
Depositary	International Atomic Energy Agency

### Parties and dates of entry into force

Argentina	6. 5.1989
Australia	22.10.1987
Austria	21. 1.1989
Brazil	8. 2.1987
Bulgaria	8. 2.1987
Canada	8. 2.1987
China	7. 2.1989
Czechoslovakia	8. 2.1987
Finland	22.10.1989
German Democratic Republic	8. 2.1987
Guatemala	8. 2.1987
Hungary	8. 2.1987
Indonesia	8. 2.1987

Japan	27.11.1988
Korea, Republic of	8. 2.1987
Liechtenstein	8. 2.1987
Mexico	4. 5.1988
Mongolia	8. 2.1987
Norway	8. 2.1987
Paraguay	8. 2.1987
Philippines	8. 2.1987
Poland	8. 2.1987
Sweden	8. 2.1987
Switzerland	8. 2.1987
Turkey	8. 2.1987
Union of Soviet Socialist Republics	8. 2.1987
United States of America	8. 2.1987
Yugoslavia	8. 2.1987

## PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES\* [8]

### Objectives

To prevent, abate, combat and control pollution of the Mediterranean Sea area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources within their territories.

### Provisions

(a) Parties to establish programmes and measures, particularly including emission standards and standards for using and discharging substances listed in Annexes I and II or wastes containing such substances (arts. 5-7);

(b) Parties to carry out activities to assess the levels of pollution along their coasts and to evaluate the effects of measures taken under the Protocol;

(c) Parties to co-operate as far as possible in scientific and technological fields (arts. 9 and 10) as well as in the case of conflicts (arts. 11 and 12);

(d) Parties to convene ordinary and extraordinary meetings to review the implementation of the Protocol and consider the efficacy of the measures adopted and the advisability of any other measures (art. 14).

### Membership

Open to any State invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea Against Pollution from Land-based Sources held in Athens from 12 to 17 May 1980, to the European Economic Community and to any similar regional economic grouping of which at least one Member is a coastal State of the Mediterranean Sea area and which exercises competence in fields covered by the Protocol. Instruments of ratification, acceptance or approval to be deposited with the Government of Spain.

Date of adoption	17. 5.1980
Place of adoption	Athens
Date of entry into force	17. 6.1983
Languages	Arabic, English, French, Spanish
Depositary	Spain

### Parties and dates of entry into force

Albania	29. 6.1990
Algeria	17. 6.1983
Cyprus	25. 7.1983
Egypt	17. 6.1983
France**	17. 6.1983
Greece	25. 2.1987
Italy	3. 8.1985

\* To the Convention for the Protection of the Mediterranean Sea Against Pollution, Barcelona, 1976.

\*\* With a reservation.



Libyan Arab Jamahiriya	5. 7.1989
Malta	31. 3.1989
Monaco	17. 6.1983
Morocco	11. 3.1987
Spain	5. 7.1984
Tunisia	17. 6.1983
Turkey	17. 6.1983
Yugoslavia	16. 4.1990
European Economic Community	5.11.1983

## CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES [9]

### Objectives

To safeguard the environment and protect the integrity of the ecosystem of the seas surrounding Antarctica, and to conserve Antarctic marine living resources.

### Provisions

A Commission for the Conservation of Antarctic Marine Living Resources established, with the following functions:

- (a) To facilitate research into and comprehensive studies of Antarctic marine living resources and the Antarctic marine ecosystem;
- (b) To compile data on the status of and changes in populations of Antarctic marine living resources, and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;
- (c) To ensure the acquisition of catch and effort statistics on harvested populations;
- (d) To analyse, disseminate and publish the information referred to in subparagraphs (b) and (c) above, and the reports of the Scientific Committee;
- (e) To identify conservation needs and analyse the effectiveness of conservation measures;
- (f) To formulate, adopt and revise conservation measures on the basis of the best scientific evidence available;
- (g) To implement a system of observation and inspection,
- (h) To carry out such other activities as are necessary to fulfil the objectives of the Convention.

### Membership

Open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which the Convention applies, and by regional economic integration organizations which include among their Members one or more States Members of the Commission and to which the States Members of the organization have transferred, in whole or in part, competence with regard to the matters covered by the Convention.

Date of adoption	20. 5.1980
Place of adoption	Canberra
Date of entry into force	7. 4.1982
Languages	English, French, Russian, Spanish
Depositary	Australia

### Parties and dates of entry into force

Argentina	27. 6.1982
Australia	7. 4.1982
Belgium	23. 3.1984
Brazil	27. 2.1986

Canada	30. 7.1988
Chile	7. 4.1982
Finland	6.10.1989
France	16.10.1982
German Democratic Republic	7. 4.1982
Germany, Federal Republic of	23. 5.1982
Greece	14. 3.1987
India	17. 7.1985
Italy	28. 4.1989
Japan	7. 4.1982
Korea, Republic of	28. 4.1985
Netherlands	25. 3.1990
New Zealand	7. 4.1982
Norway	5. 1.1984
Peru	23. 7.1989
Poland	27. 4.1984
South Africa	7. 4.1982
Spain	9. 5.1984
Sweden	6. 7.1984
Union of Soviet Socialist Republics	7. 4.1982
United Kingdom of Great Britain and Northern Ireland	7. 4.1982
United States of America	7. 4.1982
Uruguay	21. 4.1984
European Economic Community	21. 5.1982

## EUROPEAN OUTLINE CONVENTION ON TRANSFRONTIER CO-OPERATION BETWEEN TERRITORIAL COMMUNITIES OR AUTHORITIES [10]

### Objectives

To facilitate and foster transfrontier co-operation between territorial communities or authorities of each Contracting Party.

### Provisions

The Parties shall:

(a) Endeavour to promote the conclusion of agreements and arrangements that may prove necessary for the purpose of transfrontier co-operation, with due regard to constitutional provisions of each Party;

(b) Encourage any initiative by territorial communities and authorities inspired by the outline arrangements between territorial communities and authorities drawn up in the Council of Europe, which may be based on model agreements, statutes and contracts appended to the Convention;

(c) Endeavour to resolve any legal, administrative or technical difficulties liable to hamper the development and smooth running of transfrontier co-operation, and consult with other Contracting Parties concerned to the extent required;

(d) Supply information to the fullest possible extent to other Contracting Parties, on request;

(e) Inform the territorial communities or authorities concerned of the means of action open to them under this Convention.

### Membership

Open for signature by the Member States of the Council of Europe. The Committee of Ministers of the Council of Europe may decide unanimously to invite any European non-Member State to accede to the Convention.

Date of adoption	21. 5.1980
Place of adoption	Madrid
Date of entry into force	22.12.1981
Languages	English, French
Depositary	Council of Europe

### Parties and dates of entry into force

Austria	19. 1.1983
Belgium	7. 7.1987
Denmark	22.12.1981
France	15. 5.1984
Germany, Federal Republic of	22.12.1981
Ireland	4. 2.1983
Italy	30. 6.1985
Liechtenstein	27. 4.1984
Luxembourg	1. 7.1983
Netherlands	27. 1.1982
Norway	22.12.1981
Portugal	11. 4.1989

Spain  
Sweden  
Switzerland

25.11.1990  
22.12.1981  
4. 6.1982

## CONVENTION ON FUTURE MULTILATERAL CO-OPERATION IN NORTH-EAST ATLANTIC FISHERIES\* [11]

### Objectives

To promote the conservation and optimum utilization of the fishery resources of the North-East Atlantic area within a framework appropriate to the regime of extended coastal State jurisdiction over fisheries, and accordingly to encourage international co-operation and consultation with respect to these resources.

### Provisions

(a) The Convention to apply to all fishery resources within the Convention area defined in article 1, with the exception of sea mammals and sedentary species;

(b) The Parties to establish and maintain a North-East Atlantic Fisheries Commission. The Commission may set up such committees and other subsidiary bodies as it considers desirable for the exercise of its duties and funding (art. 3);

(c) The Commission shall perform its functions in the interests of the conservation and optimum utilization of the fisheries resources of the Convention area, and shall take into account the best scientific evidence available to it. It shall also provide a forum for consultation and the exchange of information on the state of fisheries resources in the Convention area and on management policies (art. 4);

(d) The Commission shall make recommendations concerning fisheries conducted beyond the areas under the fisheries jurisdiction of the Contracting Parties (art. 5). It may make recommendations and give advice concerning fisheries conducted within an area under the fisheries jurisdiction of a Contracting Party if the Contracting Party in question so requests (art. 6);

(e) The Commission may by a qualified majority make recommendations concerning measures of control relating to fisheries (art. 8).

### Membership

Open for signature by the following States: Bulgaria, Cuba, Denmark in respect of the Faeroe Islands, the European Economic Community, Finland, German Democratic Republic, Iceland, Norway, Poland, Portugal, Spain, Sweden and USSR. Any State not appearing in the list, other than a Member State of the European Economic Community, may accede to the Convention at any time after it has entered into force, provided that an application for the accession of that State meets with the approval of three-quarters of all the Contracting Parties.

Date of adoption	18.11.1980
Place of adoption	London
Date of entry into force	17. 3.1982

\* Supersedes the North-East Atlantic Fisheries Convention (London, 24 January 1959).

Languages English, French  
 Depository United Kingdom of Great  
 Britain and Northern Ireland

#### Parties and dates of entry into force

Bulgaria	24. 7.1984
Denmark (for Faeroe Islands)**	17. 3.1982
German Democratic Republic	17. 3.1982
Iceland	17. 3.1982
Norway	17. 3.1982
Poland	2.11.1984
Portugal	29. 6.1983
Spain	9. 3.1984
Sweden	17. 3.1982
Union of Soviet Socialist Republics	17. 3.1982
European Economic Community	17. 3.1982

### CONVENTION CREATING THE NIGER BASIN AUTHORITY\* [12]

#### Objectives

To transform the River Niger Commission into a Niger Basin Authority.

#### Provisions

(a) The River Niger Commission converted into a Niger Basin Authority (art. 1), the riparian States of the Niger River, its tributaries and sub-tributaries, which are signatories of the Convention, to be members of the Authority (art. 2);

(b) The functions of the Authority to include harmonization and co-ordination of national development policies, in order to ensure an equitable policy as regards sharing of the water resources among Member States, formulation, in agreement with the Member States, of a general policy for the development of the Basin which shall be consistent with its international status, preparation and implementation of an integrated development plan for the Basin, initiation and monitoring of an orderly and rational regional policy for the utilization of surface and underground waters in the Basin, design and conduct of studies, research and surveys, formulation of plans, construction, exploitation and maintenance of structures and projects in keeping with the general objectives of integrated development of the Basin (art. 4).

#### Membership

Restricted to the riparian Signatory States.

Date of adoption	21.11.1980
Place of adoption	Faranah
Date of entry into force	3.12.1982
Languages	English, French
Depository	Niger

#### Parties and dates of entry into force

Benin	3.12.1982
Burkina Faso	3.12.1982
Cameroon	3.12.1982
Chad	3.12.1982
Côte d'Ivoire	3.12.1982
Guinea	3.12.1982
Mali	3.12.1982
Niger	3.12.1982
Nigeria	3.12.1982

\*\* Also in respect of Greenland with effect from 31.1.1985, the date on which Greenland ceased to be part of the European Economic Community.

\* The Convention supersedes the Agreement signed in Niamey on 25 November 1964, as amended in Niamey on 2 February 1968 and 15 June 1973, and in Lagos on 26 January 1979.

### PROTOCOL RELATING TO THE DEVELOPMENT FUND OF THE NIGER BASIN [13]

#### Objectives

To create a Development Fund to contribute to the development of the Niger Basin.

#### Provisions

(a) Establishment of a Development Fund to contribute to the development of the Basin (art. 1), the Fund to obtain resources from contributions from Member States, external resources, gifts and grants, trust funds and any income from the Fund's operations (art. 3);

(b) The Fund's functions to include collection of financial resources necessary for achievement of the objectives of the Authority, and the guaranteeing of loans for the implementation of projects (art. 2).

#### Membership

Open to Members of the Convention Creating the Niger Basin Authority.

Date of adoption	21.11.1980
Place of adoption	Faranah
Date of entry into force	3.12.1982
Languages	English, French
Depositary	Niger

#### Parties and dates of entry into force

Benin	3.12.1982
Burkina Faso	3.12.1982
Cameroon	3.12.1982
Chad	3.12.1982
Côte d'Ivoire	3.12.1982
Guinea	3.12.1982
Mali	3.12.1982
Niger	3.12.1982
Nigeria	3.12.1982

### CONVENTION FOR CO-OPERATION IN THE PROTECTION AND DEVELOPMENT OF THE MARINE AND COASTAL ENVIRONMENT OF THE WEST AND CENTRAL AFRICAN REGION [14]

#### Objectives

To protect the marine environment, coastal zones and related internal waters falling within the jurisdiction of the States of the West and Central African region.

#### Provisions

The Parties shall:

(a) Take all necessary measures to prevent, reduce, combat and control pollution of the Convention area (art. 4), particularly pollution from ships and aircraft (arts. 5 and 6), land-based sources (art. 7), activities relating to exploration and exploitation of the seabed (art. 8) and pollution from or through the atmosphere (art. 9);

(b) Prevent, reduce, combat and control coastal erosion (art. 10);

(c) Protect and preserve rare or fragile ecosystems, as well as the habitat of depleted, threatened or endangered species and other marine life in specially protected areas (art. 11);

(d) Co-operate in dealing with pollution emergencies in the Convention area (art. 12), and in exchanging data and other scientific information (art. 14);

(e) Develop technical and other guidelines regarding environmental impact assessment of their development projects (art. 13);

(f) Establish rules and procedures for the determination of liability and the payment of adequate and prompt compensation for pollution damage of the Convention area (art. 15).

#### Membership

Since 23 June 1981, the Convention is open for accession by any coastal or island State from Mauritania to Namibia inclusive, on condition that the State also becomes a Party to at least one of its related Protocols. After the entry into force of the Convention, any other African State may accede to the Convention subject to the same condition. The instruments of ratification, acceptance, approval or accession must be deposited with the Government of the Côte d'Ivoire.

Date of adoption	23. 3.1981
Place of adoption	Abidjan
Date of entry into force	5. 8.1984
Languages	English, French, Spanish
Depositary	Côte d'Ivoire

#### Parties and dates of entry into force

Cameroon	5. 8.1984
Congo	19. 2.1988

Côte d'Ivoire  
 Gabon  
 Gambia  
 Ghana  
 Guinea  
 Nigeria  
 Senegal  
 Togo

5. 8.1984  
 11. 2.1989  
 5. 2.1985  
 18. 9.1989  
 5. 8.1984  
 5. 8.1984  
 5. 8.1984  
 5. 8.1984

## PROTOCOL CONCERNING CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY\* [15]

### Objectives

To protect the marine environment, the coastal zones and the related internal waters falling within the jurisdiction of the States of the West and Central African region against pollution in cases of emergency.

### Provisions

The Parties shall:

(a) Co-operate in all matters relating to the protection of their respective coastline and related interests from the threat and effects of pollution resulting from marine emergencies, especially by exchanging relevant information (arts. 4, 5, 6, 7, 8 and 10);

(b) Assist each other, on demand, in cases of marine emergencies (art. 8);

(c) Endeavour to maintain and promote marine emergency contingency plans (art. 9), and take appropriate measures to prevent, reduce, combat and control the effects of pollution, including surveillance and monitoring of marine emergencies (art. 10).

### Membership

Restricted to States which are Parties to the Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region. The instruments of ratification, acceptance, approval or accession must be deposited with the Government of the Côte d'Ivoire.

Date of adoption	23. 3.1981
Place of adoption	Abidjan
Date of entry into force	5. 8.1984
Languages	English, French, Spanish
Depositary	Côte d'Ivoire

### Parties and dates of entry into force

Cameroon	5. 8.1984
Congo	19. 2.1988
Côte d'Ivoire	5. 8.1984
Gabon	11. 2.1989
Gambia	5. 2.1985
Ghana	18. 9.1989
Guinea	5. 8.1984
Nigeria	5. 8.1984
Senegal	5. 8.1984
Togo	5. 8.1984

\* To the Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region.

## CONVENTION CONCERNING OCCUPATIONAL SAFETY AND HEALTH AND THE WORKING ENVIRONMENT [16]

### Objectives

To prevent accidents and injury to health by minimizing the causes of hazards inherent in the working environment.

### Provisions

(a) Each Member to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment (art. 4(1));

(b) The policy referred to in article 4 of this Convention to indicate the respective functions and responsibilities in respect of occupational safety and health and the working environment of public authorities, employers, workers and others (art. 6);

(c) Each Member to review the situation regarding occupational safety and health and the working environment at appropriate intervals, with a view to identifying major problems, evolving effective methods for dealing with them and priorities of action, and evaluating results (art. 7);

(d) Members to take such steps as may be necessary to give effect to article 4 of this Convention (art. 8);

(e) The enforcement of laws and regulations concerning occupational safety and health and the working environment to be secured by an adequate and appropriate system of inspection (art. 9(1));

(f) The enforcement system to provide for adequate penalties for violations of the laws and regulations (art. 9(2)).

### Membership

Open for ratification to all States Members of the International Labour Organization. Instruments of ratification to be deposited with the Director-General of the International Labour Office.

Date of adoption	22. 6.1981
Place of adoption	Geneva
Date of entry into force	11. 8.1983
Languages	English, French
Depository	International Labour Office

### Parties and dates of entry into force

Cuba	7. 9.1983
Cyprus	16. 1.1990
Czechoslovakia	2.12.1989
Finland	24. 4.1986
Mexico	1. 2.1985
Norway	22. 6.1983
Portugal	28. 5.1986
Spain	11. 9.1986
Sweden	11. 8.1983
Uruguay	5. 9.1989
Venezuela	25. 6.1985
Yugoslavia	15.12.1988

## CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AND COASTAL AREA OF THE SOUTH-EAST PACIFIC [17]

### Objectives

To protect the marine environment and coastal zones of the south-east Pacific within the 200-mile area of maritime sovereignty and jurisdiction of the Parties, and beyond that area, the high seas up to a distance within which pollution of the high seas may affect that area.

### Provisions

The Parties agree to:

(a) Take all necessary measures to prevent, reduce and control pollution of the Convention area (art. 3), particularly pollution from land-based sources, from or through the atmosphere, from vessels and from any other installations and devices operating in the marine environment (art. 4);

(b) Prevent, reduce, combat and control coastal erosion (art. 10);

(c) Co-operate in dealing with pollution emergencies in the Convention area (art. 6), and in exchanging data and other scientific information (arts. 9 and 10);

(d) Co-operate in establishing programmes for monitoring pollution and assessing environmental impacts in the area (arts. 7 and 8);

(e) Establish rules and procedures for the determination of civil liability and compensation for damage resulting from pollution of the environment and coastal area (art. 11);

(f) Convene ordinary and extraordinary meetings, within the framework of the Permanent Commission for the South Pacific (CPPS), for reviewing the implementation of the Convention (art. 12);

(g) Designate the Permanent Commission for the South Pacific to discharge Secretariat functions under the Convention (art. 13).

### Membership

Open to States bordering the south-east Pacific.

Date of adoption	12.11.1981
Place of adoption	Lima
Date of entry into force	19. 5.1986
Language	Spanish
Depository	Permanent Commission for the South Pacific

### Parties and dates of entry into force

Chile	19. 5.1986
Colombia	19. 5.1986
Ecuador	19. 5.1986
Panama	21. 9.1986
Peru	25. 2.1989

**AGREEMENT ON REGIONAL  
CO-OPERATION IN COMBATING  
POLLUTION OF THE SOUTH-EAST  
PACIFIC BY HYDROCARBONS OR  
OTHER HARMFUL SUBSTANCES IN  
CASES OF EMERGENCY [18]**

**Objectives**

To protect the coastal States and marine ecosystem against pollution of the south-east Pacific by oil and other harmful substances in cases of emergency.

**Provisions**

(a) The Parties to combine their efforts in taking the necessary measures to neutralize or control harmful effects when the marine environment is threatened (art. I);

(b) The Parties to maintain and promote their contingency plans and programmes aimed at combating marine pollution by oil and other harmful substances (art. IV);

(c) The Parties to carry out monitoring activities (art. V) and co-operate in salvaging harmful substances (art. VI);

(d) The Parties to exchange information regarding their competent national authorities for combating pollution, assistance programmes or measures to combat pollution and the development of related research programmes (art. VII);

(e) The Parties to co-ordinate the use of their means of communication and issue instructions for the captains of ships and the pilots of aircraft to report, on the basis of the guidelines contained in the annex to the Agreement, the presence, characteristics and extent of oil slicks and other harmful substances observed in the area (art. IX);

(f) Parties faced with an emergency to make the necessary assessment, adopt all appropriate measures to avert or reduce the effects of the pollution, inform all other Parties involved and report thereon (art. X);

(g) The Parties designate the Permanent Commission for the South Pacific as Secretariat for the Agreement (art. XIII).

**Membership**

Open to States bordering the south-east Pacific.

Date of adoption	12.11.1981
Place of adoption	Lima
Date of entry into force	14. 7.1986
Language	Spanish
Depository	Permanent Commission for the South Pacific

**Parties and dates of entry into force**

Chile	14. 7.1986
Colombia	14. 7.1986
Ecuador	14. 7.1986
Panama	21. 9.1986
Peru	18. 4.1989

**SUPPLEMENTARY PROTOCOL TO  
THE AGREEMENT ON REGIONAL  
CO-OPERATION IN COMBATING  
POLLUTION OF THE SOUTH-EAST  
PACIFIC BY HYDROCARBONS OR  
OTHER HARMFUL SUBSTANCES [19]**

**Objectives**

To protect the marine environment of the south-east Pacific area against pollution by oil and other harmful substances in cases of emergency.

**Provisions**

(a) Parties to designate national authorities competent to provide or request assistance in cases of emergency, and to undertake an inventory of the available technical equipment and procedures to combat pollution (art. I);

(b) Parties to specify elements of the national contingency plans under article IV of the Agreement (art. II);

(c) Parties to undertake regular training programmes (art. III).

**Membership**

Open for accession by any coastal State of the south-east Pacific. Instruments of accession to be deposited with the Secretariat of the Permanent Commission for the South Pacific.

Date of adoption	22. 7.1983
Place of adoption	Quito
Date of entry into force	20. 5.1987
Language	Spanish
Depository	Permanent Commission for the South Pacific

**Parties and dates of entry into force**

Chile	20. 5.1987
Colombia	20. 5.1987
Ecuador	11. 1.1988
Panama	20. 5.1987
Peru	18. 4.1989



## PROTOCOL FOR THE PROTECTION OF THE SOUTH-EAST PACIFIC AGAINST POLLUTION FROM LAND-BASED SOURCES [20]

### Objectives

To prevent, abate, combat and control pollution of the south-east Pacific area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources within the territories of the coastal States.

### Provisions

(a) Parties to establish programmes and measures, particularly including emission standards and standards for using and discharging substances listed in Annexes I and II or wastes containing such substances (arts. 3-6);

(b) Parties to carry out activities to assess the levels of pollution along their coasts and to evaluate the effects of measures taken under the Protocol (art. 8);

(c) Parties to co-operate in scientific and technological fields (arts. 7 and 10), the exchange of information and consultations (arts. 9 and 12);

(d) Parties to convene, within the framework of the Permanent Commission for the South Pacific (CPPS), ordinary and extraordinary meetings for considering the implementation of the Protocol, the efficacy of the measures adopted and the need for amendments (art. 5).

### Membership

Open for accession by any coastal State of the south-east Pacific. Instruments of accession to be deposited with the Secretariat of the Permanent Commission for the South Pacific.

Date of adoption	23. 7.1983
Place of adoption	Quito
Date of entry into force	23. 9.1986
Language	Spanish
Depositary	Permanent Commission for the South Pacific

### Parties and dates of entry into force

Chile	23. 9.1986
Colombia	23. 9.1986
Ecuador	11. 1.1988
Panama	23. 9.1986
Peru	25. 2.1989

## REGIONAL CONVENTION FOR THE CONSERVATION OF THE RED SEA AND GULF OF ADEN ENVIRONMENT [21]

### Objectives

To ensure rational human use of living and non-living marine and coastal resources in a manner ensuring optimum benefit for the present generation, at the same time maintaining the potential of that environment to satisfy the needs and aspirations of future generations.

### Provisions

(a) The Contracting Parties to co-operate in the formulation of Protocols to implement the Convention, establish national standards, laws and regulations, endeavour to harmonize their national policies and co-operate with the competent international, regional and subregional organizations to establish and adopt regional standards and recommended practices and procedures (art. III);

(b) The Contracting Parties to prevent, abate and combat pollution from ships (art. IV), pollution caused by dumping from ships and aircraft (art. V), pollution from land-based sources (art. VI), pollution resulting from exploration and exploitation of the bed of the territorial sea, the continental shelf and the subsoil thereof (art. VII) and pollution from other human activities (art. VIII);

(c) The Contracting Parties to co-operate in dealing with pollution emergencies (art. IX), in the fields of science and technology (art. X) and in the formulation and adoption of rules regarding civil liability and compensation for pollution damage (art. XIII);

(d) A Regional Organization for the Conservation of the Red Sea and Gulf of Aden Environment established (art. XVI), to consist of the following organs:

- A Council comprised of a representative of each Contracting Party,
- A General Secretariat,
- A Committee for Settlement of Disputes.

### Membership

Open for signature, ratification, acceptance, approval or accession by Governments invited to the Jeddah Regional Conference of Plenipotentiaries on the Conservation of the Marine Environment and Coastal Areas in the Red Sea and Gulf of Aden convened from 13 to 15 February 1982.

Any Party which has ratified, accepted, approved or acceded to the Convention is deemed to have ratified, accepted, approved or acceded to the Protocol, and any State Member of the Arab League has a right of accession to the Convention.

Date of adoption	14. 2.1982
Place of adoption	Jeddah
Date of entry into force	20. 8.1985
Language	Arabic
Depositary	Saudi Arabia

**Parties and dates of entry into force**

Egypt	20. 8.1990
Jordan	7. 2.1989
Palestine, represented by the Palestine Liberation Organization	20. 8.1985
Saudi Arabia	20. 8.1985
Somalia	30. 5.1988
Sudan	20. 8.1985
Yemen	20. 8.1985

**PROTOCOL CONCERNING REGIONAL  
CO-OPERATION IN COMBATING  
POLLUTION BY OIL AND OTHER  
HARMFUL SUBSTANCES IN CASES OF  
EMERGENCY\* [22]**

**Objectives**

To enhance measures for responding to pollution emergencies on a national and regional basis.

**Provisions**

(a) The Contracting Parties to co-operate in combating pollution by oil or other harmful substances and to maintain and promote contingency plans (arts. II and X);

(b) The Contracting Parties to establish a Marine Emergency Mutual Aid Centre, which shall collect and disseminate to them information concerning matters covered by the Protocol, and assist them in the preparation of laws and regulations, contingency plans and transport procedures, in the transmission of reports concerning marine emergencies and in promoting as well as developing training programmes for combating pollution (art. III);

(c) Any Contracting Party needing assistance in a marine emergency may request it directly from any other Contracting Party or through the Centre (art. XI);

(d) Each Contracting Party to establish and maintain an appropriate authority to fulfil its obligations (art. XII);

(e) The Contracting Parties shall co-operate under the Protocol by exchanging relevant information (arts. V, VI, VII and VIII).

**Membership**

Any State which is entitled to become a Party to the Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment is automatically entitled to become a Party to this Protocol.

Date of adoption	14. 2.1982
Place of adoption	Jeddah
Date of entry into force	20. 8.1985
Language	Arabic
Depositary	Saudi Arabia

**Parties and dates of entry into force**

Egypt	20. 8.1990
Jordan	7. 2.1989
Palestine, represented by the Palestine Liberation Organization	20. 8.1985
Saudi Arabia	20. 8.1985
Somalia	30. 5.1988
Sudan	20. 8.1985
Yemen	20. 8.1985

\* To the Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment.

## PROTOCOL CONCERNING MEDITERRANEAN SPECIALLY PROTECTED AREAS [23]

### Objectives

To protect and improve the state of the natural resources and natural sites of the Mediterranean Sea.

### Provisions

Parties shall:

- (a) Establish, maintain and restore protected areas (arts. 3 and 4), including buffer areas in which activities are less severely restricted (art. 5);
- (b) Take the measures required to protect specified areas, such as the prohibition of the dumping or discharge of wastes (art. 7(b)), the regulation of any act likely to harm or disturb the fauna or flora (art. 7(f)) or the regulation of trade in and import and export of animals which originate in protected areas and are subject to measures of protection (art. 7(j));
- (c) Give appropriate publicity to the establishment and significance of the protected areas (arts. 8 and 11);
- (d) Establish and develop scientific and technical research on protected areas and their ecosystems and archaeological heritage (art. 10);
- (e) Co-operate in establishing and managing protected areas (arts. 6, 12, 13 and 15);
- (f) Convene ordinary and extraordinary meetings to review the implementation of the Protocol and the efficacy of the measures adopted (art. 17).

### Membership

Open to any Contracting Party to the Convention for the Protection of the Mediterranean Sea against Pollution, any State invited to the Conference of Plenipotentiaries on the Protocol Concerning Mediterranean Specially Protected Areas and any regional economic grouping of which at least one Member is a coastal State of the Mediterranean Sea area and which exercises competence in fields covered by this Protocol. Instruments of ratification, acceptance or approval to be deposited with the Government of Spain.

Date of adoption	3. 4.1982
Place of adoption	Geneva
Date of entry into force	23. 3.1986
Languages	Arabic, English, French, Spanish
Depositary	Spain

### Parties and dates of entry into force

Albania	29. 6.1990
Algeria	23. 3.1986
Cyprus	28. 7.1988
Egypt	23. 3.1986
France	2.10.1986
Greece	25. 2.1987
Israel	27.11.1987
Italy	23. 3.1986

Libyan Arab Jamahiriya	5. 7.1989
Malta	10. 2.1988
Monaco	28. 6.1989
Morocco	23. 3.1986
Spain	21. 1.1988
Tunisia*	23. 3.1986
Turkey	6.12.1986
Yugoslavia	23. 3.1986
European Economic Community	23. 3.1986

\* With a reservation.

## CONVENTION FOR THE CONSERVATION OF SALMON IN THE NORTH ATLANTIC OCEAN [24]

### Objectives

To promote the conservation, restoration, enhancement and rational management of salmon stocks in the North Atlantic Ocean through international co-operation, as well as the acquisition, analysis and dissemination of appropriate scientific information.

### Provisions

(a) The Convention to apply to specific salmon stocks, the views of any Party with regard to its jurisdiction over fisheries or the law of the sea not to be affected (art. 1);

(b) The fishing of salmon to be prohibited in certain areas, with some exceptions (art. 2). The North Atlantic Salmon Conservation Organization to be established with legal personality, its components and objectives defined in article 3;

(c) Regulatory measures proposed to be notified by the Secretary. They shall be binding unless an objection is lodged or they are denounced. Emergency regulatory measures shall also be proposed and may be objected to (art. 13);

(d) All Parties to ensure that the provisions of the Convention as well as the regulatory measures binding on them are made effective, including the imposition of adequate penalties for violations, and to produce an annual statement of action taken in that regard (art. 14);

(e) All Parties to provide information on statistical, scientific, legal and regulatory measures and programmes relating to the conservation, restoration and enhancement of salmon stocks (art. 15). Annual reports regarding the adoption or repeal of related laws, regulations and programmes, as well as any new commitments regarding new measures, or information regarding new factors relevant to the abundance of salmon stocks, to be prepared.

### Membership

The Convention is subject to ratification or approval. It is open for accession by Canada, Denmark (in respect of the Faeroe Islands), Iceland, Norway, Sweden, the United States of America and the EEC, and, subject to the approval of the Council, by any other State that exercises fisheries jurisdiction in the North Atlantic Ocean or is a State of origin for salmon stocks subject to this Convention.

Date of adoption	2. 3.1982
Place of adoption	Reykjavik
Date of entry into force	1.10.1983
Languages	English, French
Depository	European Economic Community

### Parties and dates of entry into force

Canada	1.10.1983
Denmark*	1.10.1983
Finland	18. 5.1984
Iceland	1.10.1983
Norway	1.10.1983
Sweden	17. 5.1984
United States of America	1.10.1983
European Economic Community	1.10.1983

\* For the Faeroe Islands.

## BENELUX CONVENTION ON NATURE CONSERVATION AND LANDSCAPE PROTECTION [25]

### Objectives

To preserve nature, natural areas and landscapes, especially in boundary regions.

### Provisions

(a) Parties to develop the concept of the protection of transboundary natural areas and landscapes (art. 3(1));

(b) Parties to establish programmes for the protection of such areas (art. 3(2));

(c) Parties to consult on management projects concerning transboundary areas (art. 3(5));

(d) Parties to establish the status of protection areas (art. 3(2)).

### Membership

Restricted to the three Signatory States.

Date of adoption	8. 6.1982
Place of adoption	Brussels
Date of entry into force	1.10.1983
Languages	Dutch, French
Depositary	Benelux Economic Union

### Parties and dates of entry into force

Belgium	1.10.1983
Luxembourg	1.10.1983
Netherlands	1.10.1983

## UNITED NATIONS CONVENTION ON THE LAW OF THE SEA [26]

### Objectives

To set up a comprehensive new legal regime for the sea and oceans and, as far as environmental provisions are concerned, to establish material rules concerning environmental standards as well as enforcement provisions dealing with pollution of the marine environment.

### Provisions

(a) Definition of the territorial sea and the contiguous zone (arts. 3 and 33);

(b) Use of straits for international navigation (arts. 34 to 45) and archipelagic States (arts. 46 to 54);

(c) Definition of the exclusive economic zone (art. 55). The Parties to have sovereign rights therein for the purpose of exploring and exploiting, conserving and managing its natural resources, as well as other rights and duties (art. 56);

(d) The coastal State to exercise over the continental shelf (defined in article 76) sovereign rights for the purpose of exploring it and exploiting its natural resources (defined in article 77);

(e) Freedom of the high seas to comprise (part VII) freedom of navigation, of overflight, of laying submarine cables and pipelines, subject to the provisions of part VI, of constructing artificial islands, etc., subject to the provisions of part VI, and of fishing and of scientific research, subject to the provisions of parts VI and XIII;

(f) The regime of islands described (art. 121), together with enclosed or semi-enclosed seas (arts. 122 and 123). Land-locked States to enjoy the right of access to and from the sea and freedom of transit (arts. 124 to 132);

(g) The Area (the sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction) and its resources to be the common heritage of mankind (art. 136). The resources of the Area to be developed (arts. 150 to 155). An Authority to be established through which States Parties to the Convention shall organize and control activities in the Area, particularly with a view to administering the resources of the Area (art. 157). A Sea-bed Disputes Chamber to be established, and the manner in which it shall exercise its jurisdiction specified (art. 186);

(h) International rules and national legislation to be developed for the prevention, reduction and control of pollution of the marine environment, and provisions set out concerning enforcement and responsibility and liability;

(i) Rules set out to govern marine scientific research, the development and transfer of marine technology and the settlement of disputes. The obligation to settle disputes by peaceful means specified (art. 279). Compulsory procedures set out entailing binding decisions;

(j) Uses of the seas for peaceful purposes (art. 301).

The Convention has the following annexes:

- I. Highly migratory species,
- II. Commission on the Limits of the Continental Shelf,
- III. Basic conditions of prospecting, exploration and exploitation,
- IV. Statute of the Enterprise,
- V. Conciliation,
- VI. Statute of the International Tribunal of the Law of the Sea,
- VII. Arbitration,
- VIII. Special arbitration,
- IX. Participation by international organizations.

### Membership

The Convention is open to all States and international organizations, as well as other entities referred to in article 305. It is subject to ratification, formal confirmation and accession. Instruments shall be deposited with the Secretary-General of the United Nations.

Date of adoption 10.12.1982  
 Place of adoption Montego Bay  
 Date of entry into force Not yet in force  
 Languages Arabic, Chinese, English, French, Russian, Spanish  
 Depository United Nations

### Signatories and dates of signature Ratification

Afghanistan	18. 3.1983	
Algeria*	10.12.1982	
Angola*	10.12.1982	
Antigua and Barbuda	7. 2.1983	2. 2.1989
Argentina*	5.10.1984	
Australia	10.12.1982	
Austria	10.12.1982	
Bahamas	10.12.1982	29. 7.1983
Bahrain	10.12.1982	30. 5.1985
Bangladesh	10.12.1982	
Barbados	10.12.1982	
Belgium*	5.12.1984	
Belize	10.12.1982	13. 8.1983
Benin	30. 8.1983	
Bhutan	10.12.1982	
Bolivia*	27.11.1984	
Botswana	5.12.1984	2. 5.1990
Brazil*	10.12.1982	22.12.1988
Brunei Darussalam	5.12.1984	
Bulgaria	10.12.1982	
Burkina Faso	10.12.1982	
Burma	10.12.1982	
Burundi	10.12.1982	
Byelorussian Soviet Socialist Republic*	10.12.1982	
Cameroon	10.12.1982	19.11.1985
Canada	10.12.1982	
Cape Verde*	10.12.1982	10. 8.1987
Central African Republic	4.12.1984	
Chad	10.12.1982	
Chile*	10.12.1982	

China*	10.12.1982	
Colombia	10.12.1982	
Comoros	6.12.1984	
Congo	10.12.1982	
Cook Islands	10.12.1982	
Costa Rica*	10.12.1982	
Côte d'Ivoire	10.12.1982	26. 3.1984
Cuba*	10.12.1982	15. 8.1984
Cyprus	10.12.1982	12.12.1988
Czechoslovakia	10.12.1982	
Democratic Kampuchea	1. 7.1983	
Democratic People's Republic of Korea	10.12.1982	
Democratic Yemen*	10.12.1982	21. 7.1987
Denmark	10.12.1982	
Djibouti	10.12.1982	
Dominica	28. 3.1983	
Dominican Republic	10.12.1982	
Ecuador	10.12.1982	
Egypt*	10.12.1982	26. 8.1983
El Salvador	5.12.1984	
Equatorial Guinea	30. 1.1984	
Ethiopia	10.12.1982	
Fiji	10.12.1982	10.12.1982
Finland*	10.12.1982	
France*	10.12.1982	
Gabon	10.12.1982	
Gambia	10.12.1982	22. 5.1984
German Democratic Republic*	10.12.1982	
Ghana	10.12.1982	7. 6.1983
Greece	10.12.1982	
Grenada	10.12.1982	
Guatemala*	8. 7.1983	
Guinea	4.10.1984	6. 9.1985
Guinea-Bissau*	10.12.1982	25. 8.1986
Guyana	10.12.1982	
Haiti	10.12.1982	
Honduras	10.12.1982	
Hungary	10.12.1982	
Iceland	10.12.1982	
India	10.12.1982	
Indonesia	10.12.1982	3. 2.1986
Iran (Islamic Republic of)*	10.12.1982	
Iraq*	10.12.1982	
Ireland	10.12.1982	
Italy*	7.12.1984	
Jamaica	10.12.1982	21. 3.1983
Japan	7. 2.1983	
Kenya	10.12.1982	2. 3.1989
Kiribati	10.12.1986	
Kuwait*	2. 5.1986	2. 5.1986
Lao People's Democratic Republic	10.12.1982	
Lebanon	7.12.1984	
Lesotho	10.12.1982	
Liberia	10.12.1982	
Libya	3.12.1984	
Liechtenstein	30.11.1984	
Luxembourg*	5.12.1984	
Madagascar	25. 2.1983	
Malawi	7.12.1984	

Malaysia	10.12.1982		Ukrainian Soviet Socialist Republic*	10.12.1982	
Maldives	10.12.1982		Union of Soviet Socialist Republics*	10.12.1982	
Mali*	19.10.1983	16. 7.1985	United Arab Emirates	10.12.1982	
Malta	10.12.1982		United Republic of Tanzania*	10.12.1982	30. 9.1985
Mauritania	10.12.1982		Uruguay*	10.12.1982	
Mauritius	10.12.1982		Vanuatu	10.12.1982	
Mexico	10.12.1982	18. 3.1983	Viet Nam	10.12.1982	
Monaco	10.12.1982		Yemen*	10.12.1982	
Mongolia	10.12.1982		Yugoslavia*	10.12.1982	5. 5.1986
Morocco	10.12.1982		Zaire	22. 8.1983	17. 2.1989
Mozambique	10.12.1982		Zambia	10.12.1982	7. 3.1983
Namibia (represented by the United Nations Council for Namibia)	10.12.1982	18. 4.1983	Zimbabwe	10.12.1982	
Nauru	10.12.1982		European Economic Community*	7.12.1984	
Nepal	10.12.1982				
Netherlands	10.12.1982				
New Zealand	10.12.1982				
Nicaragua*	9.12.1984				
Niger	10.12.1982				
Nigeria	10.12.1982	14. 8.1986			
Niue	5.12.1984				
Norway	10.12.1982				
Oman*	1. 7.1983	17. 8.1989			
Pakistan	10.12.1982				
Panama	10.12.1982				
Papua New Guinea	10.12.1982				
Paraguay	10.12.1982	26. 9.1986			
Philippines*	10.12.1982	8. 5.1984			
Poland	10.12.1982				
Portugal	10.12.1982				
Qatar*	27.11.1984				
Republic of Korea	14. 3.1983				
Romania*	10.12.1982				
Rwanda	10.12.1982				
Saint Christopher and Nevis	7.12.1984				
Saint Lucia	10.12.1982	27. 3.1985			
Saint Vincent and the Grenadines	10.12.1982				
Samoa	28. 9.1984				
São Tomé and Príncipe*	13. 7.1983	3.11.1987			
Saudi Arabia	7.12.1984				
Senegal	10.12.1982	25.10.1984			
Seychelles	10.12.1982				
Sierra Leone	10.12.1982				
Singapore	10.12.1982				
Solomon Islands	10.12.1982				
Somalia	10.12.1982	24. 7.1989			
South Africa	5.12.1984				
Spain	4.12.1984				
Sri Lanka	10.12.1982				
Sudan*	10.12.1982	23. 1.1985			
Suriname	10.12.1982				
Swaziland	18. 1.1984				
Sweden*	10.12.1982				
Switzerland	17.10.1984				
Thailand	10.12.1982				
Togo	10.12.1982	16. 4.1985			
Trinidad and Tobago	10.12.1982	25. 4.1986			
Tunisia*	10.12.1982	24. 4.1985			
Tuvalu	10.12.1982				
Uganda	10.12.1982				

\* With a declaration.

**CONVENTION FOR THE PROTECTION AND DEVELOPMENT OF THE MARINE ENVIRONMENT OF THE WIDER CARIBBEAN REGION [27]**

**Objectives**

To protect and manage the marine environment and coastal areas of the wider Caribbean region.

**Provisions**

The Parties agree to:

- (a) Take all necessary measures to prevent, reduce and control pollution of the Convention area (art. 4), particularly pollution from ships (art. 5), dumping (art. 6), land-based sources (art. 7), activities relating to exploration and exploitation of the sea-bed (art. 8) and airborne pollution (art. 9);
- (b) Protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other marine life in specially protected areas (art. 10);
- (c) Co-operate in dealing with pollution emergencies in the Convention area (art. 11);
- (d) Co-operate in assessing environmental impacts in the Convention area (art. 12) and in exchanging data and other scientific and technical information (art. 13);
- (e) Establish rules and procedures for the determination of liability and compensation for damage resulting from pollution of the Convention area (art. 14);
- (f) Designate UNEP to discharge Secretariat functions under the Convention (art. 15).

**Membership**

Open to the coastal States invited to the Cartagena Conference held from 21 to 24 March 1983, and to any regional economic organization invited to the Conference which exercises competence in the field covered by the Convention and at least one Member of which belongs to the Caribbean region.

Date of adoption	24. 3.1983
Place of adoption	Cartagena de Indias
Date of entry into force	11.10.1986
Languages	English, French, Spanish
Depositary	Colombia

**Parties and dates of entry into force**

Antigua and Barbuda	11.10.1986
Barbados	11.10.1986
Colombia	2. 4.1988
Cuba	15.10.1988
France	11.10.1986
Grenada	16. 9.1987
Guatemala	17. 1.1990
Jamaica	1. 5.1987
Mexico	11.10.1986
Netherlands*	11.10.1986

Panama	6.11.1987
Saint Lucia	11.10.1986
Saint Vincent and Grenadines	9. 8.1990
Trinidad and Tobago	11.10.1986
United Kingdom of Great Britain and Northern Ireland**	11.10.1986
United States of America	11.10.1986
Venezuela	17. 1.1987

\* Extended to the Netherlands Antilles on 16.4.1984.

\*\* Included Cayman Islands, Turks and Caicos Islands, and the British Virgin Islands.



**PROTOCOL CONCERNING CO-OPERATION IN COMBATING OIL SPILLS IN THE WIDER CARIBBEAN REGION [28]**

**Objectives**

To provide a framework for regional co-operation and assistance in the event of an oil spill incident in the Caribbean region.

**Provisions**

(a) The Parties to combine their efforts in taking the necessary measures to protect the marine environment of the Caribbean region against pollution from oil spill incidents, and co-operate in maintaining and promoting contingency plans and means for combating pollution (art. 3);

(b) The Parties to exchange information regarding their competent national authorities for combating pollution and on laws, institutions and procedures aimed at combating marine pollution by oil (art. 4);

(c) Any Contracting Party faced with a marine emergency to take appropriate measures to combat pollution, inform other States of the measures it has taken or intends to take, make an assessment of the nature and extent of the marine emergency and determine the necessary and appropriate action to be taken (arts. 5 and 7);

(d) Any Contracting Party may call on the others for assistance (art. 6);

(e) To facilitate implementation of the Protocol, in particular articles 6 and 7, the Contracting Parties should conclude bilateral or multilateral sub-regional arrangements, as appropriate (art. 8);

(f) Parties agree to designate UNEP to discharge Secretariat functions under the Protocol (art. 9).

**Membership**

Open to the coastal States invited to the Cartagena Conference held from 21 to 24 March 1983, and to any regional economic organization invited to the Conference which exercises competence in the field covered by the Convention and at least one Member of which belongs to the Caribbean region.

Date of adoption	24. 3.1983
Place of adoption	Cartagena de Indias
Date of entry into force	11.10.1986
Languages	English, French, Spanish
Depositary	Colombia

**Parties and dates of entry into force**

Antigua and Barbuda	11.10.1986
Barbados	11.10.1986
Colombia	2. 4.1988
Cuba	15.10.1988
France	11.10.1986
Grenada	16. 9.1987
Guatemala	17. 1.1990
Jamaica	1. 5.1987
Mexico	11.10.1986

Netherlands*	11.10.1986
Panama	16.11.1986
Saint Lucia	11.10.1986
Saint Vincent and Grenadines	17. 1.1990
Trinidad and Tobago	11.10.1986
United Kingdom of Great Britain and Northern Ireland**	11.10.1986
United States of America	11.10.1986
Venezuela	17. 1.1987

\* Extended to the Netherlands Antilles on 16.4.1984.

\*\* Included Cayman Islands, Turks and Caicos Islands, and the British Virgin Islands.

## AGREEMENT FOR CO-OPERATION IN DEALING WITH POLLUTION OF THE NORTH SEA BY OIL AND OTHER HARMFUL SUBSTANCES [29]

### Objectives

To ensure co-operation between the coastal States in providing manpower, supplies, equipment and scientific advice at short notice to deal with discharges of oil or other harmful substances in the North Sea.

### Provisions

(a) Covers the North Sea south of latitude 61° north and the English Channel east of a line 50 nautical miles west of a line joining the Scilly Isles and Ushant (art. 2);

(b) Parties to co-operate in informing each other of casualties or oil or other harmful substances in the area and in requiring masters of ships and pilots of aircraft registered in their territories to report such incidents (art. 5);

(c) Area divided into national zones, for each of which the relevant Party has prime responsibility (art. 6);

(d) Assistance should be requested first from any other State likely to be affected by the pollution (art. 7);

(e) Apportionment of the costs of actions taken by Contracting Parties (arts. 9 and 10).

### Membership

Open to any Government for signature, ratification or approval. Instruments of ratification or approval to be deposited with the Government of the Federal Republic of Germany.

Date of adoption	13. 9.1983
Place of adoption	Bonn
Date of entry into force	1. 9.1989
Languages	English, French, German
Depositary	Federal Republic of Germany

### Parties and dates of entry into force

Belgium	1. 9.1989
Denmark	1. 9.1989
France	1. 9.1989
Germany, Federal Republic of	1. 9.1989
Netherlands*	1. 9.1989
Norway	1. 9.1989
Sweden	1. 9.1989
United Kingdom of Great Britain and Northern Ireland**	1. 9.1989
European Economic Community	1. 9.1989

\* For the Kingdom in Europe.

\*\* Extended to the Bailiwick of Jersey and Bailiwick of Guernsey.

## INTERNATIONAL TROPICAL TIMBER AGREEMENT [30]

### Objectives

To provide an effective framework for co-operation and consultation between countries producing and consuming tropical timber, to promote the expansion and diversification of international trade in tropical timber and the improvement of structural conditions in the tropical timber market, to promote and support research and development with a view to improving forest management and wood utilization, and to encourage the development of national policies aimed at sustainable utilization and conservation of tropical forests and their genetic resources, and at maintaining the ecological balance in the regions concerned.

### Provisions

(a) Establishment of an International Tropical Timber Organization to administer the provisions and supervise the operation of the Agreement (art. 3(1)), functioning through the International Tropical Timber Council established under article 6 of the Agreement;

(b) The Council shall make arrangements for consultation or co-operation with the United Nations and its organs such as UNCTAD, UNDP, UNEP, and UNIDO and with FAO and other United Nations specialized agencies and intergovernmental, governmental and non-governmental organizations;

(c) Establishment of the following permanent committees:

- Committee on Economic Information and Market Intelligence,
- Committee on Reforestation and Forest Management,
- Committee on Forest Industry (art. 24).

### Membership

Open for signature by Governments invited to the United Nations Conference on Tropical Timber, 1983. Open for accession by the Governments of all States upon conditions established by the Council.

Date of adoption	18.11.1983
Place of adoption	Geneva
Date of entry into force	1. 4.1985
Languages	Arabic, English, French, Russian, Spanish
Depositary	United Nations

### Parties and dates of entry into force

Australia	16. 2.1988
Austria	6. 3.1986
Belgium	21. 2.1986
Bolivia*	25. 6.1985
Brazil*	1. 4.1985
Cameroon	19.11.1985
Canada	21. 5.1986
China	2. 7.1986
Colombia	27. 3.1990
Congo	1. 4.1985

Côte d'Ivoire*	1. 4.1985
Denmark	1. 4.1985
Ecuador	19. 1.1988
Egypt	16. 1.1986
Finland	1. 4.1985
France	6. 8.1985
Gabon*	1. 4.1985
Germany, Federal Republic of	21. 3.1986
Ghana	1. 4.1985
Greece	26. 7.1988
Honduras*	1. 4.1985
India	19. 2.1986
Indonesia	1. 4.1985
Ireland	1. 4.1985
Italy	1. 4.1985
Japan	1. 4.1985
Korea, Republic of	25. 6.1985
Liberia	1. 4.1985
Luxembourg	21. 2.1986
Malaysia	1. 4.1985
Nepal	3. 7.1990
Netherlands	29. 5.1987
Norway	1. 4.1985
Panama	3. 3.1989
Papua New Guinea	27.11.1985
Peru*	1. 4.1985
Philippines*	1. 4.1985
Portugal	3. 7.1989
Spain	1. 4.1985
Sweden	1. 4.1985
Switzerland	9. 5.1985
Thailand	9.10.1985
Togo	8. 5.1990
Trinidad and Tobago	9. 5.1986
Union of Soviet Socialist Republics	20. 5.1986
United Kingdom of Great Britain and Northern Ireland	1. 4.1985
United States of America	25. 5.1990
European Economic Community	1. 4.1985

**PROTOCOL TO THE 1979 CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION ON LONG-TERM FINANCING OF THE CO-OPERATIVE PROGRAMME FOR MONITORING AND EVALUATION OF THE LONG-RANGE TRANSMISSION OF AIR POLLUTANTS IN EUROPE (EMEP)\* [31]**

**Objectives**

To provide for long-term funding after 1984 for the implementation of the Co-operative Programme for the Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP).

**Provisions**

(a) The Contracting Parties to finance EMEP by covering the annual costs of the international centres co-operating within EMEP for the activities appearing in the work programme of the Steering Body of EMEP (art. 2);

(b) The financing of EMEP shall consist of mandatory contributions, supplemented by voluntary contributions; contributions may be made in convertible currency, non-convertible currency, or in kind (art. 3(1));

(c) Mandatory contributions to be made annually by all Contracting Parties which are within the geographical scope of EMEP (art. 3(2));

(d) Voluntary contributions may be made by the Contracting Parties or Signatories to the Protocol, even if their territory lies outside the geographical scope of EMEP, as well as, subject to approval by the Executive Body, by any other country, organization or individual which wishes to contribute to the work programme (art. 3(3));

(e) Mandatory and voluntary contributions in cash to be deposited in the General Trust Fund (art. 3(5));

(f) An annual budget for EMEP to be drawn up by the Steering Body of EMEP, and to be adopted by the Executive Body not later than one year in advance of the financial year to which it applies (art. 5).

**Membership**

Open for signature by the Member States of the Economic Commission for Europe (ECE), as well as States having consultative status with the ECE and regional economic integration organizations constituted by sovereign States Members of the ECE.

Date of adoption	28. 9.1984
Place of adoption	Geneva
Date of entry into force	28. 1.1988
Languages	English, French, Russian
Depositary	United Nations

\* Provisional application.

\* Convention on Long-Range Transboundary Air Pollution, Geneva, 1979.

**Parties and dates of entry into force**

Austria	28. 1.1988
Belgium	28. 1.1988
Bulgaria	28. 1.1988
Byelorussian Soviet Socialist Republic	28. 1.1988
Canada	28. 1.1988
Czechoslovakia	28. 1.1988
Denmark	28. 1.1988
Finland	28. 1.1988
France	28. 1.1988
German Democratic Republic	28. 1.1988
Germany, Federal Republic of	28. 1.1988
Greece	22. 9.1988
Hungary	28. 1.1988
Ireland	28. 1.1988
Italy	12. 4.1989
Liechtenstein	28. 1.1988
Luxembourg	28. 1.1988
Netherlands*	28. 1.1988
Norway	28. 1.1988
Poland	13.12.1988
Portugal	19. 4.1989
Spain	28. 1.1988
Sweden	28. 1.1988
Switzerland	28. 1.1988
Turkey	28. 1.1988
Ukrainian Soviet Socialist Republic	28. 1.1988
Union of Soviet Socialist Republics	28. 1.1988
United Kingdom of Great Britain and Northern Ireland	28. 1.1988
United States of America	28. 1.1988
Yugoslavia	28. 1.1988
European Economic Community	28. 1.1988

**PROTOCOL TO THE 1979 CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION ON THE REDUCTION OF SULPHUR EMISSIONS OR THEIR TRANSBOUNDARY FLUXES BY AT LEAST 30 PER CENT\* [32]**

**Objectives**

To provide for a 30 per cent reduction in sulphur emissions or their transboundary fluxes by 1993.

**Provisions**

(a) The Parties agree to reduce their national annual sulphur emissions, or their transboundary fluxes, to at least 30 per cent below 1980 levels by 1993 (arts. 2 and 6);

(b) The Parties agree to study the need for further reductions (art. 3);

(c) The Parties agree to report their annual sulphur emissions to the Executive Body of the Convention (art. 4);

(d) EMEP (the "Co-operative programme for the monitoring and evaluation of the long-range transmission of air pollutants in Europe", created under the Convention) shall annually report to the Executive Body of the Convention its calculations of the sulphur budgets, transboundary fluxes, and sulphur depositions within the geographical scope of the Convention (art. 5).

**Membership**

Open for signature by the Member States of the Economic Commission for Europe (ECE), as well as States having consultative status with the ECE and regional economic integration organizations constituted by sovereign States Members of the ECE.

Date of adoption	8. 7.1985
Place of adoption	Helsinki
Date of entry into force	2. 9.1987
Languages	English, French, Russian
Depositary	United Nations

**Parties and dates of entry into force**

Austria	2. 9.1987
Bulgaria	2. 9.1987
Byelorussian Soviet Socialist Republic	2. 9.1987
Canada	2. 9.1987
Czechoslovakia	2. 9.1987
Denmark	2. 9.1987
Finland	2. 9.1987
France	2. 9.1987
Germany, Federal Republic of	2. 9.1987
Hungary	2. 9.1987
Italy	5. 5.1990
Liechtenstein	2. 9.1987
Luxembourg	2. 9.1987

\* For the Kingdom in Europe.

\* Convention on Long-Range Transboundary Air Pollution, Geneva, 1979.

Netherlands *	2. 9.1987
Norway	2. 9.1987
Sweden	2. 9.1987
Switzerland	2. 9.1987
Ukrainian Soviet Socialist Republic	2. 9.1987
Union of Soviet Socialist Republics	2. 9.1987

**PROTOCOL TO THE 1979  
CONVENTION ON LONG-RANGE  
TRANSBOUNDARY AIR POLLUTION  
CONCERNING THE CONTROL OF  
EMISSIONS OF NITROGEN OXIDES OR  
THEIR TRANSBOUNDARY  
FLUXES\* [33]**

**Objectives**

To provide for the control or reduction of nitrogen oxides and their transboundary fluxes.

**Provisions**

The Parties agree:

(a) To control or reduce emissions of nitrogen oxides or their transboundary fluxes at or to the level of the national annual emissions or transboundary fluxes of the calendar year 1987 by 14 December 1994 (art. 2(1));

(b) To apply national emission standards to new stationary and mobile sources and introduce pollution control measures for existing major stationary sources (art. 2(2));

(c) To make unleaded fuel sufficiently available two years after the Protocol enters into force (art. 4);

(d) To give high priority to research and monitoring techniques in determining necessary reduction of emissions, on that basis to co-operate to determine critical loads, the reductions required, and measures to achieve those reductions (arts. 2(3) and 6);

(e) To exchange information and, consistent with national laws, to facilitate exchange of technology to reduce nitrogen emissions and their transboundary fluxes (arts. 3 and 8).

The Protocol operates within the framework of the Convention. It provides that EMEP shall report to the Executive Body calculations of nitrogen budgets and their transboundary fluxes and deposition of nitrogen oxides within EMEP's geographical scope. The Protocol is to be reviewed by the Parties regularly. The technical Annex forms an integral part of the Protocol.

**Membership**

Open for signature by Member States of the Economic Commission for Europe, as well as States having consultative status with the ECE and regional economic integration organizations constituted by sovereign States Members of the ECE.

Date of adoption	31.10.1988
Place of adoption	Sofia
Date of entry into force	Not yet in force
Languages	English, French, Russian
Depositary	United Nations

\* For the Kingdom in Europe.

\* Convention on Long-Range Transboundary Air Pollution, Geneva, 1979.

Signatories and dates of signature	Ratification	
Austria	1.11.1988	
Belgium	1.11.1988	
Bulgaria	1.11.1988	30. 3.1989
Byelorussian Soviet Socialist Republic	1.11.1988	8. 6.1989
Canada	1.11.1988	
Czechoslovakia	1.11.1988	
Denmark	1.11.1988	
Finland	1.11.1988	
France	1.11.1988	20. 7.1989
German Democratic Republic	1.11.1988	
Germany, Federal Republic of	1.11.1988	
Greece	1.11.1988	
Liechtenstein	1.11.1988	
Luxembourg	1.11.1988	
Netherlands	1.11.1988	11.10.1989
Norway	1.11.1988	11.10.1989
Poland	1.11.1988	
Spain	1.11.1988	
Sweden	1.11.1988	
Switzerland	1.11.1988	24. 7.1989
Ukrainian Soviet Socialist Republic	1.11.1988	
Union of Soviet Socialist Republics	1.11.1988	21. 6.1989
United Kingdom of Great Britain and Northern Ireland	1.11.1988	
United States of America	1.11.1988	13. 7.1989

## VIENNA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER [34]

### Objectives

To protect human health and the environment against adverse effects resulting from modifications of the ozone layer.

### Provisions

(a) Parties to co-operate in research concerning substances and processes that modify the ozone layer, on human health and environmental effects of such modifications, and on alternative substances and technologies; and in systematic observation of the state of the ozone layer (arts. 2 and 3);

(b) Parties to co-operate in formulation and implementation of measures to control activities that cause adverse effects through modification of the ozone layer, and, particularly, in the development of protocols for such purposes (arts. 2 and 4);

(c) Parties to exchange scientific, technical, socio-economic, commercial and legal information relevant to the Convention, and co-operate in the development and transfer of technology and knowledge (art. 4).

The Convention has two Annexes: setting forth important issues for scientific research on and systematic observation of the ozone layer; and describing the kinds of information to be collected and shared under its terms.

### Membership

The Convention is open for ratification, acceptance, approval and accession to all States and regional economic integration organizations.

Date of adoption 22. 3.1985

Place of adoption Vienna

Date of entry into force 22. 9.1988

Languages Arabic, Chinese, English, French, Russian, Spanish

Depositary United Nations

### Parties and dates of entry into force

Argentina	18. 4.1990
Australia	22. 9.1988
Austria	22. 9.1988
Bahrain	26. 7.1990
Bangladesh	31.10.1990
Belgium	15. 1.1989
Brazil	17. 6.1990
Brunei Darussalam	24.10.1990
Burkina Faso	28. 6.1989
Byelorussian Soviet Socialist Republic	22. 9.1988
Cameroon	28.11.1989
Canada	22. 9.1988
Chad	16. 8.1989
Chile	24. 6.1990
China	10.12.1989
Colombia	14.10.1990
Denmark*	28.12.1988

\* Except the Faeroe Islands and Greenland.

Ecuador	29. 7.1990
Egypt	22. 9.1988
Equatorial Guinea	15.11.1988
Fiji	21. 1.1990
Finland	22. 9.1988
France	22. 9.1988
Gambia	23.10.1990
German Democratic Republic	24. 4.1989
Germany, Federal Republic of**	29.12.1988
Ghana	22.10.1989
Greece	29. 3.1989
Guatemala	22. 9.1988
Hungary	22. 9.1988
Iceland	27.11.1989
Ireland	14.12.1988
Italy	18.12.1988
Japan	29.12.1988
Jordan	30. 8.1989
Kenya	7. 2.1989
Libyan Arab Jamahiriya	9.10.1990
Liechtenstein	9. 5.1989
Luxembourg	15. 1.1989
Malaysia	27.11.1989
Maldives	22. 9.1988
Malta	14.12.1988
Mexico	22. 9.1988
Netherlands***	18.12.1988
New Zealand****	22. 9.1988
Nigeria	29. 1.1989
Norway	22. 9.1988
Panama	14. 5.1989
Peru	6. 7.1989
Poland	11.10.1990
Portugal	15. 1.1989
Singapore	5. 4.1989
South Africa	15. 4.1990
Spain	23.10.1988
Sri Lanka	13. 3.1990
Sweden	22. 9.1988
Switzerland	22. 9.1988
Syrian Arab Republic	12. 3.1990
Thailand	5.10.1989
Trinidad and Tobago	26.11.1989
Tunisia	24.12.1989
Uganda	23. 9.1988
Ukrainian SSR	22. 9.1988
United Arab Emirates	22. 3.1990
United Kingdom*****	22. 9.1988
United States of America	22. 9.1988
Uruguay	28. 5.1989
USSR	22. 9.1988
Venezuela	29.11.1988
Yugoslavia	15. 7.1990
Zambia	24. 4.1990
European Economic Community	15. 1.1989

\*\* With application to Berlin (West).

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

\*\*\*\* The Protocol shall not apply to the Cook Islands and Niue.

\*\*\*\*\* On behalf of the UK, the Bailiwick of Jersey, the Isle of Man, and Anguilla, Bermuda, British Antarctic Terr., British Indian Ocean Terr., British Virgin Is., Cayman Is., Falkland Is., Gibraltar, Hong Kong, Monsterrat, Pitcairn, Henderson, Duie and OENO Is., St. Helena, St. Helena Dependencies, South Georgia and the South Sandwich Is., Turks and Caicos Is.

## MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER [35]

### Objectives

To protect the ozone layer by taking precautionary measures to control global emissions of substances that deplete it.

### Provisions

(a) The Parties agree to control:

(i) Annual consumption and production of substances named in Annex A at the 1986 annual level; for substances in both Groups I and II of Annex A commencing 7 months and 36 months, respectively, after the Protocol enters into force;

(ii) Annual consumption and production of the substances in Group I to be reduced to eighty per cent (80%) of 1986 annual level from 1 July 1993;

(iii) Annual consumption and production of the substances in Group I to be reduced to fifty per cent (50%) of the 1986 annual level from 1 July 1998 (art. 2).

(b) Developing countries consuming less than 0.3 kg per capita of the controlled substances, on the entry into force of the Protocol for them, may delay compliance with paragraphs 2, 3 and 4 of article 2 of the Protocol by ten years, provided in that period they do not exceed 0.3 kg per capita (arts. 2 and 5).

(c) A year after the entry of the Protocol into force Parties may not import the substances from a non-Party to the Protocol. After January 1993 developing countries may not export such substances to a non-Party (arts. 4 and 5).

The Protocol, which operates within the framework of the Vienna Convention for the Protection of the Ozone Layer, provides for measures of exchange of technology and information, calculation of control levels and assessment and review of the progress achieved.

### Membership

Open for ratification, acceptance, approval or accession of any State or regional economic integration organization which is a Party to the Vienna Convention for the Protection of the Ozone Layer.

Date of adoption 16. 9.1987

Place of adoption Montreal

Date of entry into force 1. 1.1989

(in accordance with article 16)

Languages Arabic, Chinese, English,

French, Russian, Spanish

Depositary United Nations

### Parties and dates of entry into force

Australia 17. 8.1989

Austria 1. 8.1989

Bahrain 26. 7.1990

Bangladesh 31.10.1990

Belgium 30. 3.1989

Brazil 17. 6.1990

Burkina Faso	18.10.1989
Byelorussian Soviet Socialist Republic	1. 1.1989
Cameroon	28.11.1989
Canada	1. 1.1989
Chile	24. 6.1990
Denmark*	1. 1.1989
Ecuador	29. 7.1990
Egypt	1. 1.1989
Fiji	21. 1.1990
Finland	1. 1.1989
France	1. 1.1989
Gambia	23.10.1990
German Democratic Republic	25. 4.1989
Germany, Federal Republic of**	1. 1.1989
Ghana	22.10.1989
Greece	29. 3.1989
Guatemala	5. 2.1990
Hungary	19. 7.1989
Iceland	27.11.1989
Ireland	1. 1.1989
Italy	1. 1.1989
Japan	1. 1.1989
Jordan	30. 8.1989
Kenya	7. 2.1989
Libyan Arab Jamahiriya	9.10.1990
Liechtenstein	8. 5.1989
Luxembourg	15. 1.1989
Malaysia	27.11.1989
Maldives	14. 8.1989
Malta	1. 1.1989
Mexico	1. 1.1989
Netherlands***	1. 1.1989
New Zealand****	1. 1.1989
Nigeria	29. 1.1989
Norway	1. 1.1989
Panama	1. 6.1989
Poland	11.10.1990
Portugal	15. 1.1989
Singapore	5. 4.1989
South Africa	15. 4.1990
Spain	1. 1.1989
Sri Lanka	15. 3.1990
Sweden	1. 1.1989
Switzerland	1. 1.1989
Syrian Arab Republic	12. 3.1990
Thailand	5.10.1989
Trinidad and Tobago	26.11.1989
Tunisia	24.12.1989
Uganda	1. 1.1989
Ukrainian SSR	1. 1.1989
United Arab Emirates	22. 3.1990
United Kingdom of Great Britain and Northern Ireland	1. 1.1989
United States of America	1. 1.1989
USSR	1. 1.1989
Venezuela	7. 5.1989
Zambia	24. 4.1990
European Economic Community	16. 3.1989

\* Except the Faeroe Islands and Greenland.

\*\* With application to Berlin (West).

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

\*\*\*\* The Protocol shall not apply to the Cook Islands and Niue.

## ADJUSTMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER [35a]

### Objectives

To strengthen control measures of the reduction of Chlorofluorocarbons (CFCs) and Halons.

### Provisions

(a) The Parties agree to strengthen control measures for the reduction of CFCs and Halons as follows:

- (1) CFCs
  - (i) 50% reduction of 1986 level by 1995
  - (ii) 85% reduction by 1997
  - (iii) total phase out by 2000
- (2) Halons
  - (i) freeze at 1986 level by 1992
  - (ii) 50% reduction by 1995
  - (iii) total phase out by 2000.

(b) The Parties agree that in 1992 the situation will be reviewed with a view to accelerating the phase out of CFCs.

### Membership

Open for ratification, acceptance, approval or accession of any State or regional economic integration organization.

Date of adoption	29. 6.1990
Place of adoption	London
Date of entry into force*	Not yet in force
Languages	Arabic, Chinese, English, French, Russian, Spanish
Depositary	Secretary-General of the United Nations

\* The adjustment will enter into force six months after adoption for those Parties to the Protocol which do not enter an objection.



## AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER [35b]

### Objectives

To strengthen the control measures under the Montreal Protocol on Substances that Deplete the Ozone Layer (1987), to extend the coverage of the Protocol to new substances, establish financial mechanisms for the Protocol, and to strengthen the provision of transfer of technology.

### Provisions

The Parties agree to:

(a) Amend the Protocol to include the following:

- (1) control of 10 chlorofluorocarbons
  - (i) 20% reduction of 1989 level by 1993
  - (ii) 85% reduction by 1997
  - (iii) total phase out by 2000
- (2) control of carbon tetrachloride
  - (i) 85% reduction of 1989 level by 1995
  - (ii) total phase out by 2000
- (3) control of methyl chloroform
  - (i) freeze at 1989 level by 1993
  - (ii) 30% reduction by 1995
  - (iii) 70% reduction by 2000
  - (iv) total phase out by 2005;

(b) Establish a financial mechanism, including a multilateral fund and a clearing-house function, for the implementation of the Protocol, financed by the contributions of the Parties assessed on the basis of United Nations scale of assessment. Policy guidance for the financial mechanism is provided by an executive committee established for the purpose;

(c) Provide for clearer and additional provisions on reporting of data, trade with non-parties to the Protocol, and the special position of developing countries and transfer of technology;

(d) Adopt a new annex B to the Protocol which extends control to 10 chlorofluorocarbons, carbon tetrachloride and methyl chloroform, substances not previously covered by the Protocol;

(e) Adopt a new annex comprising transitional substances.

### Membership

Open to Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (1987).

Date of adoption 29. 6.1990  
Place of adoption London  
Date of entry into force Not yet in force  
Languages Arabic, Chinese, English, French, Russian, Spanish

Depositary Secretary-General of the United Nations

### Parties and dates of acceptance/ratification

Canada 5. 7.1990  
New Zealand 1.10.1990

## CONVENTION FOR THE PROTECTION, MANAGEMENT AND DEVELOPMENT OF THE MARINE AND COASTAL ENVIRONMENT OF THE EASTERN AFRICAN REGION [36]

### Objectives

To protect and manage the marine environment and coastal areas of the Eastern African region.

### Provisions

The Parties agree to:

(a) Take all appropriate measures to prevent, reduce and combat pollution of the Convention area (art. 4), particularly pollution from ships (art. 5), dumping (art. 6), land-based sources (art. 7), exploration and exploitation of the sea-bed (art. 8), and airborne pollution (art. 9);

(b) Protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other marine life in specially protected areas (art. 10);

(c) Co-operate in dealing with pollution emergencies in the Convention area (art. 11);

(d) Take all appropriate measures to prevent, reduce and combat environmental damage in the Convention area resulting from dredging, land reclamation, and other engineering activities (art. 12);

(e) Develop guidelines for the planning of major development projects in the Convention area, assess the environmental effects of development projects likely to cause significant adverse changes in the Convention area, and develop procedures for dissemination of information and consultation among the Parties in such assessments (art. 13);

(f) Co-operate in scientific research and monitoring in the Convention area, and exchange of data collected (art. 14);

(g) Co-operate in the development of rules and procedures to govern liability and compensation for damage caused by pollution in the Convention area (art. 15);

(h) Designate UNEP to discharge Secretariat functions under the Convention (art. 16).

The Convention includes an Annex, establishing arbitration procedures for resolution of disputes between Contracting Parties.

### Membership

Open to any State invited as a participant to the Nairobi Conference held from 17 to 21 June 1985, and to any regional intergovernmental integration organization invited to the Conference which exercises competence in the field covered by the Convention and having at least one Member which belongs to the Eastern African region.

Date of adoption 21. 6.1985  
Place of adoption Nairobi

Date of entry into force	Not yet in force
Languages	English, French
Depositary	Kenya

**Signatories and dates of signature**

France	21. 6.1985
Madagascar	21. 6.1985
Seychelles	21. 6.1985
Somalia	21. 6.1985
European Economic Community	19. 6.1986

**PROTOCOL CONCERNING  
PROTECTED AREAS AND WILD FAUNA  
AND FLORA IN THE EASTERN  
AFRICAN REGION [37]**

**Objectives**

To provide for the protection of threatened and endangered species of flora and fauna, and important natural habitats, in the Eastern African region.

**Provisions**

The Parties agree to:

- (a) Take all appropriate measures to protect the endangered species of flora and fauna listed in Annexes I and II to the Protocol against capture, killing, destruction of habitat, possession, and sale (arts. 3 and 4);
- (b) Regulate the harvest and sale of threatened or depleted fauna species, listed in Annex III, and protect critical habitats of breeding stocks of such species (art. 5);
- (c) Co-ordinate efforts to protect migratory species, listed in Annex IV (art. 6);
- (d) Take measures to prevent the introduction of potentially harmful alien species (art. 7);
- (e) As necessary, establish protected areas to safeguard important ecosystems, including particularly those ecosystems that provide habitat for species of fauna and flora that are endangered, endemic, migratory, or economically important (art. 8), taking into account traditional activities of local populations (art. 11);
- (f) Co-operate in development of guidelines for selection and management of such areas (arts. 9 and 10), and co-ordinate establishment of protected areas to ensure adequate protection for frontier areas and creation of a representative network of protected areas in the region (arts. 13 and 16);
- (g) Take measures to ensure that the public is informed about protected areas, and has the opportunity to participate in protection efforts (arts. 14 and 15), and to encourage scientific research (art. 17);
- (h) Provide the Convention Secretariat with information about their activities under this Protocol and relevant scientific research, and co-operate in providing technical and management assistance to each other (arts. 18 and 19).

The Protocol has four Annexes, listing the protected species of wild flora (Annex I), the species of wild fauna requiring special protection (Annex II), the harvestable species of wild fauna requiring protection (Annex III), and the protected migratory species (Annex IV).

**Membership**

The Protocol is open to Contracting Parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region.

Date of adoption	21. 6.1985
Place of adoption	Nairobi
Date of entry into force	Not yet in force
Languages	English, French
Depositary	Kenya

**Signatories and dates of signature**

France	21. 6.1985
Madagascar	21. 6.1985
Seychelles	21. 6.1985
Somalia	21. 6.1985
European Economic Community	19. 6.1986

**PROTOCOL CONCERNING  
CO-OPERATION IN COMBATING  
MARINE POLLUTION IN CASES OF  
EMERGENCY IN THE EASTERN  
AFRICAN REGION [38]**

**Objectives**

To provide a framework for co-ordinated response in major spillages of oil and other harmful substances in the Convention area.

**Provisions**

The Parties agree to:

(a) Co-operate in undertaking all necessary measures for prevention and remedy of marine pollution incidents, including development of legislation and contingency plans, and exchange of relevant information (arts. 3 and 4);

(b) Establish procedures for the rapid reporting of marine pollution incidents (art. 5);

(c) Provide assistance to each other in the event of a marine pollution incident (art. 6);

(d) Undertake to provide for prompt response to marine pollution incidents, including assessment, notification, consultation, and remedy of the incident (art. 7); such measures to be undertaken through subregional agreements, as appropriate (art. 8);

(e) The Convention Secretariat (UNEP) shall co-ordinate and otherwise assist activities under the Protocol (art. 9).

The Protocol has one Annex, specifying guidelines for reporting marine pollution incidents under the terms of article 5.

**Membership**

The Protocol is open to Contracting Parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region.

Date of adoption	21. 6.1985
Place of adoption	Nairobi
Date of entry into force	Not yet in force
Languages	English, French
Depositary	Kenya

**Signatories and dates of signature**

France	21. 6.1985
Madagascar	21. 6.1985
Seychelles	21. 6.1985
Somalia	21. 6.1985
European Economic Community	19. 6.1986

## CONVENTION CONCERNING OCCUPATIONAL HEALTH SERVICES [39]

### Objectives

To establish and maintain a safe and healthy working environment and the adaptation of work to the capabilities of workers in light of their state of physical and mental health.

### Provisions

(a) Each Member to formulate, implement and periodically review a coherent national policy on occupational health services (art. 2);

(b) Each Member to develop progressively occupational health services for all workers, including those in the public sector and the members of production co-operatives, in all branches of economic activity and all undertakings (art. 3(1));

(c) If occupational health services cannot be immediately established for all undertakings, each Member concerned to draw up plans for the establishment of such services in consultation with the most representative organizations of employers and workers, where they exist (art. 3(2));

(d) Each Member concerned to indicate, in the first report on the application of the Convention submitted under article 22 of the constitution of the International Labour Organization, the plans drawn up pursuant to paragraph 2 of this article, and to indicate in subsequent reports any progress in their application (art. 3(2)).

### Membership

Open for ratification to all States Members of the International Labour Organization. Instruments of ratification to be deposited with the Director-General of the International Labour Office.

Date of adoption	26. 6.1985
Place of adoption	Geneva
Date of entry into force	17. 2.1988
Languages	English, French
Depository	International Labour Office

### Parties and dates of deposit of instruments

Brazil	18. 5.1990
Czechoslovakia	25. 2.1988
Finland	27. 4.1987
German Democratic Republic	8.11.1989
Guatemala	18. 4.1989
Hungary	24. 2.1988
Mexico	17. 2.1987
San Marino	19. 4.1988
Sweden	1. 7.1986
Uruguay	5. 9.1988
Yugoslavia	2. 5.1990

## ASEAN AGREEMENT ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES [40]

### Objectives

To promote joint and individual State action for the conservation and management of the natural resources of the ASEAN Region.

### Provisions

The Parties agree to promote joint or individual State action:

(a) To preserve genetic diversity by ensuring the conservation and preservation of all species in their jurisdiction especially by protecting endangered species and conserving endemic species (arts. 1, 3 and 5);

(b) To maintain harvested species through sound management and ensure sustainable utilization (arts. 1, 4 and 6);

(c) To take measures towards soil conservation, improvement and rehabilitation, to conserve underground and surface water and to take all appropriate measures towards air quality management (arts. 7, 8 and 9);

(d) To conserve ecological processes by reducing, controlling or preventing environmental degradation and pollution (arts. 1, 10 and 11);

(e) To set up protected areas including natural parks and reserves to conserve biological diversity, and especially endangered species (art. 13);

(f) To ensure that the conservation and management of natural resources is an integral part of development planning both at the national and regional levels (art. 2, Chapters VI and VII);

(g) To harmonize the utilization of shared resources without prejudice to the environment and avoid transfrontier environmental effects (arts. 19 and 20);

(h) To co-operate in the formulation of and adoption of protocols to prescribe agreed measures, procedures and standards to implement the Agreement (art. 24).

### Membership

Open for ratification by Member States of the Association of South East Asian Nations (ASEAN).

Date of adoption	9. 7.1985
Place of adoption	Kuala Lumpur
Date of entry into force	Not yet in force
Language	English
Depository	Association of South East Asian Nations

### Signatories and dates of signature

Brunei Darussalam	9. 7.1985
Indonesia	9. 7.1985
Malaysia	9. 7.1985
Philippines	9. 7.1985
Singapore	9. 7.1985
Thailand	9. 7.1985

## SOUTH PACIFIC NUCLEAR FREE ZONE TREATY [41]

### Objectives

To establish a nuclear free zone in the region and to keep the region free of environmental pollution by radioactive wastes.

### Provisions

The Parties undertake:

(a) Not to acquire any nuclear explosive device (art. 3(a)) and not to assist the acquisition of any nuclear explosive device by any State (art. 3(c));

(b) To apply strict non-proliferation measures to all exports of nuclear materials to ensure exclusively peaceful, non-explosive use (art. 4);

(c) To prevent the stationing of nuclear weapons on their territories (art. 5(1));

(d) To prevent the testing of any nuclear explosive device on their territories (art. 6(a)) and not to assist the testing of any nuclear explosive device by any State (art. 6(b));

(e) Not to dump radioactive wastes at sea within the South Pacific Nuclear Free Zone (art. 7(a));

(f) To prevent the dumping of radioactive wastes in their territorial sea (art. 7(b)).

The treaty includes three Protocols. The first invites France, the United Kingdom of Great Britain and Northern Ireland and the United States of America to apply the prohibitions contained in Articles 3, 5 and 6 to territories within the South Pacific Nuclear Free Zone for which they are internationally responsible. The other two respectively invite France, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America not to use nuclear explosive devices within the Zone.

### Membership

The Treaty is open to Member States of the South Pacific Forum. Protocol 1 is open for signature by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Protocols 2 and 3 are open for signature by France, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Instruments of ratification shall be deposited with the Director of the South Pacific Bureau for Economic Co-operation.

Date of adoption	6. 8.1985
Place of adoption	Rarotonga
Date of entry into force	11.12.1986
Language	English
Depositary	South Pacific Bureau for Economic Co-operation

### Parties and dates of entry into force

Australia	11.12.1986
Cook Islands	11.12.1986
Fiji	11.12.1986
Kiribati	11.12.1986
Nauru	13. 4.1987
New Zealand	11.12.1986
Niue	11.12.1986
Papua New Guinea	12.12.1986
Tuvalu	11.12.1986
Western Samoa	11.12.1986

## CONVENTION CONCERNING SAFETY IN THE USE OF ASBESTOS [42]

### Objectives

To prevent and control the exposure of workers to asbestos and to protect them against health hazards due to occupational exposure to asbestos.

### Provisions

(a) National laws and regulations to prescribe the measures to be taken for the prevention, control and protection of workers against health hazards due to occupational exposure to asbestos (art. 3(1));

(b) The enforcement of the laws and regulations adopted pursuant to article 3 of this Convention to be secured by an adequate and appropriate system of inspection (art. 5(1));

(c) National laws and regulations to provide for the necessary measures including appropriate penalties to ensure effective enforcement of and compliance with the provisions of this Convention (art. 5(2));

(d) Employers to be made responsible for compliance with the prescribed measures (art. 6);

(e) Workers to be required to comply with prescribed safety and hygiene procedures relating to the prevention, control of, and protection against, health hazards due to occupational exposure to asbestos (art. 7).

### Membership

Open for ratification to all States Members of the International Labour Organization. Instruments of ratification to be deposited with the Director-General of the International Labour Office.

Date of adoption	24. 6.1986
Place of adoption	Geneva
Date of entry into force	16. 6.1989
Languages	English, French
Depositary	International Labour Office

### Parties and dates of deposit of instruments

Bolivia	11. 6.1990
Brazil	18. 5.1990
Cameroon	20. 2.1989
Canada	16. 6.1988
Ecuador	11. 4.1990
Finland	20. 6.1988
Guatemala	20. 6.1988
Sweden	2. 9.1987
Uganda	27. 3.1990
Yugoslavia	29. 5.1989

## CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT [43]

### Objectives

To provide relevant information about nuclear accidents as early as possible in order that transboundary radiological consequences can be minimized.

### Provisions

(a) In the event of a nuclear accident, the Party referred to in article 1 to notify, directly or through the International Atomic Energy Agency (hereinafter referred to as the "Agency"), those States which are or may be physically affected as specified in article 1 and the Agency of the nuclear accident, its nature, the time of its occurrence and the exact location where appropriate (art. 2(a));

(b) In the event of a nuclear accident, the Party referred to in article 1 to provide the States referred to in subparagraph (a), directly or through the Agency, and the Agency with such available information relevant to minimizing the radiological consequences in those States, as specified in article 5 (art. 2(b));

(c) With a view to minimizing the radiological consequences, Parties may notify in the event of nuclear accidents other than those specified in article 1 (art. 3);

(d) The Agency to inform Parties, Member States, other States which are or may be physically affected as specified in article 1 and relevant international organizations of a notification received pursuant to sub-paragraph (a) of article 2 (art. 4(a));

(e) The Agency to provide any Party, Member State or relevant international organization, upon request, with the information received pursuant to sub-paragraph (b) of article 2 (art. 4(b)).

### Membership

This Convention is open to all States, Namibia, represented by the United Nations Council for Namibia, international organizations and regional integration organizations referred to in article 14. Instruments shall be deposited with the Director-General of the Agency.

Date of adoption	26. 9.1986
Place of adoption	Vienna
Date of entry into force	27.10.1986

(in accordance with art. 12)

Languages	Arabic, Chinese, English, French, Russian, Spanish
Depositary	International Atomic Energy Agency

### Parties and dates of entry into force

Argentina	17. 2.1990
Australia*	23.10.1987
Austria	20. 3.1988
Bangladesh	7. 2.1988

Bulgaria*	26. 3.1988
Byelorussian Soviet Socialist Republic*	26. 2.1987
Canada	18. 2.1990
China*	11.10.1987
Cyprus	4. 2.1989
Czechoslovakia*	27.10.1986
Democratic People's Republic of Korea*	27.10.1986
Denmark	27.10.1986
Egypt	6. 8.1988
Finland	11. 1.1987
France	6. 4.1989
German Democratic Republic*	30. 5.1987
Germany, Federal Republic of	15.10.1989
Guatemala	8. 9.1988
Hungary*	10. 4.1987
Iceland	28.10.1989
India*	28. 2.1988
Iraq*	21. 8.1988
Israel	25. 6.1989
Italy*	11. 3.1990
Japan	10. 7.1987
Jordan	11. 1.1988
Korea, Republic of	9. 7.1990
Malaysia*	1.10.1987
Mexico	10. 6.1988
Monaco	19. 8.1989
Mongolia*	12. 7.1987
New Zealand	11. 4.1987
Nigeria	10. 9.1990
Norway	27.10.1986
Pakistan	12.10.1989
Poland*	24. 4.1988
Romania	13. 7.1990
Saudi Arabia	4.12.1989
South Africa	10. 9.1987
Spain	14.10.1989
Sweden	30. 3.1987
Switzerland	1. 7.1988
Thailand	21. 4.1989
Ukrainian Soviet Socialist Republic*	26. 2.1987
Union of Soviet Socialist Republics*	24. 1.1987
United Kingdom of Great Britain and Northern Ireland*	12. 3.1990
United States of America*	20.10.1988
Uruguay	21. 1.1990
Viet Nam, Socialist Republic of	30.10.1987
Yugoslavia	11. 3.1989
World Health Organization	10. 9.1988
World Meteorological Organization	18. 5.1990

\* Indicates that a Reservation or Declaration was deposited upon signature or ratification.

## CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY [44]

### Objectives

To facilitate the prompt provision of assistance in the event of a nuclear accident or radiological emergency.

### Provisions

(a) Parties to co-operate between themselves and with the International Atomic Energy Agency (hereinafter referred to as the "Agency") to facilitate prompt assistance in the event of a nuclear accident or radiological emergency (art. 1(1));

(b) Parties to request the Agency to use its best endeavours in accordance with the provisions of this Convention to promote, facilitate and support the co-operation between States Parties provided for in this Convention (art. 1(3));

(c) If a Party needs assistance in the event of a nuclear accident or radiological emergency, whether or not such accident or emergency originates within its territory, jurisdiction or control, it may call for such assistance from any other State Party, directly or through the Agency, and from the Agency, or, where appropriate, from other international inter-governmental organizations (art. 2(1));

(d) A Party to which a request for such assistance is directed is to promptly decide and notify the requesting State Party, directly or through the Agency, whether it is in a position to render the assistance requested, and the scope and terms of the assistance that might be rendered (art. 1(3));

(e) A Party may request assistance relating to medical or temporary relocation into the territory of another State Party of people involved in a nuclear accident or radiological emergency (art. 2(5)).

### Membership

This Convention is open to all States, Namibia, represented by the United Nations Council for Namibia, international organizations and regional integration organizations referred to in article 14. Instruments shall be deposited with the Director-General of the Agency.

Date of adoption	26. 9.1986
Place of adoption	Vienna
Date of entry into force	26. 2.1987
Languages	Arabic, Chinese, English, French, Russian, Spanish
Depositary	International Atomic Energy Agency

### Parties and dates of entry into force

Argentina	17. 2.1990
Australia*	23.10.1987
Austria	22.12.1989
Bangladesh	7. 2.1988
Bulgaria*	26. 3.1988

Byelorussian Soviet Socialist Republic*	26. 2.1987
China*	11.10.1987
Cyprus	4. 2.1989
Czechoslovakia	4. 9.1988
Egypt	17.11.1988
France	6. 4.1989
German Democratic Republic*	30. 5.1987
Germany, Federal Republic of	15.10.1989
Guatemala	8. 9.1988
Hungary*	10. 4.1987
India*	28. 2.1988
Iraq*	21. 8.1988
Israel	25. 6.1989
Japan	10. 7.1987
Jordan	11. 1.1988
Korea, Republic of	9. 7.1990
Libyan Arab Jamahiriya	28. 7.1990
Malaysia*	1.10.1987
Mexico	10. 6.1988
Monaco	19. 8.1989
Mongolia*	12. 7.1987
New Zealand	11. 4.1987
Nigeria	10. 9.1990
Norway	26. 2.1987
Pakistan	12.10.1989
Poland*	24. 4.1988
Romania	13. 7.1990
Saudi Arabia	4.12.1989
South Africa	10. 9.1987
Spain	14.10.1989
Switzerland	1. 7.1988
Thailand	21. 4.1989
Tunisia	27. 3.1989
Ukrainian Soviet Socialist Republic*	26. 2.1987
Union of Soviet Socialist Republics*	26. 2.1987
United Arab Emirates	2.11.1987
United Kingdom of Great Britain and Northern Ireland*	12. 3.1990
United States of America*	20.10.1988
Viet Nam, Socialist Republic of	30.10.1987
World Health Organization	10. 9.1988
World Meteorological Organization	18. 5.1990

## CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION [45]

### Objectives

To protect and manage the natural resources and environment of the South Pacific region.

### Provisions

The Parties agree to:

(a) Take all appropriate measures to prevent, reduce and control pollution of the Convention area (art. 5), particularly pollution from vessels (art. 6), land-based sources (art. 7), exploration and exploitation of the sea-bed (art. 8), airborne pollution (art. 9), dumping (art. 10) and the testing of nuclear devices (art. 12);

(b) Ensure that the implementation of this Convention shall not result in an increase in pollution in the marine environment outside the Convention area (art. 5);

(c) Establish laws and regulations for the effective discharge of the obligations prescribed in this Convention (art. 5);

(d) Prohibit the storage of radioactive wastes in the Convention area (art. 11);

(e) Take all appropriate measures to protect and preserve rare ecosystems and endangered flora and fauna as well as their habitat in the Convention area (art. 14);

(f) Co-operate in taking all necessary measures to deal with pollution emergencies in the Convention area (art. 15).

### Membership

Open for ratification, acceptance, approval or accession to States invited to participate in the High-level Conference on the Protection of the Natural Resources and Environment at Noumea, New Caledonia, from 24 to 25 November 1986. Any State which was not invited to participate in the High-level Conference may accede to the Convention subject to prior approval by three-fourths of the Parties.

Date of adoption	24.11.1986
Place of adoption	Noumea
Date of entry into force	18. 8.1990
Languages	English, French
Depositary	South Pacific Bureau for Economic Co-operation

### Parties and dates of entry into force

Australia	18. 8.1990
Cook Islands	18. 8.1990
Federated States of Micronesia	18. 8.1990
Fiji	18. 8.1990
France	18. 8.1990
Marshall Islands	18. 8.1990
New Zealand	18. 8.1990

\* Signifies that a Reservation or Declaration was deposited upon or following signature or ratification.



Papua New Guinea  
Solomon Islands  
Western Samoa

18. 8.1990  
18. 8.1990  
18. 8.1990

## PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE SOUTH PACIFIC REGION BY DUMPING [46]

### Objectives

To prevent, reduce and control pollution by dumping of wastes and other matter in the South Pacific.

### Provisions

The Parties agree:

(a) To take all appropriate measures to prevent, reduce and control pollution in the Protocol area by dumping (art. 3(1));

(b) Dumping within the territorial sea and the exclusive economic zone or on to the continental shelf of a Party as defined in international law not to be carried out without the express prior approval of that Party (art. 3(2));

(c) National laws, regulations and measures adopted by the Parties not to be less effective in preventing, reducing and controlling pollution by dumping than the relevant internationally recognized rules and procedures relating to the control of dumping established within the framework of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (art. 3(3));

(d) The dumping in the Protocol area of wastes or other matter listed in Annex I to this Protocol is prohibited except as provided in this Protocol (art. 4(1));

(e) The dumping in the Protocol area of wastes or other matter listed in Annex II to this Protocol requires, in each case, a prior special permit (art. 5);

(f) The dumping in the Protocol area of all wastes or other matter not listed in Annexes I and II to this Protocol requires a prior general permit (art. 6);

(g) The permits referred to in articles 5 and 6 to be issued only after careful consideration of all the factors set forth in Annex III to this Protocol (art. 7).

### Membership

Open for ratification, acceptance, approval or accession to the States invited to participate in the High-level Conference on the Protection of the Natural Resources and Environment of the South Pacific Region, held at Noumea, New Caledonia, from 24 to 25 November 1986. Any State which was not invited to participate in the High-level Conference may accede to the Convention subject to prior approval by three-fourths of the Parties.

Date of adoption	25.11.1986
Place of adoption	Noumea
Date of entry into force	18. 8.1990
Languages	English, French
Depositary	South Pacific Bureau for Economic Co-operation

**Parties and dates of entry into force**

Australia	18. 8.1990
Cook Islands	18. 8.1990
Federated States of Micronesia	18. 8.1990
Fiji	18. 8.1990
France	18. 8.1990
Marshall Islands	18. 8.1990
New Zealand	18. 8.1990
Papua New Guinea	18. 8.1990
Solomon Islands	18. 8.1990
Western Samoa	18. 8.1990

**PROTOCOL CONCERNING  
CO-OPERATION IN COMBATING  
POLLUTION EMERGENCIES IN THE  
SOUTH PACIFIC REGION [47]**

**Objectives**

To enhance co-operation among the Parties to protect the South Pacific region from threats and effects of pollution incidents.

**Provisions**

The Parties agree:

(a) To co-operate in taking all necessary measures for the protection of the South Pacific region from the threat and effects of pollution incidents (art. 3(1));

(b) To establish and maintain, or ensure the establishment and maintenance of, the means of preventing and combating pollution incidents, and reducing the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the development or strengthening of the capability to respond to pollution incidents and the designation of a national authority responsible for the implementation of the Protocol (art. 3(2));

(c) To periodically exchange with other Parties current information relating to the implementation of this Protocol, including the identification of the officials charged with carrying out the activities covered by it and information laws, institutions and procedures aimed at combating marine pollution (art. 4);

(d) To establish appropriate procedures to ensure that information regarding pollution incidents is reported as rapidly as possible (art. 5(1));

(e) In the event of receiving a report regarding a pollution incident, promptly to inform all other Parties whose interests are likely to be affected by such incident, the flag State of any vessel involved in it and the competent international organizations (art. 5(2));

(f) Each Party requiring assistance to deal with a pollution incident may request the assistance of other Parties (art. 6(1)).

**Membership**

Open for ratification, acceptance, approval or accession to the States invited to participate in the High-level Conference on the Protection of the Natural Resources and Environment of the South Pacific Region, held at Noumea, New Caledonia, from 24 to 25 November 1986. Any State which was not invited to participate in the High-level Conference may accede to the Convention subject to prior approval by three-fourths of the Parties.

Date of adoption	25.11.1986
Place of adoption	Noumea
Date of entry into force	18. 8.1990
Languages	English, French

Depository South Pacific Bureau for  
Economic Co-operation

**Parties and dates of entry into force**

Australia	18. 8.1990
Cook Islands	18. 8.1990
Federated States of Micronesia	18. 8.1990
Fiji	18. 8.1990
France	18. 8.1990
Marshall Islands	18. 8.1990
New Zealand	18. 8.1990
Papua New Guinea	18. 8.1990
Solomon Islands	18. 8.1990
Western Samoa	18. 8.1990

**AGREEMENT ON THE ACTION PLAN  
FOR THE ENVIRONMENTALLY SOUND  
MANAGEMENT OF THE COMMON  
ZAMBEZI RIVER SYSTEM [48]**

**Objectives**

To co-ordinate the efforts of the Parties in the sound management of the water resources and the environment of the Common Zambezi River System.

**Provisions**

The Parties agree:

(a) To adopt the action plan for the environmentally sound management of the Common Zambezi River System encompassing the territories within or related to the Zambezi River Basin;

(b) To provide for institutional and financial arrangements for the plan through the normal institutional arrangements of the Southern African Development Co-ordination Conference or through the alternative plan in Annex II;

(c) To establish national focal points to harmonize the implementation of the plan.

The Action Plan forms Annex I of the agreement. The Parties emphasize four elements: (i) environmental assessment at national and sub-regional levels; (ii) environmental management; (iii) encouragement of national legislation and the development of a regional convention for the protection, management and development of the Basin; and (iv) the encouragement of support measures such as training of experts and increasing public awareness through education of the Action Plan.

**Membership**

The Parties to the Agreement are Botswana, Mozambique, Tanzania, Zambia and Zimbabwe but it is also open to Angola, Malawi and Namibia (represented by the United Nations Council for Namibia).

Date of adoption	28. 5.1987
Place of adoption	Harare
Date of entry into force	28. 5.1987
Language	English
Depository	Southern African Development Co-ordination Conference

**Parties and dates of entry into force**

Botswana	28. 5.1987
Mozambique	28. 5.1987
Tanzania	28. 5.1987
Zambia	28. 5.1987
Zimbabwe	28. 5.1987

## EUROPEAN CONVENTION FOR THE PROTECTION OF PET ANIMALS [49]

### Objectives

To protect pet animals kept by a person or legal entity in any household or in any establishment for trading, for commercial breeding and boarding and in animal sanctuaries.

### Provisions

(a) Parties undertake to ensure that pet animals are not caused pain, suffering, distress or abandoned (art. 7);

(b) Parties undertake to encourage the development of information and education programmes so as to promote awareness and knowledge amongst organizations and individuals concerned with the keeping, breeding, training, trading and boarding of pet animals of the provisions and the principles in the Convention (art. 14);

(c) The Parties shall within five years from the entry into force of the Convention and every five years thereafter, and whenever a majority of the representatives of the Parties so request, hold multilateral consultations within the Council of Europe to examine the application of the Convention and the advisability of revising it or extending any of its provisions (art. 15).

### Membership

Open for signature by the Member States of the Council of Europe and subject to ratification, acceptance or approval.

Date of adoption	13.11.1987
Place of adoption	Strasbourg
Date of entry into force	Not yet in force
Languages	English, French
Depositary	Council of Europe

### Signatories and dates of signature      Ratification

Belgium	13.11.1987	
Denmark	13.11.1987	
Germany, Federal Republic of	13.11.1987	
Greece	13.11.1987	
Italy	13.11.1987	
Luxembourg	13.11.1987	
Netherlands	13.11.1987	
Norway	13.11.1987	3. 2.1988
Portugal	13.11.1987	
Sweden	13.11.1987	14. 3.1989

## AGREEMENT ON THE NETWORK OF AQUACULTURE CENTRES IN ASIA AND THE PACIFIC [50]

### Objectives

To assist the Member States in their efforts to expand aquaculture development.

### Provisions

(a) An Organization for the Network of Aquaculture Centres in Asia and the Pacific (NACA) established (art. 1);

(b) The Organization is to consolidate the establishment of an expanded network of aquaculture centres to share the responsibility of research, training and information exchange essential to aquaculture development in the region (art. 3);

(c) The Organization is to conduct disciplinary and interdisciplinary research on selected aquafarming systems for adaptation or improvement of technologies, and for development of new technologies.

### Membership

Open for ratification and accession by States invited to participate in the Conference of Plenipotentiaries at which the Agreement was adopted. Any State which was not invited to participate in the Conference of Plenipotentiaries may accede to the Agreement subject to prior approval by not less than two-thirds of the Members.

Date of adoption	8. 1.1988
Place of adoption	Bangkok
Date of entry into force	11. 1.1990
Language	English
Depositary	Food and Agriculture Organization of the United Nations

### Parties and dates of entry into force

Bangladesh	15. 5.1990
China	11. 1.1990
Hong Kong	11. 1.1990
Myanmar	22. 5.1990
Nepal	11. 1.1990
Pakistan	13. 6.1990
People's Democratic Republic of Korea	23. 5.1990
Sri Lanka	11. 1.1990
Viet Nam	11. 1.1990

## CONVENTION ON THE REGULATION OF ANTARCTIC MINERAL RESOURCE ACTIVITIES [51]

Union of Soviet Socialist Republics	25.11.1988
United States of America	30.11.1988
Uruguay	25.11.1988

### Objectives

To provide for principles, rules and institutions to assess the possible impact on the environment of Antarctic mineral resource activities, to determine the acceptability of those activities, to govern the conduct of the activities and to ensure that all such activities are undertaken in conformity with the Convention. The aims of the Convention are to prohibit activities that would cause damage to the environment or ecosystems of the Antarctic or affect global or regional climate patterns.

### Provisions

(a) The Convention operates within the general framework of the Antarctic Treaty system and does not prejudice any legal position under the treaty or other components of the system or affect other uses of Antarctica (arts. 2, 9, 10 and 15);

(b) It prohibits mineral resources activities outside the Convention (art. 3);

(c) It provides for rules, upon which to judge acceptability of activities for compliance and for determining liability in case of infraction (arts. 4, 7 and 8);

(d) It prohibits activities in any areas designated as protected under the Antarctic Treaty or the Convention (art. 3);

(e) The Convention creates a Mineral Resources Commission, Scientific Advisory Committees, Regulatory Committees and a special meeting of the Parties and a Secretariat as institutions for the implementation of the Convention (Chapter II);

(f) The Convention also provides detailed financial provisions as well as detailed rules on prospecting, exploration and development of mineral resource activities (Chapters III, IV and V);

(g) Detailed rules on settlement of disputes are also set out (Chapter VI and Annex for an Arbitral Tribunal).

### Membership

Open to ratification, acceptance or approval by signatories. After 25 November 1989 open to any State that is a Party to the Antarctic Treaty.

Date of adoption	2. 6.1988
Place of adoption	Wellington
Date of entry into force	Not yet in force
Languages	Chinese, English, French, Russian, Spanish
Depositary	New Zealand

### Signatories and dates of signature

Brazil	25.11.1988
Finland	25.11.1988
Sweden	25.11.1988

## CONVENTION CONCERNING SAFETY AND HEALTH IN CONSTRUCTION [52]

### Objectives

To ensure the safety and health of workers engaged in construction activities.

### Provisions

(a) Each Member undertakes on the basis of an assessment of the safety and health hazards involved to adopt and maintain in force laws or regulations which comply with the provisions of the Convention (art. 4);

(b) Members to ensure that there is co-operation between employers and workers to promote safety and health on construction sites in accordance with national laws or regulations (art. 6);

(c) Members to take all necessary measures including the provision of appropriate penalties and corrective enforcement of the provisions of the Convention (art. 35(a));

(d) Appropriate inspection services to be provided to supervise the application of the measures to be taken in pursuance of the Convention (art. 35(b)).

### Membership

Open for ratification to all States Members of the International Labour Organization. Instruments of ratification to be deposited with the Director-General of the International Labour Office.

Date of adoption	18. 6.1988
Place of adoption	Geneva
Date of entry into force	Not yet in force
Languages	English, French
Depository	International Labour Office

### Party and date of ratification

Hungary	22. 5.1989
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## JOINT PROTOCOL RELATING TO THE APPLICATION OF THE VIENNA CONVENTION AND THE PARIS CONVENTION\* [53]

### Objectives

To establish a special link between the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963 and the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 29 July 1960 and eliminate possible conflicts arising from the simultaneous application of both Conventions to a nuclear incident.

### Provisions

(a) The operator of a nuclear installation situated in the territory of a Party to either Convention shall be liable in accordance with that Convention for nuclear damage suffered in the territory of a Party to the other Convention and the Protocol.

(b) In case of a nuclear incident outside a nuclear installation and involving nuclear material in the course of carriage, the Convention applicable is that to which the State in whose territory the nuclear installation is situated is a Party.

(c) Each Convention applies to each incident to the exclusion of the other.

(d) Articles I to XV of the Vienna Convention are applied to the Parties to the Protocol which are Parties to the Paris Convention. Articles 1 to 14 of the Paris Convention are applied to Parties to the Protocol which are Parties to the Vienna Convention.

### Membership

Restricted to States Party to the Vienna Convention or the Paris Convention.

Date of adoption	21. 9.1988
Place of adoption	Vienna
Date of entry into force	Not yet in force
Languages	Arabic, Chinese, English, French, Russian, Spanish
Depository	International Atomic Energy Agency

### Signatories, dates of signature and dates of expression of consent to be bound

Argentina	21. 9.1988	
Belgium	21. 9.1988	
Cameroon	7.12.1990	
Chile	21. 9.1988	23.11.1989
Denmark	21. 9.1988	26. 5.1989
Egypt	21. 9.1988	10. 8.1989
Finland	21. 9.1988	
France	21. 6.1989	

\* To the Convention on Third Party Liability in the Field of Nuclear Energy, Paris, 1960; the Convention Supplementary to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy, Brussels, 1963; and the Vienna Convention on Civil Liability for Nuclear Damage, Vienna, 1963.

Germany, Federal Republic of	21. 9.1988	
Greece	21. 9.1988	
Hungary	20. 9.1989	26. 3.1990
Italy	21. 9.1988	
Morocco	21. 9.1988	
Netherlands	21. 9.1988	
Norway	21. 9.1988	
Philippines	21. 9.1988	
Poland	23. 1.1990	
Portugal	21. 9.1988	
Spain	21. 9.1988	
Sweden	21. 9.1988	
Switzerland	21. 9.1988	
Turkey	21. 9.1988	
United Kingdom of Great Britain and Northern Ireland	21. 9.1988	

## BASLE CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL [54]

### Objectives

To ensure that the measures taken by States in the management of hazardous wastes and other wastes including their transboundary movement and disposal are consistent with the protection of human health and the environment whatever the place of their disposal.

### Provisions

(a) Parties prohibiting the import of hazardous wastes or other wastes shall inform the other Parties of their decision pursuant to article 13. The other Parties when so informed shall prohibit or shall not permit the export of hazardous wastes to the Parties which have prohibited the import of such wastes (art. 4(1)(a));

(b) Parties are to prohibit 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 the State of import has not prohibited the import of such wastes (art. 4(1)(c));

(c) Parties are to prohibit all persons under their national jurisdiction from transporting or disposing of hazardous wastes or other types of wastes unless such persons are authorized or allowed to perform such types of operations (art. 4(7)(a));

(d) Parties are to designate or establish one or more competent authorities as focal points to receive notifications (art. 5);

(e) States of export shall not allow the generator of hazardous wastes or other wastes to commence the transboundary movement until they have received written confirmation that the notifier has received the written consent of the State of import (art. 6);

(f) Parties are to co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes (art. 10);

(g) In case of an accident occurring during the transboundary movement of hazardous or other wastes or their disposal which is likely to present risks to human health and the environment in other States, those States must be immediately informed (art. 13);

(h) The Convention includes an Annex establishing arbitration procedures for settling disputes between Parties.

### Membership

The Convention is open for accession by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations.

Date of adoption	22. 3.1989	United States of America	22. 3.1990
Place of adoption	Basle	Uruguay	22. 3.1989
Date of entry into force	Not yet in force	Venezuela	22. 3.1989
Languages	Arabic, Chinese, English, French, Russian, Spanish	European Economic Community	22. 3.1989
Depository	United Nations		

**Signatories and dates of signature      Ratification**

Afghanistan	22. 3.1989	
Argentina	28. 6.1989	
Austria	19. 3.1990	
Bahrain	22. 3.1989	
Belgium	22. 3.1989	
Bolivia	22. 3.1989	
Canada	22. 3.1989	
Chile	31. 1.1990	
China	22. 3.1990	
Colombia	22. 3.1989	
Cyprus	22. 3.1989	
Denmark	22. 3.1989	
Ecuador	22. 3.1989	
El Salvador	22. 3.1990	
Finland	22. 3.1989	
France	22. 3.1989	
German Democratic Republic	19. 3.1990	
Germany, Federal Republic of	23.10.1989	
Greece	22. 3.1989	
Guatemala	22. 3.1989	
Haiti	22. 3.1989	
Hungary	22. 3.1989	21. 5.1990
India	15. 3.1990	
Ireland	19. 1.1990	
Israel	22. 3.1989	
Italy	22. 3.1989	
Jordan	22. 3.1989	22. 6.1989
Kuwait	22. 3.1989	
Lebanon	22. 3.1989	
Liechtenstein	22. 3.1989	
Luxembourg	22. 3.1989	
Mexico	22. 3.1989	
Netherlands	22. 3.1989	
New Zealand	18.12.1989	
Nigeria	15. 3.1990	
Norway	22. 3.1989	2. 7.1990
Panama	22. 3.1989	
Philippines	22. 3.1989	
Poland	22. 3.1990	
Portugal	26. 6.1989	
Saudi Arabia	22. 3.1989	7. 3.1990
Spain	22. 3.1989	
Sweden	22. 3.1989	
Switzerland	22. 3.1989	31. 1.1990
Syrian Arab Republic	11.10.1989	
Thailand	22. 3.1990	
Turkey	22. 3.1989	
Union of Soviet Socialist Republics	22. 3.1990	
United Arab Emirates	22. 3.1989	
United Kingdom of Great Britain and Northern Ireland	6.10.1989	



**PART 2**

**TEXTS OF TREATIES**

## EUROPEAN CONVENTION FOR THE PROTECTION OF ANIMALS KEPT FOR FARMING PURPOSES [1]

Strasbourg, 10 March 1976

The member States of the Council of Europe signatory hereto,

Considering that it is desirable to adopt common provisions for the protection of animals kept for farming purposes, particularly in modern intensive stock-farming systems,

Have agreed as follows:

### Chapter I

#### GENERAL PRINCIPLES

##### Article 1

This Convention shall apply to the keeping, care and housing of animals, and in particular to animals in modern intensive stock-farming systems. For the purposes of this Convention "animals" shall mean animals bred or kept for the production of food, wool, skin or fur or for other farming purposes, and "modern intensive stock-farming systems" shall mean systems which predominantly employ technical installations operated principally by means of automatic processes.

##### Article 2

Each Contracting Party shall give effect to the principles of animal welfare laid down in Articles 3 to 7 of this Convention.

##### Article 3

Animals shall be housed and provided with food, water and care in a manner which – having regard to their species and to their degree of development, adaptation and domestication – is appropriate to their physiological and ethological needs in accordance with established experience and scientific knowledge.

##### Article 4

1. The freedom of movement appropriate to an animal, having regard to its species and in accordance with established experience and scientific knowledge, shall not be restricted in such a manner as to cause it unnecessary suffering or injury.
2. Where an animal is continuously or regularly tethered or confined, it shall be given the space appropriate to its physiological needs in accordance with established experience and scientific knowledge.

##### Article 5

The lighting, temperature, humidity, air circulation, ventilation, and other environmental conditions such as gas concentration or noise

intensity in the place in which an animal is housed, shall – having regard to its species and to its degree of development, adaptation and domestication – conform to its physiological and ethological needs in accordance with established experience and scientific knowledge.

##### Article 6

No animal shall be provided with food or liquid in a manner, nor shall such food or liquid contain any substance, which may cause unnecessary suffering or injury.

##### Article 7

1. The condition and state of health of animals shall be thoroughly inspected at intervals sufficient to avoid unnecessary suffering and in the case of animals kept in modern intensive stock-farming systems at least once a day.
2. The technical equipment used in modern intensive stock-farming systems shall be thoroughly inspected at least once a day, and any defect discovered shall be remedied with the least possible delay. When a defect cannot be remedied forthwith, all temporary measures necessary to safeguard the welfare of the animals shall be taken immediately.

### Chapter II

#### DETAILED IMPLEMENTATION

##### Article 8

1. A Standing Committee shall be set up within a year of the entry into force of this Convention.
2. Each Contracting Party shall have the right to appoint a representative to the Standing Committee. Any member State of the Council of Europe which is not a Contracting Party to the Convention shall have the right to be represented on the Committee by an observer.
3. The Secretary General of the Council of Europe shall convene the Standing Committee whenever he finds it necessary and in any case when a majority of the representatives of the Contracting Parties or the representative of the European Economic Community, being itself a Contracting Party, request its convocation.
4. A majority of representatives of the Contracting Parties shall constitute a quorum for holding a meeting of the Standing Committee.
5. The Standing Committee shall take its decision by a majority of the votes cast; however, unanimity of the votes cast shall be required for:
  - (a) the adoption of the recommendations provided for in paragraph 1 of Article 9;

(b) the decision to admit observers other than those referred to in paragraph 2 of this Article;

(c) the adoption of the report referred to in Article 13; this report could set out, where appropriate, divergent opinions.

6. Subject to the provisions of this Convention, the Standing Committee shall draw up its own Rules of Procedure.

#### *Article 9*

1. The Standing Committee shall be responsible for the elaboration and adoption of Recommendations to the Contracting Parties containing detailed provisions for the implementation of the principles set out in Chapter I of this Convention, to be based on scientific knowledge concerning the various species of animals.

2. For the purpose of carrying out its responsibilities under paragraph 1 of this Article, the Standing Committee shall follow developments in scientific research and new methods in animal husbandry.

3. Unless a longer period is decided upon by the Standing Committee, a Recommendation shall become effective as such six months after the date of its adoption by the Committee. As from the date when a Recommendation becomes effective each Contracting Party shall either implement it or inform the Standing Committee by notification to the Secretary General of the Council of Europe of the reasons why it has decided that it cannot implement the Recommendation or can no longer implement it.

4. If two or more Contracting Parties or the European Economic Community, being itself a Contracting Party, have given notice in accordance with paragraph 3 of this Article of their decision not to implement or no longer to implement a Recommendation, that Recommendation shall cease to have effect.

#### *Article 10*

The Standing Committee shall use its best endeavours to facilitate a friendly settlement of any difficulty which may arise between Contracting Parties concerning the implementation of this Convention.

#### *Article 11*

The Standing Committee may express an advisory opinion on any question concerning the protection of animals at the request of a Contracting Party.

#### *Article 12*

Each Contracting Party may appoint one or more bodies from which the Standing Committee may request information and advice to assist it in its work. Contracting Parties shall communicate to the

Secretary General of the Council of Europe the names and addresses of such bodies.

#### *Article 13*

The Standing Committee shall submit to the Committee of Ministers of the Council of Europe, at the expiry of the third year after the entry into force of this Convention and of each further period of three years, a report on its work and on the functioning of the Convention, including if it deems it necessary proposals for amending the Convention.

### **Chapter III**

#### **FINAL PROVISIONS**

#### *Article 14*

1. This Convention shall be open to signature by the member States of the Council of Europe and by the European Economic Community. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. This Convention shall enter into force six months after the date of the deposit of the fourth instrument of ratification, acceptance or approval by a member State of the Council of Europe.

3. In respect of a signatory Party ratifying, accepting or approving after the date referred to in paragraph 2 of this Article, the Convention shall enter into force six months after the date of the deposit of its instrument of ratification, acceptance or approval.

#### *Article 15*

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, upon such terms and conditions as it deems appropriate, invite any non-member State to accede thereto.

2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect six months after the date of its deposit.

#### *Article 16*

1. Any Contracting Party 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 Contracting Party may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other

territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorized to give undertakings.

3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 17 of this Convention.

#### Article 17

1. Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

#### Article 18

The Secretary General of the Council of Europe shall notify the member States of the Council and any Contracting Party not a Member of the Council of:

- (a) any signature;
- (b) any deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any date of entry into force of this Convention in accordance with Articles 14 and 15 thereof;
- (d) any Recommendation of the kind referred to in paragraph 1 of Article 9 and the date on which it takes effect;
- (e) any notification received in pursuance of the provisions of paragraph 3 of Article 9;
- (f) any communication received in pursuance of the provisions of Article 12;
- (g) any declaration received in pursuance of the provisions of paragraphs 2 and 3 of Article 16;
- (h) any notification received in pursuance of the provisions of Article 17 and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Strasbourg, this 10th day of March 1979, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding Parties.

## AGREEMENT CONCERNING THE PROTECTION OF THE WATERS OF THE MEDITERRANEAN SHORES\* [2]

Monaco, 10 May 1976

The Government of the French Republic, the Government of the Italian Republic and the Government of His Serene Highness the Sovereign Prince of Monaco,

- anxious to preserve the quality of the waters of the Mediterranean shores, to prevent their pollution as far as possible and to improve their current state,
- desiring to reinforce the local collaboration established in this area among the authorities of the three Governments,

Have agreed as follows:

#### Article 1

The three Governments shall establish an International Commission, hereinafter referred to as "the Commission", to achieve the objectives of this Agreement.

#### Article 2

The aim of the Commission is to establish closer collaboration between the competent services of the three Governments in order to combat pollution of the waters of the territorial sea and the internal waters of the continental coastline included between, to the west, longitude 6°7' East and, to the east, longitude 9°8' East.

The Commission may, if necessary, and in accordance with the procedure provided for in article 8, extend the aforesaid geographical limits, unless there is an objection from one of the Governments within three months of the adoption of the new limits.

#### Article 3

In order to discharge its functions, under this Agreement, the Commission shall:

- (a) Examine any problem of common interest related to water pollution;
- (b) Stimulate collaboration among the competent administrative services aimed at:
  - a survey of polluted areas;
  - mutual and reciprocal information on development projects that may create a serious risk of pollution;
  - an economic study of the infrastructure and equipment necessary to combat water pollution;

\* Translation by UNEP Secretariat.

(c) Promote and stimulate, as appropriate, studies and research and information exchanges and expert meetings within the framework of scientific co-operation, the subject-matter of which shall be determined by the Commission, taking into account existing local, national or international work and material resources;

(d) Propose to the three Governments any measure to protect the waters, including through special agreements.

#### *Article 4*

The Commission shall be composed of delegations of the three Governments. Each Government shall nominate a maximum of seven delegates, including one head of delegation. Each delegation may call upon experts to examine particular questions.

#### *Article 5*

The Commission shall be supported by a Technical Committee composed of water protection experts. Each Government shall nominate technical experts. The Commission may also request that other working groups should be constituted to study specific issues.

#### *Article 6*

The Presidency of the Commission shall be given for a period of two years to the head of each delegation in turn in the order in which the Governments appear in the Preamble.

However, for the first period, the head of the Monégasque delegation shall be the President.

#### *Article 7*

Ordinary sessions of the Commission shall be held at least once a year upon convocation by the President. Extraordinary sessions shall be convened by the President, on the request of one delegation. The President shall propose the agenda. Each delegation may have included in the agenda items that it wishes to be considered. The draft agenda shall be submitted to delegations two months before the date of the meeting.

#### *Article 8*

Each delegation shall have one vote.  
Decisions shall be taken unanimously.

#### *Article 9*

The Commission shall establish the relations that it deems necessary with all international bodies concerned with water pollution.

#### *Article 10*

The Commission shall provide the three Governments annually with an activity report containing, in particular, the results of the studies and research that it initiates, together with its proposals.

#### *Article 11*

Each Government shall bear the costs of its participation in the Commission, the Technical Committee and any working groups, as well as the costs of research undertaken in its territory.

Common expenses shall be divided among the three Governments according to arrangements proposed by the Commission and laid down by those Governments. Such a procedure shall also apply where the Commission decides unanimously on special research.

#### *Article 12*

The Commission shall adopt its rules of procedure.

#### *Article 13*

The Secretariat of the Commission shall be provided by the Scientific Centre of Monaco.

#### *Article 14*

The working languages of the Commission shall be French and Italian.

#### *Article 15*

Each signatory Government shall notify the Government of the Principality of Monaco of the completion by it of the constitutional procedures required for the entry into force of the present Agreement; the Government of the Principality of Monaco shall immediately confirm the date of receipt of notification and shall inform the other signatory Governments.

The Agreement shall enter into force on the first day of the second month after the receipt of the final notification.

After the expiry of three years from the date of entry into force, the present Agreement may be denounced at any time. Such denunciation shall take effect three months after it is notified to the depositary Government, which shall immediately inform the other signatory Governments.

The original of the present Agreement, of which the French and Italian texts are equally authentic, shall be deposited in the archives of the Government of His Most Serene Highness the Sovereign Prince of Monaco, which shall transmit a certified true copy to each of the signatory Governments.

Done at Monaco, this tenth day of May one thousand nine hundred and seventy six.

## CONVENTION ON THE PROTECTION OF THE RHINE AGAINST POLLUTION BY CHLORIDES [3]

Bonn, 3 December 1976

The Government of the Federal Republic of Germany,

The Government of the French Republic,

The Government of the Grand Duchy of Luxembourg,

The Government of the Kingdom of the Netherlands,

and the Government of the Swiss Confederation,

Referring to the Agreement of April 29, 1963 concerning the International Commission for the Protection of the Rhine against Pollution,

Considering the present amount of chloride ions in the Rhine,

Aware of the damage that could result therefrom,

Referring to the findings and results of the Conference of Ministers on the Pollution of the Rhine, which took place at The Hague on October 25-26, 1972, during the course of which the desire was expressed to improve progressively the quality of the waters of the Rhine so that at the German-Netherlands border the chloride ion content will not be greater than 200 mg/l,

Have agreed on the following:

### Article 1

1. The Contracting Parties will strengthen their cooperation for the purpose of fighting against the pollution of the Rhine by chloride ions on the basis, during an initial stage, of the provisions of this Convention.

2. Annex A to the Convention specifies what the Contracting Parties understand by the term "Rhine" for the purposes of the application of the aforementioned Convention.

### Article 2

1. The discharge of chloride ions into the Rhine will be reduced by at least 60 kg/s of chloride ions (annual average). This objective will be achieved gradually and in French territory.

2. In order to achieve the objective indicated in the preceding paragraph, the French Government will, under the conditions set forth in Annex I of this Convention, install an injection system in the sub-soil of Alsace in order to reduce over a period of ten years the discharges from the Alsace Potassium Mines by an initial quantity of 20 kg/s of chloride ions. The installation shall be constructed as soon as possible, no later than 18 months after the entry into force of the Convention. The French Government will report regularly to the International Commission for the Protection of the Rhine against Pollution (hereinafter designated "the International Commission").

3. The Contracting Parties are agreed that the French Government will, after consideration of the results obtained during the initial stage described in paragraph 2, take all steps necessary to achieve before January 1, 1980 the objective set forth in paragraph 1, by injection into the Alsatian sub-soil or by other means, subject to an agreement on the technical terms and conditions of the project and on the financing of the costs relating thereto.

4. The French Government will present an over-all plan on the technical terms and conditions and the costs of the measures to be taken pursuant to paragraph 3.

### Article 3

1. The Contracting Parties will take in their own territory, the necessary measures to prevent an increase in the amounts of chloride ions discharged into the Rhine basin. The national concentration figures are shown in Annex II.

2. An increase in the amounts of chloride ions from isolated discharges shall be admissible only to the extent that the Contracting Parties concerned will offset such concentration in their respective territories or if a general method of offsetting it is found within the framework of the International Commission. This provision shall not hinder the application of Article 6.

3. A Contracting Party may, in exceptional cases and for imperative reasons, after having requested the opinion of the International Commission, authorize an increase in concentration without immediately offsetting it.

4. The Contracting Parties will control all discharges of chloride ions greater than 1 kg/s in the basin of the Rhine in their territory.

5. Each Contracting Party will send an annual report to the International Commission which shall indicate as precisely as possible the increase in the chloride-ion concentration in the waters of the Rhine. This report shall be based on all significant data from pertinent national programs and shall distinguish discharges greater than 1 kg/s from other discharges. Should such a distinction be impossible to make, it must be reported to the International Commission.

6. The Annex mentioned previously in paragraph 1 as well as the maximum concentration of 1 kg/s of chloride ions shall be reviewed each year by the International Commission as the situation develops. If necessary, the International Commission shall propose changes in the Annex to the Governments.

### Article 4

1. The French Government, on its own initiative or at the request of another Contracting Party, may have the process of injection or resorption of chloride ions halted when there is evidence of serious danger

to the environment and particularly to the water table.

2. The French Government, or any other requesting Party, will immediately inform the International Commission of the situation and will provide data on the extent and nature of the danger.

3. The French Government will immediately take the steps rendered necessary by the situation and will report them to the International Commission. When the situation is no longer considered dangerous, the chloride-ion injection or resorption process is to be resumed without delay.

4. The Contracting Parties will, at the request of one of them, consult among themselves within the International Commission if the need for additional measures should arise.

#### Article 5

If the process of injection or resorption of chloride ions causes damage for which compensation cannot be guaranteed fully or in part by the constructors of the works or by third parties, the Contracting Parties will consult among themselves at the request of one among them regarding a possible contribution that may be paid to the French Government.

#### Article 6

The International Commission shall present to the Contracting Parties within four years of the entry into force of the Convention proposals concerning the means to achieve progressively a new chloride-ion concentration limitation over the entire course of the Rhine.

#### Article 7

1. The expenses resulting from injection as provided in Article 2 paragraph 2 and from the preparatory works will be assumed by the French Party.

2. The Contracting Parties mentioned below will contribute to the total cost of 132 million French francs by means of a lump sum payment, prorated as follows:

Federal Republic of Germany	30%
Kingdom of the Netherlands	34%
Swiss Confederation	6%

The payments shall be made no later than three months after the entry into force of this Convention.

3. The Contracting Parties will deliberate, following the presentation of the over-all plan provided for in Article 2 (4) and at the request of the French Government, on the financing of the measures to be carried out in application of Article 2 (3) on the basis of the prorating given in paragraph 2 above. The costs of preliminary research, particularly relating to studies and exploration, and,

in addition, the unforeseen expenses not covered by the financing of the first stage shall likewise be included in the financing plan.

#### Article 8

The payments specified in Article 7 (2) shall be made in French francs to account No. 440-09/line 1 in the Central Accounting Agency of the French Treasury.

#### Article 9

When, following the entry into force of this Convention, the International Commission ascertains that at one of the measuring points the load and concentration of chloride ions shows a continuing tendency to increase, it shall request each Contracting Party in whose territory the cause of this increase is located to take the necessary steps to halt it.

#### Article 10

1. If any difficulties should result from the application of Article 9, and a period of six months has gone by since such difficulties were noted by the International Commission, the latter, in order to present a report to the Governments, may call upon the services of an independent expert at the request of a Contracting Party.

2. The expenses relating to the inquiry, including the expert's fee, shall be divided among the Contracting Parties mentioned below, as follows:

Federal Republic of Germany	two sevenths (2/7)
French Republic	two sevenths (2/7)
Kingdom of the Netherlands	two sevenths (2/7)
Swiss Confederation	one seventh (1/7)

The International Commission may, in certain cases, establish a different method for dividing the expenses.

#### Article 11

When a Contracting Party notes a sudden and sizeable increase in chloride ions in the waters of the Rhine or has knowledge of an accident that may seriously endanger the quality of those waters, it will report it without delay to the International Commission and to the Contracting Parties likely to be affected, according to a procedure to be established by the International Commission.

#### Article 12

1. Each Contracting Party concerned will be responsible at the appropriate measuring stations, for the installation and operation of the measuring equipment and systems serving to check the concentration of chloride ions in the waters of the Rhine.

2. The chloride-ion concentrations shall be determined on the basis of the measurements carried out according to the recommendations of the International Commission.

3. The Contracting Parties will report to the International Commission regularly and at least every six months the results of the checks carried out pursuant to paragraph 1 above.

#### Article 13

Any dispute between the Contracting Parties regarding the interpretation or application of the present Convention that cannot be settled by negotiation shall, except when the Parties to the dispute decide otherwise, be subject, at the request of one of them, to arbitration in accordance with the provisions of Annex B. The latter, as well as Annexes A, I, and II, shall form an integral part of this Convention.

#### Article 14

Each Signatory Party will notify the Government of the Swiss Confederation of the execution of the procedures required for the entry into force of this Convention. It shall enter into force on the first day of the second month following receipt of the last notification.

#### Article 15

At the end of three years following its entry into force, this Convention may be denounced at any time by any of the Contracting Parties by means of a statement addressed to the Government of the Swiss Confederation. The denunciation shall take effect, for the denouncing Party, six months following receipt of the statement by the Government of the Swiss Confederation. This shall not have the effect of compromising the continued execution of tasks for which international financing has been obtained.

#### Article 16

The Government of the Swiss Confederation will inform the Contracting Parties of the date of receipt of any notification or statement received pursuant to Articles 14 and 15.

#### Article 17

1. If the April 29, 1963 Agreement concerning the International Commission for the Protection of the Rhine Against Pollution is denounced by one of the Parties to the aforementioned Agreement, the Contracting Parties will consult without delay on the measures necessary to ensure the continued execution of the tasks that, according to this Convention, are the responsibility of the International Commission.

2. If an agreement is not reached in the six months following the opening of discussions, each of the

Contracting Parties may denounce this Convention at any time in accordance with Article 15, without waiting for the three-year period to elapse.

#### Article 18

This Convention, drawn up in a single copy in German, French and Dutch, the three texts being equally authentic, shall be deposited in the Archives of the Government of the Swiss Confederation, which shall transmit a certified copy to each of the Contracting Parties.

Done at Bonn on December 3, 1976.

#### Annex A

For the purposes of this Convention, the Rhine begins at the outlet from the lower lake and includes the branches of the river up to the fresh-water limit from which its waters flow freely into the North Sea, including the IJssel up to Kampen.

The fresh-water limit is the area where at low tide and at a time when the discharge of fresh water is low, a sizeable increase in the chloride content is noted owing to the presence of sea water. This area is, for the Nieuwe Maas, 1000 kilometers downstream from the Constance Bridge over the Rhine. The other fresh-water limit points shall be established by the International Commission, bearing in mind the methods for determining the limit as defined above.

#### Annex B

##### ARBITRATION

1. Unless the parties to the dispute decide otherwise, the procedure for arbitration shall be conducted in accordance with the provisions contained in this annex.

2. The Arbitral Tribunal shall be composed of three members. Each of the parties to the dispute shall name an arbitrator and the two arbitrators thus appointed shall designate by common accord a third arbitrator, who will become the Chief Arbitrator of the Tribunal.

If at the end of two months following the designation of the second arbitrator the Chief Arbitrator of the Tribunal has not been designated, the President of the European Court of Human Rights shall, at the request of the most diligent party, appoint one within a new two-month period.

3. If, within two months following the receipt of the request referred to in Article 13 of the Convention, one of the parties to the dispute does not appoint a member of the Tribunal, the other party may request the President of the European Court of Human Rights to appoint the Chief Arbitrator of the Arbitral Tribunal within a new two-month period. Upon his designation, the Chief Arbitrator of the Arbitral Tribunal shall request the party that has not named



an arbitrator to do so within two months. If no action has been taken during that time, he shall then request the President of the European Court of Human Rights to make the appointment within a new two-month time limit.

4. If, in the cases referred to in the preceding paragraphs, the President of the European Court of Human Rights is unable to do so or if he is a national of one of the parties to the dispute, the designation of the Chief Arbitrator of the Arbitral Tribunal or the naming of an arbitrator shall fall to the Vice-President of the Court, or to the oldest member of the Court who is able to do so and who is not a national of one of the parties to the dispute.

5. The foregoing provisions shall apply according to the case, in order to fill seats that have become vacant.

6. The Arbitral Tribunal shall hand down a decision according to the rules of international law and, in particular, according to the provisions of this Convention.

7. The decisions of the Arbitral Tribunal, on procedure as well as on the merits of the case, shall be adopted by a majority vote of its members, the absence or abstention of one of the members of the tribunal designated by the parties not precluding a decision on the part of the Tribunal. In the event of a tie vote, the Chief Arbitrator's vote shall prevail. The decisions of the Tribunal shall be binding on the parties. The latter shall bear the expenses of the arbitrator they have designated and shall divide the other expenses equally among themselves. On other points, the Arbitral Tribunal itself shall decide the procedure it will follow.

#### Annex I

##### TECHNICAL FACTORS INVOLVED IN THE INSTALLATION OF THE INJECTION SYSTEM REFERRED TO IN ARTICLE 2, PARAGRAPH 2

The injection of residual brines into the sub-soil is to be made into a layer of limestone called "Great Oolite" at a depth of 1500 to 2000 m, to the southwest of Mulhouse.

Taking into account the studies and tests already made, injection is to be carried out by means of an installation which conforms to the following description:

1. A concentrated brine manufacturing plant located within the perimeter of the surface installations of the Amélie Mine and capable of supplying a volume of brine equivalent to 20 kg/s of chloride ions (annual average);
2. Watertight storage basins for concentrated brine and the waste water extracted;
3. A network of pipes to conduct the waste material from the basin to the injection wells, over a distance

of approximately 10 km, with a corresponding pumping station located downstream from the waste storage basin;

4. Two new injection wells which, together with the Schweighouse well, will be equipped with a double system permitting the injection of brine either by simple gravity or by means of a pump;

5. Three extraction wells equipped with pumps sunk at great depth for extracting the waste water;

6. A network of pipes for carrying the extracted water over a distance of approximately 20 km from the extraction wells to the storage basin for such waters;

7. A remote-control network, required for conducting and supervising the operation. The operation of the installation includes the injection of chloride ions under the conditions provided for by the Convention, the supply of energy, and the maintenance and supervision of the underground reservoir.

## Annex II

## NATIONAL CONCENTRATIONS RESULTING FROM CHLORIDE-ION DISCHARGES GREATER THAN 1 kg/s IN DIFFERENT SECTIONS OF THE RIVER

Sections of the River	in Switzerland		in France		in Germany		in the Netherlands	
	Av. (1)	Max. (2)	Av. (1)	Max. (2)	Av. (1)	Max. (2)	Av. (1)	Max. (2)
Stein am Rhein – Kembs	10							
Kembs – Seltz/Maxau			130 (3)		4.2	4.2		
Seltz/Maxau – Mainz					15.8	17.5		
Mainz – Braubach/Coblenz					9.9	10.0		
Braubach/Coblenz – Bimmen/Lobith			38 (4)		105	123.6		
Bimmen/Lobith – mouth of the river	10		168 (3)		134.9			

- (1) Long-term average annual concentration after steps taken regarding discharges.  
(2) Maximum admissible concentration (reached from time to time, for example at a time of increased flow).  
(3) This value diminishes as the measures referred to in Article 2 are carried out.  
(4) The chloride-ion discharges are modulated so that the concentration resulting from discharges greater than 1 kg/s of chloride ions does not exceed 400 mg/l of chloride ions at the Hauconcourt measuring station on the Moselle river. The indicated annual average load must not be exceeded.

## CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES [4]

Ottawa, 24 October 1978

The Contracting Parties,

Noting that the coastal States of the Northwest Atlantic have, in accordance with relevant principles of international law, extended their jurisdiction over the living resources of their adjacent waters to limits of up to two hundred nautical miles from the baselines from which the breadth of the territorial sea is measured, and exercise within these areas sovereign rights for the purpose of exploring and exploiting, conserving and managing these resources;

Taking into account the work of the Third United Nations Conference on the Law of the Sea in the field of fisheries;

Desiring to promote the conservation and optimum utilization of the fishery resources of the Northwest Atlantic area within a framework appropriate to the regime of extended coastal State jurisdiction over fisheries, and accordingly to encourage international cooperation and consultation with respect to these resources;

Have agreed as follows:

### Article I

1. The area to which this Convention applies, hereinafter referred to as "the Convention Area", shall be the waters of the Northwest Atlantic Ocean north of 35°00' north latitude and west of a line extending due north from 35°00' north latitude and 42°00' west longitude to 59°00' north latitude, thence due west to 44°00' west longitude, and thence due north to the coast of Greenland, and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10' north latitude.

2. The area referred to in this Convention as "the Regulatory Area" is that part of the Convention Area which lies beyond the areas in which coastal States exercise fisheries jurisdiction.

3. For the purposes of this Convention, "coastal State" shall hereinafter mean a Contracting Party exercising fisheries jurisdiction in waters forming part of the Convention Area.

4. This Convention applies to all fishery resources of the Convention Area, with the following exceptions: salmon, tunas and marlins, cetacean stocks managed by the International Whaling Commission or any successor organization, and sedentary species of the Continental Shelf, i.e., organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

5. Nothing in this Convention shall be deemed to affect or prejudice the positions or claims of any Contracting Party in regard to internal waters, the territorial sea, or the limits or extent of the jurisdiction of any Party over fisheries; or to affect or prejudice the views or positions of any Contracting Party with respect to the law of the sea.

### Article II

1. The Contracting Parties agree to establish and maintain an international organization whose object shall be to contribute through consultation and cooperation to the optimum utilization, rational management and conservation of the fishery resources of the Convention Area. This organization shall be known as the Northwest Atlantic Fisheries Organization, hereinafter referred to as "the Organization", and shall carry out the functions set forth in this Convention.

2. The Organization shall consist of:

- (a) a General Council;
- (b) a Scientific Council;
- (c) a Fisheries Commission; and
- (d) a Secretariat.

3. The Organization shall have legal personality and shall enjoy in its relations with other international organizations and in the territories of the Contracting Parties such legal capacity as may be necessary to perform its functions and achieve its ends. The immunities and privileges which the Organization and its officers shall enjoy in the territory of a Contracting Party shall be subject to agreement between the Organization and the Contracting Party concerned.

4. The headquarters of the Organization shall be at Dartmouth, Nova Scotia, Canada, or at such other place as may be decided by the General Council.

### Article III

The functions of the General Council shall be:

- (a) to supervise and coordinate the organizational, administrative, financial and other internal affairs of the Organization, including the relations among its constituent bodies;
- (b) to coordinate the external relations of the Organization;
- (c) to review and determine the membership of the Fisheries Commission pursuant to Article XIII; and
- (d) to exercise such other authority as is conferred upon it by this Convention.

### Article IV

1. Each Contracting Party shall be a member of the General Council and shall appoint to the Council not more than three representatives who may be

accompanied at any of its meetings by alternates, experts and advisers.

2. The General Council shall elect a Chairman and a Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election but shall not serve for more than four years in succession. The Chairman shall be a representative of a Contracting Party that is a member of the Fisheries Commission and the Chairman and Vice-Chairman shall be representatives of different Contracting Parties.

3. The Chairman shall be the President of the Organization and shall be its principal representative.

4. The Chairman of the General Council shall convene a regular annual meeting of the Organization at a place decided upon by the General Council and which shall normally be in North America.

5. Any meeting of the General Council, other than the annual meeting, may be called by the Chairman at such time and place as the Chairman may determine, upon the request of a Contracting Party with the concurrence of another Contracting Party.

6. The General Council may establish such Committees and Subcommittees as it considers desirable for the exercise of its duties and functions.

#### Article V

1. Each Contracting Party shall have one vote in proceedings of the General Council.

2. Except where otherwise provided, decisions of the General Council shall be taken by a majority of the votes of all Contracting Parties present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two-thirds of the Contracting Parties.

3. The General Council shall adopt, and amend as occasion may require, rules for the conduct of its meetings and for the exercise of its functions.

4. The General Council shall submit to the Contracting Parties an annual report of the activities of the Organization.

#### Article VI

1. The functions of the Scientific Council shall be:

(a) to provide a forum for consultation and cooperation among the Contracting Parties with respect to the study, appraisal and exchange of scientific information and views relating to the fisheries of the Convention Area, including environmental and ecological factors affecting these fisheries, and to encourage and promote cooperation among the Contracting Parties in scientific research designed to fill gaps in knowledge pertaining to these matters;

(b) to compile and maintain statistics and records and to publish or disseminate reports, information and materials pertaining to the fisheries of the Convention Area, including environmental and ecological factors affecting these fisheries;

(c) to provide scientific advice to coastal States, where requested to do so pursuant to Article VII; and

(d) to provide scientific advice to the Fisheries Commission, pursuant to Article VIII or on its own initiative as required for the purposes of the Commission.

2. The functions of the Scientific Council may, where appropriate, be carried out in cooperation with other public or private organizations having related objectives.

3. The Contracting Parties shall furnish to the Scientific Council any available statistical and scientific information requested by the Council for the purpose of this Article.

#### Article VII

1. The Scientific Council shall, at the request of a coastal State, consider and report on any question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the fisheries jurisdiction of that coastal State within the Convention Area.

2. The coastal State shall, in consultation with the Scientific Council, specify terms of reference for the consideration of any question referred to the Council pursuant to paragraph 1. These terms of reference shall include, along with any other matters deemed appropriate, such of the following as are applicable:

(a) a statement of the question referred, including a description of the fisheries and area to be considered;

(b) where scientific estimates or predictions are sought, a description of any relevant factors or assumptions to be taken into account; and

(c) where applicable, a description of any objectives the coastal State is seeking to attain and an indication of whether specific advice or a range of options should be provided.

#### Article VIII

The Scientific Council shall consider and report on any question referred to it by the Fisheries Commission pertaining to the scientific basis for the management and conservation of fishery resources within the Regulatory Area and shall take into account the terms of reference specified by the Fisheries Commission in respect of that question.

#### Article IX

1. Each Contracting Party shall be a member of the Scientific Council and shall appoint to the Council its own representatives who may be accompanied at any

of its meetings by alternates, experts and advisers.

2. The Scientific Council shall elect a Chairman and a Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election but shall not serve for more than four years in succession. The Chairman and Vice-Chairman shall be representatives of different Contracting Parties.

3. Any meeting of the Scientific Council, other than the annual meeting convened pursuant to Article IV, may be called by the Chairman at such time and place as the Chairman may determine, upon the request of a coastal State or upon the request of a Contracting Party with the concurrence of another Contracting Party.

4. The Scientific Council may establish such Committees and Subcommittees as it considers desirable for the exercise of its duties and functions.

#### Article X

1. Scientific advice to be provided by the Scientific Council pursuant to this Convention shall be determined by consensus. Where consensus cannot be achieved, the Council shall set out in its report all views advanced on the matter under consideration.

2. Decisions of the Scientific Council with respect to the election of officers, the adoption and the amendment of rules and other matters pertaining to the organization of its work shall be taken by a majority of votes of all Contracting Parties present and casting affirmative or negative votes, and for these purposes each Contracting Party shall have one vote. No vote shall be taken unless there is a quorum of at least two-thirds of the Contracting Parties.

3. The Scientific Council shall adopt, and amend as occasion may require, rules for the conduct of its meetings and for the exercise of its functions.

#### Article XI

1. The Fisheries Commission, hereinafter referred to as "the Commission", shall be responsible for the management and conservation of the fishery resources of the Regulatory Area in accordance with the provisions of this Article.

2. The Commission may adopt proposals for joint action by the Contracting Parties designed to achieve the optimum utilization of the fishery resources of the Regulatory Area. In considering such proposals, the Commission shall take into account any relevant information or advice provided to it by the Scientific Council.

3. In the exercise of its functions under paragraph 2, the Commission shall seek to ensure consistency between:

(a) any proposal that applies to a stock or group of stocks occurring both within the Regulatory Area and within an area under the fisheries jurisdiction of a coastal State, or any proposal that would have an

effect through species interrelationships on a stock or group of stocks occurring in whole or in part within an area under the fisheries jurisdiction of a coastal State; and

(b) any measures or decisions taken by the coastal State for the management and conservation of that stock or group of stocks with respect to fishing activities conducted within the area under its fisheries jurisdiction.

The appropriate coastal State and the Commission shall accordingly promote the coordination of such proposals, measures and decisions. Each coastal State shall keep the Commission informed of its measures and decisions for the purpose of this Article.

4. Proposals adopted by the Commission for the allocation of catches in the Regulatory Area shall take into account the interests of Commission members whose vessels have traditionally fished within that Area, and, in the allocation of catches from the Grand Banks and Flemish Cap, Commission members shall give special consideration to the Contracting Party whose coastal communities are primarily dependent on fishing for stocks related to these fishing banks and which has undertaken extensive efforts to ensure the conservation of such stocks through international action, in particular, by providing surveillance and inspection of international fisheries on these banks under an international scheme of joint enforcement.

5. The Commission may also adopt proposals for international measures of control and enforcement within the Regulatory Area for the purpose of ensuring within that Area the application of this Convention and the measures in force thereunder.

6. Each proposal adopted by the Commission shall be transmitted by the Executive Secretary to all Contracting Parties, specifying the date of transmittal for the purposes of paragraph 1 of Article XII.

7. Subject to the provisions of Article XII, each proposal adopted by the Commission under this Article shall become a measure binding on all Contracting Parties to enter into force on a date determined by the Commission.

8. The Commission may refer to the Scientific Council any question pertaining to the scientific basis for the management and conservation of fishery resources within the Regulatory Area and shall specify terms of reference for the consideration of that question.

9. The Commission may invite the attention of any or all Commission members to any matters which relate to the objectives and purposes of this Convention within the Regulatory Area.

### Article XII

1. If any Commission member presents to the Executive Secretary an objection to a proposal within sixty days of the date of transmittal specified in the notification of the proposal by the Executive Secretary, the proposal shall not become a binding measure until the expiration of forty days following the date of transmittal specified in the notification of that object to the Contracting Parties. Thereupon any other Commission member may similarly object prior to the expiration of the additional forty-day period, or within thirty days after the date of transmittal specified in the notification to the Contracting Parties of any objection presented within that additional forty-day period, whichever shall be the later. The proposal shall then become a measure binding on all Contracting Parties, except those which have presented objections, at the end of the extended period or periods for objecting. If, however, at the end of such extended period or periods, objections have been presented and maintained by a majority of Commission members, the proposal shall not become a binding measure, unless any or all of the Commission members nevertheless agree as among themselves to be bound by it on an agreed date.

2. Any Commission member which has objected to a proposal may at any time withdraw that objection and the proposal immediately shall become a measure binding on such a member, subject to the objection procedure provided for in this Article.

3. At any time after the expiration of one year from the date on which a measure enters into force, any Commission member may give to the Executive Secretary notice of its intention not to be bound by the measure, and, if that notice is not withdrawn, the measure shall cease to be binding on that member at the end of one year from the date of receipt of the notice by the Executive Secretary. At any time after a measure has ceased to be binding on a Commission member under this paragraph, the measure shall cease to be binding on any other Commission member upon the date a notice of its intention not to be bound is received by the Executive Secretary.

4. The Executive Secretary shall immediately notify each Contracting Party of:

- (a) the receipt of each objection and withdrawal of objection under paragraphs 1 and 2;
- (b) the date on which any proposal becomes a binding measure under the provisions of paragraph 1; and
- (c) the receipt of each notice under paragraph 3.

### Article XIII

1. The membership of the Commission shall be reviewed and determined by the General Council at its annual meeting and shall consist of:

(a) each Contracting Party which participates in the fisheries of the Regulatory Area; and

(b) any Contracting Party which has provided evidence satisfactory to the General Council that it expects to participate in the fisheries of the Regulatory Area during the year of that annual meeting or during the following calendar year.

2. Each Commission member shall appoint to the Commission not more than three representatives who may be accompanied at any of its meetings by alternates, experts and advisers.

3. Any Contracting Party that is not a Commission member may attend meetings of the Commission as an observer.

4. The Commission shall elect a Chairman and a Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election but shall not serve for more than four years in succession. The Chairman and Vice-Chairman shall be representatives of different Commission members.

5. Any meeting of the Commission, other than the annual meeting convened pursuant to Article IV, may be called by the Chairman at such time and place as the Chairman may determine, upon the request of any Commission member.

6. The Commission may establish such Committees and Subcommittees as it considers desirable for the exercise of its duties and functions.

### Article XIV

1. Each Commission member shall have one vote in proceedings of the Commission.

2. Decisions of the Commission shall be taken by a majority of the votes of all Commission members present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two-thirds of the Commission members.

3. The Commission shall adopt, and amend as occasion may require, rules for the conduct of its meetings and for the exercise of its functions.

### Article XV

1. The Secretariat shall provide services to the Organization in the exercise of its duties and functions.

2. The chief administrative officer of the Secretariat shall be the Executive Secretary, who shall be appointed by the General Council according to such procedures and on such terms as it may determine.

3. The staff of the Secretariat shall be appointed by the Executive Secretary in accordance with such rules and procedures as may be determined by the General Council.

4. The Executive Secretary shall, subject to the general supervision of the General Council, have full power and authority over staff of the Secretariat and shall perform such other functions as the General Council shall prescribe.

#### *Article XVI*

1. Each Contracting Party shall pay the expenses of its own delegation to all meetings held pursuant to this Convention.

2. The General Council shall adopt an annual budget for the Organization.

3. The General Council shall establish the contributions due from each Contracting Party under the annual budget on the following basis:

(a) 10% of the budget shall be divided among the coastal States in proportion to their nominal catches in the Convention Area in the year ending two years before the beginning of the budget year;

(b) 30% of the budget shall be divided equally among all the Contracting Parties; and

(c) 60% of the budget shall be divided among all Contracting Parties in proportion to their nominal catches in the Convention Area in the year ending two years before the beginning of the budget year.

The nominal catches referred to above shall be the reported catches of the species listed in Annex I, which forms an integral part of this Convention.

4. The Executive Secretary shall notify each Contracting Party of the contribution due from that Party as calculated under paragraph 3, and as soon as possible thereafter each Contracting Party shall pay to the Organization its contribution.

5. Contributions shall be payable in the currency of the country in which the headquarters of the Organization is located, except if otherwise authorized by the General Council.

6. Subject to paragraph 11, the General Council shall, at its first meeting, approve a budget for the balance of the first financial year in which the Organization functions and the Executive Secretary shall transmit to the Contracting Parties copies of that budget together with notices of their respective contributions.

7. For subsequent financial years, drafts of the annual budget shall be submitted by the Executive Secretary to each Contracting Party together with a schedule of contributions, not less than sixty days before the annual meeting of the Organization at which the budgets are to be considered.

8. A Contracting Party acceding to this Convention during the course of a financial year shall contribute in respect of that year a part of the contribution calculated in accordance with the provisions of this Article that is proportional to the number of complete months remaining in the year.

9. A Contracting Party which has not paid its contributions for two consecutive years shall not enjoy any right of casting votes and presenting objections under this Convention until it has fulfilled its obligations, unless the General Council decides otherwise.

10. The financial affairs of the Organization shall be audited annually by external auditors to be selected by the General Council.

11. If the Convention enters into force on 1 January 1979, the provisions of Annex II, which forms an integral part of this Convention, shall apply in place of the provisions of paragraph 6.

#### *Article XVII*

The Contracting Parties agree to take such action, including the imposition of adequate sanctions for violations, as may be necessary to make effective the provisions of the Convention and to implement any measures which become binding under paragraph 7 of Article XI and any measures which are in force under Article XXIII. Each Contracting Party shall transmit to the Commission an annual statement of the actions taken by it for these purposes.

#### *Article XVIII*

The Contracting Parties agree to maintain in force and to implement within the Regulatory Area a scheme of joint international enforcement as applicable pursuant to Article XXIII or as modified by measures referred to in paragraph 5 of Article XI. This scheme shall include provision for reciprocal rights of boarding and inspection by the Contracting Parties and for flag State prosecution and sanctions on the basis of evidence resulting from such boardings and inspections. A report of such prosecutions and sanctions imposed shall be included in the annual statement referred to in Article XVII.

#### *Article XIX*

The Contracting Parties agree to invite the attention of any State not a Party to this Convention to any matter relating to the fishing activities in the Regulatory Area of the nationals or vessels of that State which appear to affect adversely the attainment of the objectives of this Convention. The Contracting Parties further agree to confer when appropriate upon the steps to be taken towards obviating such adverse effects.

#### *Article XX*

1. The Convention Area shall be divided into scientific and statistical sub-areas, divisions and subdivisions, the boundaries of which shall be those defined in Annex III to this Convention.

2. On the request of the Scientific Council, the General Council may by a two-thirds majority vote of all Contracting Parties, if deemed necessary for

scientific or statistical purposes, modify the boundaries of the scientific and statistical sub-areas, divisions and subdivisions set out in Annex III, provided that each coastal State exercising fisheries jurisdiction in any part of the area affected concurs in such action.

3. On the request of the Fisheries Commission and after having consulted the Scientific Council, the General Council may by a two-thirds majority vote of all Contracting Parties, if deemed necessary for management purposes, divide the Regulatory Area into appropriate regulatory divisions and subdivisions. These may subsequently be modified in accordance with the same procedure. The boundaries of any such divisions and subdivisions shall be defined in Annex III.

4. Annex III to this Convention, either in its present terms or as modified from time to time pursuant to this Article, forms an integral part of this Convention.

#### *Article XXI*

1. Any Contracting Party may propose amendments to this Convention to be considered and acted upon by the General Council at an annual or a special meeting. Any such proposed amendment shall be sent to the Executive Secretary at least ninety days prior to the meeting at which it is proposed to be acted upon, and the Executive Secretary shall immediately transmit the proposal to all Contracting Parties.

2. The adoption of a proposed amendment to the Convention by the General Council shall require a three-fourths majority of the votes of all Contracting Parties. The text of any proposed amendments so adopted shall be transmitted by the Depository to all Contracting Parties.

3. An amendment shall take effect for all Contracting Parties one hundred and twenty days following the date of transmittal specified in the notification by the Depository of receipt of written notification of approval by three-fourths of all Contracting Parties unless any other Contracting Party notifies the Depository that it objects to the amendment within ninety days of the date of transmittal specified in the notification by the Depository of such receipt, in which case the amendment shall not take effect for any Contracting Party. Any Contracting Party which has objected to an amendment may at any time withdraw that objection. If all objections to an amendment are withdrawn, the amendment shall take effect for all Contracting Parties one hundred and twenty days following the date of transmittal specified in the notification by the Depository of receipt of the last withdrawal.

4. Any Party which becomes a Contracting Party to the Convention after an amendment has been adopted in accordance with paragraph 2 shall be

deemed to have approved the said amendment.

5. The Depository shall promptly notify all Contracting Parties of the receipt of notifications of approval of amendments, the receipt of notifications of objection or withdrawal of objections, and the entry into force of amendments.

#### *Article XXII*

1. This Convention shall be open for signature at Ottawa until 31 December 1978, by the Parties represented at the Diplomatic Conference on the Future of Multilateral Cooperation in the Northwest Atlantic Fisheries, held at Ottawa from 11 to 21 October 1977. It shall thereafter be open for accession.

2. This Convention shall be subject to ratification, acceptance or approval by the Signatories and the instruments of ratification, acceptance or approval shall be deposited with the Government of Canada, referred to in this Convention as "the Depository".

3. This Convention shall enter into force upon the first day of January following the deposit of instruments of ratification, acceptance or approval by not less than six Signatories, at least one of which exercises fisheries jurisdiction in waters forming part of the Convention Area.

4. Any party which has not signed this Convention may accede thereto by a notification in writing to the Depository. Accessions received by the Depository prior to the date of entry into force of this Convention shall become effective on the date this Convention enters into force. Accessions received by the Depository after the date of entry into force of this Convention shall become effective on the date of receipt by the Depository.

5. The Depository shall inform all Signatories and all Contracting Parties of all ratifications, acceptances or approvals deposited and accessions received.

6. The Depository shall convene the initial meeting of the Organization to be held not more than six months after the coming into force of the Convention, and shall communicate the provisional agenda to each Contracting Party not less than one month before the date of the meeting.

#### *Article XXIII*

Upon the entry into force of this Convention, each proposal that has been transmitted or is effective at that time under Article VIII of the International Convention for the Northwest Atlantic Fisheries, 1949, ("the ICNAF Convention") shall, subject to the provisions of the ICNAF Convention, become a measure binding on each Contracting Party with respect to the Regulatory Area immediately, if the proposal has become effective under the ICNAF Convention, or at such time as it becomes effective



thereunder. Subject to paragraph 3 of Article XII of this Convention, each such measure shall remain binding on each Contracting Party, until such time as it expires or is replaced by a measure which has become binding pursuant to Article XI of this Convention; provided that no such replacement shall take effect before this Convention has been in force for one year.

#### Article XXIV

1. Any Contracting Party may withdraw from the Convention on 31 December of any year by giving notice on or before the preceding 30 June to the Depositary, which shall communicate copies of such notice to other Contracting Parties.

2. Any other Contracting Party may thereupon withdraw from the Convention on the same 31 December by giving notice to the Depositary within one month of the receipt of a copy of a notice of withdrawal given pursuant to paragraph 1.

#### Article XXV

1. The original of the present Convention shall be deposited with the Government of Canada, which shall communicate certified copies thereof to all the Signatories and to all the Contracting Parties.

2. The Depositary shall register the present Convention with the Secretariat of the United Nations.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Ottawa, this 24th day of October, 1978, in a single original, in the English and French languages, each text being equally authentic.

#### Annex I

##### LIST OF SPECIES FOR THE DETERMINATION OF THE NOMINAL CATCHES TO BE USED IN CALCULATING THE ANNUAL BUDGET PURSUANT TO ARTICLE XVI

Atlantic cod	<i>Gadus morhua</i>
Haddock	<i>Melanogrammus aeglefinus</i>
Atlantic redfish	<i>Sebastes marinus</i>
Silver hake	<i>Merluccius bilinearis</i>
Red hake	<i>Urophycis chuss</i>
Pollock	<i>Pollachius virens</i>
American plaice	<i>Hippoglossoides platessoides</i>
Witch flounder	<i>Glyptocephalus cynoglossus</i>
Yellowtail flounder	<i>Limanda ferruginea</i>
Greenland halibut	<i>Reinhardtius hippoglossoides</i>
Roundnose grenadier	<i>Macrourus rupestris</i>
Atlantic herring	<i>Clupea harengus</i>
Atlantic mackerel	<i>Scomber scombrus</i>
Atlantic butterfish	<i>Peprilus triacanthus</i>
River herring (alewife)	<i>Alosa pseudoharengus</i>

Atlantic argentine Capelin	<i>Argentina silus</i> <i>Mallotus villosus</i>
Long-finned squid	<i>Loligo pealei</i>
Short-finned squid	<i>Illex illecebrosus</i>
Shrimps	<i>Pandalus sp.</i>

#### Annex II

##### TRANSITIONAL FINANCIAL ARRANGEMENTS

1. A Contracting Party which is also a Contracting Party to the International Convention for the Northwest Atlantic Fisheries throughout the year 1979 shall not contribute to the expenses of the Organization in that year. Other Contracting Parties which have deposited their instruments of ratification, acceptance or approval or acceded to the Convention before 31 December 1979 shall contribute the amount indicated in the Appendix hereto. The contribution of any Contracting Party not included in the Appendix shall be determined by the General Council.

2. The contributions due pursuant to paragraph 1 shall be paid by each Contracting Party as soon as possible after 1 January 1979 or after its accession to the Convention, whichever is later.

##### Appendix to Annex II

Contracting Party	Contribution for 1979
Bulgaria	\$ 16,325
Canada	82,852
Cuba	20,211
Denmark (Faeroe Islands)	6,473
European Economic Community	74,254
German Democratic Republic	19,266
Iceland	12,293
Japan	16,697
Norway	21,107
Poland	29,316
Portugal	22,716
Romania	15,472
Spain	26,224
Union of Soviet Socialist Republics	72,133
United States of America	29,947

#### Annex III

##### SCIENTIFIC AND STATISTICAL SUB-AREAS, DIVISIONS AND SUBDIVISIONS

The scientific and statistical sub-areas, divisions and subdivisions provided for by Article XX of this Convention shall be as follows:

##### 1. (a) Sub-area 0

That portion of the Convention Area lying to the north of the parallel of 61°00' north latitude; bounded on the east by a line extending due north

from a point at 61°00' north latitude and 59°00' west longitude to the parallel of 69°00' north latitude, thence in a northwesterly direction along a rhumb line to a point at 75°00' north latitude and 73°30' west longitude and thence due north to the parallel of 78°10' north latitude; and bounded on the west by a line beginning at 61°00' north latitude and 65°00' west longitude and extending in a northwesterly direction along a rhumb line to the coast of Baffin Island at East Bluff (61°55' north latitude and 66°20' west longitude), and thence in a northerly direction along the coast of Baffin Island, Bylot Island, Devon Island and Ellesmere Island and following the eightieth meridian of west longitude in the waters between those islands to the parallel of 78°10' north latitude.

(b) Sub-area 0 is composed of two Divisions:

Division 0 A

That portion of the Sub-area lying to the north of the parallel of 66°15' north latitude;

Division 0 B

That portion of the Sub-area lying to the south of the parallel of 66°15' north latitude.

2. (a) Sub-area 1

That portion of the Convention Area lying to the east of Sub-area 0 and to the north and east of a rhumb line joining a point at 61°00' north latitude and 59°00' west longitude with a point at 52°15' north latitude and 42°00' west longitude.

(b) Sub-area 1 is composed of six Divisions:

Division 1A

That portion of the Sub-area lying north of the parallel of 68°50' north latitude (Christianshaab);

Division 1B

That portion of the Sub-area lying between the parallel of 66°15' north latitude (5 nautical miles north of Umanarsugssuak) and the parallel of 68°50' north latitude (Christianshaab);

Division 1C

That portion of the Sub-area lying between the parallel of 64°15' north latitude (4 nautical miles north of Godthaab) and the parallel of 66°15' north latitude (5 nautical miles north of Umanarsugssuak);

Division 1D

That portion of the Sub-area lying between the parallel of 62°30' north latitude (Frederikshaab Glacier) and the parallel of 64°15' north latitude (4 nautical miles north of Godthaab);

Division 1E

That portion of the Sub-area lying between the parallel of 60°45' north latitude (Cape Desolation) and the parallel of 62°30' north latitude (Frederikshaab Glacier);

Division 1F

That portion of the Sub-area lying south of the

parallel of 60°45' north latitude (Cape Desolation).

3. (a) Sub-area 2

That portion of the Convention Area lying to the east of the meridian of 64°30' west longitude in the area of Hudson Strait, to the south of Sub-area 0, to the south and west of Sub-area 1 and to the north of the parallel of 52°15' north latitude.

(b) Sub-area 2 is composed of three Divisions:

Division 2G

That portion of the Sub-area lying north of the parallel of 57°40' north latitude (Cape Mugford);

Division 2H

That portion of the Sub-area lying between the parallel of 55°20' north latitude (Hopedale) and the parallel of 57°40' north latitude (Cape Mugford);

Division 2J

That portion of the Sub-area lying south of the parallel of 55°20' north latitude (Hopedale).

4. (a) Sub-area 3

That portion of the Convention Area lying south of the parallel of 52°15' north latitude; and to the east of a line extending due north from Cape Bauld on the north coast of Newfoundland to 52°15' north latitude; to the north of the parallel of 39°00' north latitude; and to the east and north of a rhumb line commencing at 39°00' north latitude, 50°00' west longitude and extending in a northwesterly direction to pass through a point at 43°30' north latitude, 55°00' west longitude in the direction of a point at 47°50' north latitude, 60°00' west longitude until it intersects a straight line connecting Cape Ray, on the coast of Newfoundland, with Cape North on Cape Breton Island; thence in a northeasterly direction along said line to Cape Ray.

(b) Sub-area 3 is composed of six Divisions:

Division 3K

That portion of the Sub-area lying north of the parallel of 49°15' north latitude (Cape Freels, Newfoundland);

Division 3L

That portion of the Sub-area lying between the Newfoundland coast from Cape Freels to Cape St. Mary and a line described as follows: beginning at Cape Freels, thence due east to the meridian of 46°30' west longitude, thence due south to the parallel of 46°00' north latitude, thence due west to the meridian of 54°30' west longitude, thence along a rhumb line to Cape St. Mary, Newfoundland;

Division 3M

That portion of the Sub-area lying south of the parallel of 49°15' north latitude and east of the meridian of 46°30' west longitude;

## Division 3N

That portion of the Sub-area lying south of the parallel of 46°00' north latitude and between the meridian of 46°30' west longitude and the meridian of 51°00' west longitude;

## Division 3-O

That portion of the Sub-area lying south of the parallel of 46°00' north latitude and between the meridian of 51°00' west longitude and the meridian of 54°30' west longitude;

## Division 3P

That portion of the Sub-area lying south of the Newfoundland coast and west of a line from Cape St. Mary, Newfoundland to a point at 46°00' north latitude, 54°30' west longitude, thence due south to the limit of the Sub-area;

## Division 3P is divided into two Subdivisions:

3Pn – Northwestern Subdivision – That portion of Division 3P lying northwest of a line extending from Burgeo Island, Newfoundland, approximately southwest to a point at 46°50' north latitude and 58°50' west longitude;

3Ps – Southeastern Subdivision – That portion of Division 3P lying southeast of the line defined for Subdivision 3Pn.

## 5. (a) Sub-area 4

That portion of the Convention Area lying north of the parallel of 39°00' north latitude, to the west of Sub-area 3, and to the east of a line described as follows: beginning at the terminus of the international boundary between the United States of America and Canada in Grand Manan Channel, at a point at 44°46'35.346" north latitude, 66°54'11.253" west longitude; thence due south to the parallel of 43°50' north latitude; thence due west to the meridian of 67°40' west longitude; thence due south to the parallel of 42°20' north latitude; thence due east to a point at 66°00' west longitude; thence along a rhumb line in a southeasterly direction to a point at 42°00' north latitude and 65°40' west longitude; and thence due south to the parallel of 39°00' north latitude.

## (b) Sub-area 4 is divided into six Divisions:

## Division 4R

That portion of the Sub-area lying between the coast of Newfoundland from Cape Bauld to Cape Ray and a line described as follows: beginning at Cape Bauld, thence due north to the parallel of 52°15' north latitude, thence due west to the Labrador coast, thence along the Labrador coast to the terminus of the Labrador-Quebec boundary, thence along a rhumb line in a southwesterly direction to a point at 49°25' north latitude, 60°00' west longitude, thence due south to a point at 47°50' north latitude, 60°00' west longitude, thence along a rhumb line in a southeasterly direction to the point at which the boundary of Sub-area 3 intersects the straight line joining Cape North, Nova Scotia with Cape Ray, Newfoundland, thence to Cape Ray, Newfoundland;

## Division 4S

That portion of the Sub-area lying between the south coast of Quebec from the terminus of the Labrador-Quebec boundary to Pte. des Monts and a line described as follows: beginning at Pte. des Monts, thence due east to a point at 49°25' north latitude, 64°40' west longitude, thence along a rhumb line in an east-southeasterly direction to a point at 47°50' north latitude, 60°00' west longitude, thence due north to a point at 49°25' north latitude, 60°00' west longitude, thence along a rhumb line in a northeasterly direction to the terminus of the Labrador-Quebec boundary;

## Division 4T

That portion of the Sub-area lying between the coasts of Nova Scotia, New Brunswick and Quebec from Cape North to Pte. des Monts and a line described as follows: beginning at Pte. des Monts, thence due east to a point at 49°25' north latitude, 64°40' west longitude, thence along a rhumb line in a southeasterly direction to a point at 47°50' north latitude, 60°00' west longitude, thence along a rhumb line in a southerly direction to Cape North, Nova Scotia;

## Division 4V

That portion of the Sub-area lying between the coast of Nova Scotia between Cape North and Fourchu and a line described as follows: beginning at Fourchu, thence along a rhumb line in an easterly direction to a point at 45°40' north latitude, 60°00' west longitude, thence due south along the meridian of 60°00' west longitude to the parallel of 44°10' north latitude, thence due east to the meridian of 59°00' west longitude, thence due south to the parallel of 39°00' north latitude, thence due east to a point where the boundary between Sub-areas 3 and 4 meets the parallel of 39°00' north latitude, thence along the boundary between Sub-areas 3 and 4 and a line continuing in a northwesterly direction to a point at 47°50' north latitude, 60°00' west longitude, and thence along a rhumb line in a southerly direction to Cape North, Nova Scotia;

## Division 4V is divided into two Subdivisions:

4Vn – Northern Subdivision – That portion of Division 4V lying north of the parallel of 45°40' north latitude;

4Vs – Southern Subdivision – That portion of Division 4V lying south of the parallel of 45°40' north latitude;

## Division 4W

That portion of the Sub-area lying between the coast of Nova Scotia from Halifax to Fourchu and a line described as follows: beginning at Fourchu, thence along a rhumb line in an easterly direction to a point at 45°40' north latitude, 60°00' west longitude, thence due south along the meridian of 60°00' west longitude to the parallel of 44°10' north latitude, thence due east to the meridian of 59°00' west

longitude, thence due south to the parallel of 39°00' north latitude, thence due west to the meridian of 63°20' west longitude, thence due north to a point on that meridian at 44°20' north latitude, thence along a rhumb line in a northwesterly direction to Halifax, Nova Scotia;

**Division 4X**

That portion of the Sub-area lying between the western boundary of Sub-area 4 and the coasts of New Brunswick and Nova Scotia from the terminus of the boundary between New Brunswick and Maine to Halifax, and a line described as follows: beginning at Halifax, thence along a rhumb line in a south-easterly direction to a point at 44°20' north latitude, 63°20' west longitude, thence due south to the parallel of 39°00' north latitude, and thence due west to the meridian of 65°40' west longitude.

6. (a) Sub-area 5

That portion of the Convention Area lying to the west of the western boundary of Sub-area 4, to the north of the parallel of 39°00' north latitude, and to the east of the meridian of 71°40' west longitude.

(b) Sub-area 5 is composed of two Divisions:

**Division 5Y**

That portion of the Sub-area lying between the coasts of Maine, New Hampshire and Massachusetts from the border between Maine and New Brunswick to 70°00' west longitude on Cape Cod (at approximately 42° north latitude) and a line described as follows: beginning at a point on Cape Cod at 70° west longitude (at approximately 42° north latitude), thence due north to 42°20' north latitude, thence due east to 67°40' west longitude at the boundary of Sub-areas 4 and 5 and thence along that boundary to the boundary of Canada and the United States;

**Division 5Z**

That portion of the Sub-area lying to the south and east of Division 5Y.

Division 5Z is divided into two Subdivisions: an eastern Subdivision and a western Subdivision defined as follows:

5Ze - Eastern Subdivision - That portion of Division 5Z lying east of the meridian of 70°00' west longitude;

5Zw - Western Subdivision - That portion of Division 5Z lying west of the meridian of 70°00' west longitude.

7. (a) Sub-area 6

That part of the Convention Area bounded by a line beginning at a point on the coast of Rhode Island at 71°40' west longitude, thence due south to 39°00' north latitude, thence due east to 42°00' west longitude, thence due south to 35°00' north latitude, thence due west to the coast of North America, thence northwards along the coast of North America to the point of Rhode Island at 71°40' west longitude.

(b) Sub-area 6 is composed of eight Divisions:

**Division 6A**

That portion of the Sub-area lying to the north of the parallel of 39°00' north latitude and to the west of Sub-area 5;

**Division 6B**

That portion of the Sub-area lying to the west of 70°00' west longitude, to the south of the parallel of 39°00' north latitude, and to the north and west of a line running westward along the parallel of 37°00' north latitude to 76°00' west longitude and thence due south to Cape Henry, Virginia;

**Division 6C**

That portion of the Sub-area lying to the west of 70°00' west longitude and to the south of Subdivision 6B;

**Division 6D**

That portion of the Sub-area lying to the east of Divisions 6B and 6C and to the west of 65°00' west longitude;

**Division 6E**

That portion of the Sub-area lying to the east of Division 6D and to the west of 60°00' west longitude;

**Division 6F**

That portion of the Sub-area lying to the east of Division 6E and to the west of 55°00' west longitude;

**Division 6G**

That portion of the Sub-area lying to the east of Division 6F and to the west of 50°00' west longitude;

**Division 6H**

That portion of the Sub-area lying to the east of Division 6G and to the west of 42°00' west longitude.

## EUROPEAN CONVENTION FOR THE PROTECTION OF ANIMALS FOR SLAUGHTER [5]

Strasbourg, 10 May 1979

The member States of the Council of Europe, signatory hereto,

Considering that it is desirable to ensure the protection of animals which are to be slaughtered;

Considering that slaughter methods which as far as possible spare animals suffering and pain should be uniformly applied in their countries;

Considering that fear, distress, suffering and pain inflicted on an animal during slaughter may affect the quality of the meat,

Have agreed as follows:

### Chapter I

#### GENERAL PRINCIPLES

##### Article 1

1. This Convention shall apply to the movement, lairaging, restraint, stunning and slaughter of domestic solipeds, ruminants, pigs, rabbits and poultry.

2. For the purpose of this Convention:

*Slaughterhouse*: shall mean any premises under health control, intended for the professional slaughter of animals to produce meat for consumption or for any other reason;

*Moving animals*: shall mean unloading or driving them from unloading platforms or from stalls or pens at slaughterhouses to the premises or place where they are to be slaughtered;

*Lairaging*: shall mean keeping animals in stalls, pens or covered areas at slaughterhouses in order to give them the necessary attention (water, fodder, rest) before they are slaughtered;

*Restraint*: shall mean the application to an animal of any procedure in conformity with the provisions of this Convention designed to restrict its movements in order to facilitate stunning or slaughter;

*Stunning*: shall mean any process in conformity with the provisions of this Convention, which when applied to an animal induces a state of insensibility which lasts until it is dead, thus sparing it in any event any avoidable suffering;

*Slaughter*: shall mean causing the death of an animal after restraint, stunning and bleeding with the exceptions provided for in Chapter III of this Convention.

##### Article 2

1. Each Contracting Party shall take the necessary steps to ensure the implementation of the provisions of this Convention.

2. Nothing in this Convention shall, however, prevent Contracting Parties from adopting more stringent rules to protect animals.

3. Each Contracting Party shall ensure that the design, construction and facilities of slaughterhouses and their operation shall be such as to ensure that the appropriate conditions provided for in this Convention are complied with in order to spare animals any avoidable excitement, pain or suffering.

4. For slaughtering outside or inside slaughterhouses each Contracting Party shall ensure that the animals are spared any avoidable pain or suffering.

### Chapter II

#### DELIVERY OF ANIMALS TO SLAUGHTERHOUSES AND THEIR LAIRAGING UNTIL THEY ARE SLAUGHTERED

##### Article 3

1. Animals shall be unloaded as soon as possible. While waiting in the means of transport they shall be protected from extremes of weather and provided with adequate ventilation.

2. The personnel responsible for moving and lairaging such animals shall have the knowledge and skills required and shall comply with the requirements set out in this Convention.

#### Section I

##### THE MOVING OF ANIMALS WITHIN THE PRECINCTS OF SLAUGHTERHOUSES

##### Article 4

1. The animals shall be unloaded and moved with care.

2. Suitable equipment such as bridges, ramps, or gangways, shall be used for unloading animals. The equipment shall be constructed with flooring which will permit a proper foothold and, if necessary, shall be provided with lateral protection. Bridges, ramps and gangways shall have the minimum possible incline.

3. The animals shall not be frightened or excited. In any event care must be taken to ensure that animals are not overturned on bridges, ramps or gangways and that they cannot fall from them. In particular animals shall not be lifted by the head, feet or tail in a manner which will cause them pain or suffering.

4. When necessary, animals shall be led individually. Corridors along which they are moved must be so designed that they cannot injure themselves.

##### Article 5

1. When animals are moved their gregarious tendencies shall be exploited. Instruments shall be

used solely to guide them and must only be used for short periods. In particular, they shall not be struck on, nor shall pressure be applied to, any particularly sensitive part of the body. Electric shocks may be used for bovine animals and pigs only, provided that the shocks last no more than two seconds, are adequately spaced out and the animals have room to move; such shocks shall be applied only to appropriate muscles.

2. Animals' tails shall not be crushed, twisted or broken and their eyes shall not be grasped. Blows and kicks shall not be inflicted.

3. Cages, baskets or crates in which animals are transported shall be handled with care. They shall not be thrown to the ground or knocked over.

4. Animals delivered in cages, baskets or crates with flexible or perforated bottoms shall be unloaded with particular care in order to avoid injuring the animals' extremities. Where appropriate they shall be unloaded individually.

#### Article 6

1. Animals shall not be taken to the place of slaughter unless they can be slaughtered immediately.

2. Animals which are not slaughtered immediately on arrival shall be lairaged.

### Section II

#### LAIRAGING

#### Article 7

1. Animals shall be protected from unfavourable climatic conditions. Slaughterhouses shall be equipped with a sufficient number of stalls and pens for lairaging of the animals with protection from the effects of adverse weather.

2. The floor of areas where animals are unloaded, moved, kept waiting or temporarily based, shall not be slippery. It shall be such that it can be cleaned, disinfected and thoroughly drained of liquids.

3. Slaughterhouses shall have covered areas with feeding and drinking troughs and arrangements for tying up animals.

4. Animals which must spend the night at the slaughterhouse shall be so housed and, when, appropriate, tied up in such a way that they may lie down.

5. Animals naturally hostile to each other on account of their species, sex, age or origin shall be separated from each other.

6. Animals which have been transported in cages, baskets or crates shall be slaughtered as soon as

possible; otherwise they shall be watered and fed in accordance with the provisions of Article 8.

7. If animals have been subjected to high temperatures in humid weather, they shall be cooled.

8. Where climatic conditions make it necessary (e.g. high humidity, low temperatures), animals shall be placed in well-ventilated accommodation. During foddering the stalls shall be adequately lit.

### Section III

#### CARE

#### Article 8

1. Unless they are conducted as soon as possible to the place of slaughter, animals shall be offered water on arrival in the slaughterhouse.

2. With the exception of animals to be slaughtered within twelve hours of their arrival, they shall subsequently be given moderate quantities of food and water at appropriate intervals.

3. Where animals are not tied up, feeding receptacles shall be provided which will permit the animals to feed undisturbed.

#### Article 9

1. The condition and state of health of the animals shall be inspected at least every morning and evening.

2. Sick, weak or injured animals shall be slaughtered immediately. If this is not possible, they shall be separated in order to be slaughtered as soon as possible.

### Section IV

#### OTHER PROVISIONS

#### Article 10

In respect of reindeer, each Contracting Party may authorise derogations from the provisions of Chapter II of this Convention.

#### Article 11

Each Contracting Party may prescribe that the provisions of Chapter II of this Convention shall be applied *mutatis mutandis* to moving and lairaging of animals outside slaughterhouses.

### Chapter III

#### SLAUGHTERING

#### Article 12

Animals shall be restrained where necessary immediately before slaughtering and, with the

exceptions set out in Article 17, shall be stunned by an appropriate method.

#### Article 13

In the case of the ritual slaughter of animals of the bovine species, they shall be restrained before slaughter by mechanical means designed to spare them all avoidable pain, suffering, agitation, injury or contusions.

#### Article 14

No means of restraint causing avoidable suffering shall be used; animals' hind legs shall not be tied nor shall they be suspended before stunning or, in the case of ritual slaughter, before the end of bleeding. Poultry and rabbits may, however, be suspended for slaughtering provided that stunning takes place directly after suspension.

#### Article 15

Other slaughter operations than those mentioned in Article 1, paragraph 2 may commence only after the animal's death.

#### Article 16

1. The stunning methods authorised by each Contracting Party shall bring animals into a state of insensibility which lasts until they are slaughtered, thus sparing them in any event all avoidable suffering.
2. Use of the puntilla, hammer or pole-axe shall be prohibited.
3. In the case of solipeds, ruminants and pigs, only the following stunning methods shall be permitted:
  - mechanical means employing instruments which administer a blow or penetrate at the level of the brain;
  - electro-narcosis;
  - gas anaesthesia.
4. Each Contracting Party may authorise derogations from the provisions of paragraphs 2 and 3 of this Article in the case of slaughter of an animal at the place where it was reared by the producer for his personal consumption.

#### Article 17

1. Each Contracting Party may authorise derogations from the provisions concerning prior stunning in the following cases:
  - slaughtering in accordance with religious rituals;
  - emergency slaughtering when stunning is not possible;
  - slaughtering of poultry and rabbits by authorised methods causing instantaneous death;

— killing of animals for the purposes of health control where special reasons make this necessary.

2. Each Contracting Party availing itself of the provisions of paragraph 1 of this Article shall, however, ensure that at the time of such slaughter or killing the animals are spared any avoidable pain or suffering.

#### Article 18

1. Each Contracting Party shall make certain of the skill of persons who are professionally engaged in the restraint, stunning and slaughter of animals.
2. Each Contracting Party shall ensure that the instruments, apparatus or installations necessary for the restraint and stunning of animals comply with the requirements of the Convention.

#### Article 19

Each Contracting Party permitting slaughter in accordance with religious ritual shall ensure, when it does not itself issue the necessary authorisations, that animal sacrificers are duly authorised by the religious bodies concerned.

### Chapter IV

#### FINAL PROVISIONS

#### Article 20

1. This Convention shall be open to signature by the member States of the Council of Europe and by the European Economic Community. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
2. This Convention shall enter into force six months after the date of the deposit of the fourth instrument of ratification, acceptance or approval by a member State of the Council of Europe.
3. In respect of a signatory party ratifying, accepting or approving after the date referred to in paragraph 2 of this Article, the Convention shall come into force six months after the date of the deposit of its instrument of ratification, acceptance or approval.

#### Article 21

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, upon such terms and conditions as it deems appropriate, invite any non-member State to accede thereto.
2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe

an instrument of accession which shall take effect six months after the date of its deposit.

The Secretary General of the Council of Europe shall transmit certified copies to each of the signatory and acceding Parties.

#### *Article 22*

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, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.
3. Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General. Such withdrawal shall take effect six months after the date of receipt by the Secretary General of such notification.

#### *Article 23*

1. Any Contracting Party may, insofar as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

#### *Article 24*

The Secretary General of the Council of Europe shall notify the member States of the Council and any Contracting Party not a member of the Council of:

- (a) any signature;
- (b) any deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any date of entry into force of this Convention in accordance with Articles 20 and 21 thereof;
- (d) any declaration received in pursuance of the provisions of Article 22, paragraph 2;
- (e) any notification received in pursuance of the provisions of Article 22, paragraph 3;
- (f) any notification received in pursuance of the provisions of Article 23 and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 10th day of May 1979, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe.



## CONVENTION FOR THE CONSERVATION AND MANAGEMENT OF THE VICUNA [6]

Lima, 20 December 1979

The Governments of the Republics of Bolivia, Chile, Ecuador and Peru, with the objective of continuing to promote the conservation and management of the vicuna, and taking into account the experience acquired through the implementation of the Convention for the Conservation of the Vicuna, signed at La Paz on August 16th, 1969, have decided that it is necessary to draft a new Convention for the Conservation and Management of the Vicuna, in the following terms:

### Article 1

The Signatory Governments agree that conservation of the vicuna provides an economic production alternative for the benefit of the Andean population and commit themselves to its gradual use under strict State control, applying such technical methods for the management of wildlife as the competent official authorities may determine.

### Article 2

The Signatory Governments prohibit the hunting and illegal trade of the vicuna, its products and derivatives within the territory of their respective countries.

### Article 3

The Signatory Governments prohibit internal and external trade of the vicuna, its products in their natural state and those manufactured therefrom up to December 31st, 1989. In case any of the Parties hereto reaches a vicuna population level, which in terms of management would allow the production of meat, viscera and bones, as well as the processing of skins and wool into cloth, it may proceed to their trade under strict State control. Trade in processed skins and in cloth may be carried out using marks and wefts which are internationally recognizable, registered and/or patented, after coordination with the Parties through the Technical-Administrative Commission of the present Convention and in coordination with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington, 1973).

### Article 4

The Signatory Governments prohibit the export of fertile vicunas, semen or other reproductive material, with the exception of those destined to one of the member countries for the purpose of research and/or repopulation.

### Article 5

The Signatory Governments undertake to

maintain and develop national parks and reserves and other protected areas containing vicuna populations, and to extend the areas of repopulation managed as wildland areas, as a matter of priority and always under State control.

### Article 6

The Signatory Governments agree to continue comprehensive research on the vicuna, including biological, socio-economic and other aspects. Likewise, they commit themselves to an active interchange of information through the Multi-national Center for Documentation with headquarters in the Republic of Bolivia.

### Article 7

The Signatory Governments agree to provide to each other technical assistance for management and repopulation of the vicuna, including the training of personnel, as well as dissemination and extension activities aimed at the conservation and management of the species.

### Article 8

In order to evaluate the implementation of the Convention, to keep the Parties informed and to recommend solutions for problems resulting from its application, the Signatory Governments agree to create the Technical-Administrative Commission of this Convention, composed of representatives of each of the countries. The Commission shall meet annually and its Statutes shall be approved at its first meeting.

### Article 9

With a view to facilitating the application and interpretation of the present Convention, the Parties agree to define the following terms:

Conservation: Action aimed at management and use of the vicuna.

Management: The application of methods to increase the vicuna population until the grazing capacity of a specific region, zone or area has been reached, and thereafter to maintain a balance between those two factors, employing technically accepted methods, such as the translocation and/or culling of vicunas.

Use: The utilization of vicuna wool through shearing or from slaughtered animals, as well as the meat, skin, viscera and other derivatives. This term also comprises the indirect utilization of the vicuna for tourism, scientific and cultural purposes.

- Culling:** Slaughter of vicunas through appropriate methods, including the slaughter with firearms of sick animals, older specimens, unpaired males and, in justifiable cases, of family groups.
- Poaching:** The elimination, slaughtering or capture of vicunas without control or authorization from the competent State authority.
- Illegal trade:** Any form of transaction relating to vicuna and/or its products (sale, barter, import, export, transport, etc.) without control or authorization from the competent State authority.
- Skin:** Hide of the vicuna with its wool.
- Hide:** Skin of the vicuna without its wool.

#### Article 10

The present Convention shall enter into force provisionally on the date of its signature and finally from the moment when the third instrument of ratification is deposited with the Ministry of Foreign Affairs of Peru, Depositary of the Convention, which shall communicate it to the other Parties.

For the other Signatory Governments the provisional application of this Convention shall continue until such time as they deposit their respective ratification instruments.

#### Article 11

Any Contracting Party that wishes to withdraw from this Convention, shall communicate its intention to the other Parties through a Diplomatic Note addressed to the Depositary. Withdrawal shall be effective one year from the date on which the Depositary notifies the withdrawing Government that it has communicated its decision to the other Parties.

#### Article 12

This Convention shall remain open only for signature by the Republic of Argentina, being a Party to the Convention for the Conservation of the Vicuna, signed at La Paz in 1969.

#### Article 13

Due to its specific nature, the present Convention shall not be open for accession by other countries.

In witness whereof the Plenipotentiaries duly accredited, have signed the present Convention.

Done in Spanish, in the city of Lima on this 20th day of December 1979.

## CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL [7]

Vienna and New York, 3 March 1980

The States Parties to this Convention,

Recognizing the right of all States to develop and apply nuclear energy for peaceful purposes and their legitimate interests in the potential benefits to be derived from the peaceful application of nuclear energy,

Convinced of the need for facilitating international co-operation in the peaceful application of nuclear energy,

Desiring to avert the potential dangers posed by the unlawful taking and use of nuclear material,

Convinced that offences relating to nuclear material are a matter of grave concern and that there is an urgent need to adopt appropriate and effective measures to ensure the prevention, detection and punishment of such offences,

Aware of the need for international co-operation to establish, in conformity with the national law of each State Party and with this Convention, effective measures for the physical protection of nuclear material,

Convinced that this Convention should facilitate the safe transfer of nuclear material,

Stressing also the importance of the physical protection of nuclear material in domestic use, storage and transport,

Recognizing the importance of effective physical protection of nuclear material used for military purposes, and understanding that such material is and will continue to be accorded stringent physical protection.

Have agreed as follows:

#### Article 1

For the purposes of this Convention:

(a) "Nuclear material" means plutonium except that with isotopic concentration exceeding 80% in plutonium-238; uranium-233; uranium enriched in the isotope 235 or 233; uranium containing the mixture of isotopes as occurring in nature other than in the form of ore or ore-residue; any material containing one or more of the foregoing;

(b) "Uranium enriched in the isotope 235 or 233" means uranium containing the isotope 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature;

(c) "International nuclear transport" means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the departure from a facility of the

shipper in that State and ending with the arrival at a facility of the receiver within the State of ultimate destination.

#### Article 2

1. This Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport.

2. With the exception of articles 3 and 4 and paragraph 3 of article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport.

3. Apart from the commitments expressly undertaken by States Parties in the articles covered by paragraph 2 with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such nuclear material.

#### Article 3

Each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that, during international nuclear transport, nuclear material within its territory, or on board a ship or aircraft under its jurisdiction insofar as such ship or aircraft is engaged in the transport to or from that State, is protected at the levels described in Annex I.

#### Article 4

1. Each State Party shall not export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I.

2. Each State Party shall not import or authorize the import of nuclear material from a State not party to this Convention unless the State Party has received assurances that such material will during the international nuclear transport be protected at the levels described in Annex I.

3. A State Party shall not allow the transit of its territory by land or internal waterways or through its airports or seaports of nuclear material between States that are not parties to this Convention unless the State Party has received assurances as far as practicable that this nuclear material will be protected during international nuclear transport at the levels described in Annex I.

4. Each State Party shall apply within the framework of its national law the levels of physical protection described in Annex I to nuclear material being transported from a part of that State to another part of the same State through international waters or airspace.

5. The State Party responsible for receiving assurances that the nuclear material will be protected at the levels described in Annex I according to paragraphs 1 to 3 shall identify and inform in advance States which the nuclear material is expected to transit by land or internal waterways, or whose airports or seaports it is expected to enter.

6. The responsibility for obtaining assurances referred to in paragraph 1 may be transferred, by mutual agreement, to the State Party involved in the transport as the importing State.

7. Nothing in this article shall be interpreted as in any way affecting the territorial sovereignty and jurisdiction of a State, including that over its airspace and territorial sea.

#### Article 5

1. States Parties shall identify and make known to each other directly or through the International Atomic Energy Agency their central authority and point of contact having responsibility for physical protection of nuclear material and for co-ordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof.

2. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, States Parties shall, in accordance with their national law, provide co-operation and assistance to the maximum feasible extent in the recovery and protection of such material to any State that so requests. In particular:

(a) A State Party shall take appropriate steps to inform as soon as possible other States, which appear to it to be concerned, of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof and to inform, where appropriate, international organizations;

(b) As appropriate, the States Parties concerned shall exchange information with each other or international organizations with a view to protecting threatened nuclear material, verifying the integrity of the shipping container, or recovering unlawfully taken nuclear material and shall:

(i) co-ordinate their efforts through diplomatic and other agreed channels;

(ii) render assistance, if requested;

(iii) ensure the return of nuclear material stolen or missing as a consequence of the above-mentioned events.

The means of implementation of this co-operation shall be determined by the States Parties concerned.

3. States Parties shall co-operate and consult as appropriate, with each other directly or through international organizations, with a view to obtaining guidance on the design, maintenance and improvement of systems of physical protection of nuclear material in international transport.

### Article 6

1. States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence by virtue of the provisions of this Convention from another State Party or through participation in an activity carried out for the implementation of this Convention. If States Parties provide information to international organizations in confidence, steps shall be taken to ensure that the confidentiality of such information is protected.

2. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

### Article 7

1. The intentional commission of:

(a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, disposal or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property;

(b) a theft or robbery of nuclear material;

(c) an embezzlement or fraudulent obtaining of nuclear material;

(d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation;

(e) a threat:

(i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or

(ii) to commit an offence described in subparagraph (b) in order to compel a natural or legal person, international organization or State to do or to refrain from doing any act;

(f) an attempt to commit any offence described in paragraphs (a), (b) or (c); and

(g) an act which constitutes participation in any offence described in paragraphs (a) to (f)

shall be made a punishable offence by each State Party under its national law.

2. Each State Party shall make the offences described in this article punishable by appropriate penalties which take into account their grave nature.

### Article 8

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in Article 7 in the following cases:

(a) when the offence is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) when the alleged offender is a national of that State.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offences in cases where the alleged offender is present in its territory and it does not extradite him pursuant to Article 11 to any of the States mentioned in paragraph 1.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

4. In addition to the States Parties mentioned in paragraphs 1 and 2, each State Party may, consistent with international law, establish its jurisdiction over the offences set forth in Article 7 when it is involved in international nuclear transport as the exporting or importing State.

### Article 9

Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take appropriate measures, including detention, under its national law to ensure his presence for the purpose of prosecution or extradition. Measures taken according to this article shall be notified without delay to the States required to establish jurisdiction pursuant to Article 8 and, where appropriate, all other States concerned.

### Article 10

The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

### Article 11

1. The offences in Article 7 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include those offences as extraditable offences in every future extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Each of the offences shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with paragraph 1 of Article 8.

#### Article 12

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in Article 7 shall be guaranteed fair treatment at all stages of the proceedings.

#### Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in Article 7, including the supply of evidence at their disposal necessary for the proceedings. The law of the State requested shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters.

#### Article 14

1. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall communicate such information periodically to all States Parties.

2. The State Party where an alleged offender is prosecuted shall, wherever practicable, first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.

3. Where an offence involves nuclear material used for peaceful purposes in domestic use, storage or transport, and both the alleged offender and the nuclear material remain in the territory of the State Party in which the offence was committed, nothing in this Convention shall be interpreted as requiring that State Party to provide information concerning criminal proceedings arising out of such an offence.

#### Article 15

The Annexes constitute an integral part of this Convention.

#### Article 16

1. A conference of States Parties shall be convened by the depositary five years after the entry into force

of this Convention to review the implementation of the Convention and its adequacy as concerns the preamble, the whole of the operative part and the annexes in the light of the then prevailing situation.

2. At intervals of not less than five years thereafter, the majority of States Parties may obtain, by submitting a proposal to this effect to the depositary, the convening of further conferences with the same objective.

#### Article 17

1. In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, such States Parties shall consult with a view to the settlement of the dispute by negotiation, or by any other peaceful means of settling disputes acceptable to all parties to the dispute.

2. Any dispute of this character which cannot be settled in the manner prescribed in paragraph 1 shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In case of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. Each State Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2, with respect to a State Party which has made a reservation to that procedure.

4. Any State Party which has made a reservation in accordance with paragraph 3 may at any time withdraw that reservation by notification to the depositary.

#### Article 18

1. This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from 3 March 1980 until its entry into force.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. After its entry into force, this Convention will be open for accession by all States.

4. (a) This Convention shall be open for signature or accession by international organizations and regional organizations of an integration or other nature, provided that any such organization is constituted by sovereign States and has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which this Convention attributes to States Parties.

(c) When becoming party to this Convention such an organization shall communicate to the depositary a declaration indicating which States are members thereof and which Articles of this Convention do not apply to it.

(d) Such an organization shall not hold any vote additional to those of its Member States.

5. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

#### Article 19

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-first instrument of ratification, acceptance or approval with the depositary.

2. For each State ratifying, accepting, approving or acceding to the Convention after the date of deposit of the twenty-first instrument of ratification, acceptance or approval, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

#### Article 20

1. Without prejudice to Article 16 a State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be promptly circulated by the depositary to all States Parties.

2. The amendment shall enter into force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary. Thereafter, the amendment shall enter into force for any other State Party on the day on which that State Party deposits its

instrument of ratification, acceptance or approval of the amendment.

#### Article 21

1. Any State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one hundred and eighty days following the date on which notification is received by the depositary.

#### Article 22

The depositary shall promptly notify all States of:

(a) each signature of this Convention;

(b) each deposit of an instrument of ratification, acceptance, approval or accession;

(c) any reservation or withdrawal in accordance with Article 17;

(d) any communication made by an organization in accordance with paragraph 4(c) of Article 18;

(e) the entry into force of this Convention;

(f) the entry into force of any amendment to this Convention; and

(g) any denunciation made under Article 21.

#### Article 23

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies thereof to all States.

In witness whereof, the undersigned, being duly authorized, have signed this Convention, opened for signature at Vienna and at New York on 3 March 1980.

#### Annex I

##### LEVELS OF PHYSICAL PROTECTION TO BE APPLIED IN INTERNATIONAL TRANSPORT OF NUCLEAR MATERIAL AS CATEGORIZED IN ANNEX II

1. Levels of physical protection for nuclear material during storage incidental to international nuclear transport include:

(a) For Category III materials, storage within an area to which access is controlled;

(b) For Category II materials, storage within an area under constant surveillance by guards or electronic devices, surrounded by a physical barrier with a limited number of points of entry under appropriate control or any area with an equivalent level of physical protection;

(c) For Category I material, storage within a protected area as defined for Category II above, to

which, in addition, access is restricted to persons whose trustworthiness has been determined, and which is under surveillance by guards who are in close communication with appropriate response forces. Specific measures taken in this context should have as their object the detection and prevention of any assault, unauthorized access or unauthorized removal of material.

2. Levels of physical protection for nuclear material during international transport include:

(a) For Category II and III materials, transportation shall take place under special precautions including prior arrangements among sender, receiver, and carrier, and prior agreement between natural or legal persons subject to the jurisdiction

and regulation of exporting and importing States, specifying time, place and procedures for transferring transport responsibility;

(b) For Category I materials, transportation shall take place under special precautions identified above for transportation of Category II and III materials, and in addition, under constant surveillance by escorts and under conditions which assure close communication with appropriate response forces;

(c) For natural uranium other than in the form of ore or ore-residue, transportation protection for quantities exceeding 500 kilograms Uranium shall include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

## Annex II

### CATEGORIZATION OF NUCLEAR MATERIAL

Material	Form	Category		
		I	II	III <sup>c</sup>
1. Plutonium <sup>a</sup>	Unirradiated <sup>b</sup>	2kg or more	Less than 2kg but more than 500g	500g or less but more than 15g
2. Uranium-235	Unirradiated <sup>b</sup>	5kg or more	Less than 5kg but more than 1kg	1kg or less but more than 15g
	– uranium enriched to 20% <sup>235</sup> U or more		10kg or more	Less than 10kg but more than 1kg
	– uranium enriched to 10% <sup>235</sup> U but less than 20%			10 kg or more
	– uranium enriched above natural, but less than 10% <sup>235</sup> U			
3. Uranium-233	Unirradiated <sup>b</sup>	2kg or more	Less than 2kg but more than 500g	500g or less but more than 15g
4. Irradiated fuel			Depleted or natural uranium, thorium or low-enriched fuel (less than 10% fissile content) <sup>d,e</sup>	

<sup>a</sup> All plutonium except that with isotopic concentration exceeding 80% in plutonium-238.

<sup>b</sup> Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rads/hour at one metre unshielded.

<sup>c</sup> Quantities not falling in Category III and natural uranium should be protected in accordance with prudent management practice.

<sup>d</sup> Although this level of protection is recommended, it would be open to States, upon evaluation of the specific circumstances, to assign a different category of physical protection.

<sup>e</sup> Other fuel which by virtue of its original fissile material content is classified as Category I and II before irradiation may be reduced one category level while the radiation level from the fuel exceeds 100 rads/hour at one metre unshielded.

**PROTOCOL FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION FROM LAND-BASED SOURCES\* [8]**

**Athens, 17 May 1980**

The Contracting Parties to the present Protocol, Being Parties to the Convention for the Protection of the Mediterranean Sea Against Pollution, adopted at Barcelona on 16 February 1976,

Desirous of implementing Article 4, paragraph 2, and Articles 8 and 15 of the said Convention,

Noting the rapid increase of human activities in the Mediterranean Sea Area, particularly in the fields of industrialization and urbanization, as well as the seasonal increase in the coastal population due to tourism,

Recognizing the danger posed to the marine environment and to human health by pollution from land-based sources and the serious problems resulting therefrom in many coastal waters and river estuaries of the Mediterranean Sea, primarily due to the release of untreated, insufficiently treated or inadequately disposed of domestic or industrial discharges,

Recognizing the difference in levels of development between the coastal States, and taking account of the economic and social imperatives of the developing countries,

Determined to take in close co-operation the necessary measures to protect the Mediterranean Sea against pollution from land-based sources,

Have agreed as follows:

*Article 1*

The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures to prevent, abate, combat and control pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources within their territories.

*Article 2*

For the purposes of this Protocol:

- (a) "The Convention" means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976;
- (b) "Organization" means the body referred to in Article 13 of the Convention;
- (c) "Freshwater limit" means the place in watercourses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea-water.

\* Convention for the Protection of the Mediterranean Sea Against Pollution, Barcelona, 1976.

*Article 3*

The area to which this Protocol applies (hereinafter referred to as the "Protocol Area") shall be:

- (a) The Mediterranean Sea Area as defined in Article 1 of the Convention;
- (b) Waters on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit;
- (c) Saltwater marshes communicating with the sea.

*Article 4*

1. This Protocol shall apply:

(a) To polluting discharges reaching the Protocol Area from land-based sources within the territories of the Parties, in particular:

- directly, from outfalls discharging into the sea or through coastal disposal;
- indirectly, through rivers, canals or other watercourses, including underground watercourses, or through run-off;

(b) To pollution from land-based sources transported by the atmosphere, under conditions to be defined in an additional annex to this Protocol and accepted by the Parties in conformity with the provisions of Article 17 of the Convention.

2. This Protocol shall also apply to polluting discharges from fixed man-made offshore structures which are under the jurisdiction of a Party and which serve purposes other than exploration and exploitation of mineral resources of the continental shelf and the sea-bed and its subsoil.

*Article 5*

1. The Parties undertake to eliminate pollution of the Protocol Area from land-based sources by substances listed in Annex I to this Protocol.

2. To this end they shall elaborate and implement, jointly or individually, as appropriate, the necessary programmes and measures.

3. These programmes and measures shall include, in particular, common emission standards and standards for use.

4. The standards and the time-tables for the implementation of the programmes and measures aimed at eliminating pollution from land-based sources shall be fixed by the Parties and periodically reviewed, if necessary every two years, for each of the substances listed in Annex I, in accordance with the provisions of Article 15 of this Protocol.

*Article 6*

1. The Parties shall strictly limit pollution from land-based sources in the Protocol Area by



substances or sources listed in Annex II to this Protocol.

2. To this end they shall elaborate and implement, jointly or individually, as appropriate, suitable programmes and measures.

3. Discharges shall be strictly subject to the issue, by the competent national authorities, of an authorization taking due account of the provisions of Annex III to this Protocol.

#### *Article 7*

1. The Parties shall progressively formulate and adopt, in co-operation with the competent international organizations, common guidelines and, as appropriate, standards or criteria dealing in particular with:

(a) The length, depth and position of pipelines for coastal outfalls, taking into account, in particular, the methods used for pretreatment of effluents;

(b) Special requirements for effluents necessitating separate treatment;

(c) The quality of sea-water used for specific purposes that is necessary for the protection of human health, living resources and ecosystems;

(d) The control and progressive replacement of products, installations and industrial and other processes causing significant pollution of the marine environment;

(e) Specific requirements concerning the quantities of the substances listed in Annexes I and II discharged, their concentration in effluents and methods of discharging them.

2. Without prejudice to the provisions of Article 5 of this Protocol, such common guidelines, standards or criteria shall take into account local ecological, geographical and physical characteristics, the economic capacity of the Parties and their need for development, the level of existing pollution and the real absorptive capacity of the marine environment.

3. The programmes and measures referred to in Articles 5 and 6 shall be adopted by taking into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

#### *Article 8*

Within the framework of the provisions of, and the monitoring programmes provided for in, Article 10 of the Convention, and if necessary in co-operation with the competent international organizations, the Parties shall carry out at the earliest possible date monitoring activities in order:

(a) Systematically to assess, as far as possible, the levels of pollution along their coasts, in particular with regard to the substances or sources listed in

Annexes I and II, and periodically to provide information in this respect;

(b) To evaluate the effects of measures taken under this Protocol to reduce pollution of the marine environment.

#### *Article 9*

In conformity with Article 11 of the Convention, the Parties shall co-operate as far as possible in scientific and technological fields related to pollution from land-based sources, particularly research on inputs, pathways and effects of pollutants and on the development of new methods for their treatment, reduction or elimination. To this end the Parties shall, in particular, endeavour to:

(a) Exchange scientific and technical information,

(b) Co-ordinate their research programmes.

#### *Article 10*

1. The Parties shall, directly or with the assistance of competent regional or other international organizations or bilaterally, co-operate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, education and technology, with a view to preventing pollution from land-based sources and its harmful effects in the marine environment.

2. Technical assistance would include, in particular, the training of scientific and technical personnel, as well as the acquisition, utilization and production by those countries of appropriate equipment on advantageous terms to be agreed upon among the Parties concerned.

#### *Article 11*

1. If discharges from a watercourse which flows through the territories of two or more Parties or forms a boundary between them are likely to cause pollution of the marine environment of the Protocol Area, the Parties in question, respecting the provisions of this Protocol in so far as each of them is concerned, are called upon to co-operate with a view to ensuring its full application.

2. A Party shall not be responsible for any pollution originating on the territory of a non-contracting State. However, the said Party shall endeavour to co-operate with the said State so as to make possible full application of the Protocol.

#### *Article 12*

1. Taking into account Article 22, paragraph 1, of the Convention, when land-based pollution originating from the territory of one Party is likely to prejudice directly the interest of one or more of the other Parties, the Parties concerned shall, at the request of one or more of them, undertake to enter

into consultation with a view to seeking a satisfactory solution.

2. At the request of any Party concerned, the matter shall be placed on the agenda of the next meeting of the Parties held in accordance with Article 14 of this Protocol; the meeting may make recommendations with a view to reaching a satisfactory solution.

#### Article 13

1. The Parties shall inform one another through the Organization of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and submission of such information shall be determined at the meetings of the Parties.

2. Such information shall include, *inter alia*:

- (a) Statistical data on the authorizations granted in accordance with Article 6 of this Protocol;
- (b) Data resulting from monitoring as provided for in Article 8 of this Protocol;
- (c) Quantities of pollutants discharged from their territories;
- (d) Measures taken in accordance with Articles 5 and 6 of this Protocol.

#### Article 14

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 14 of the Convention. The Parties may also hold extraordinary meetings in accordance with Article 14 of the Convention.

2. The functions of the meetings of the Parties to this Protocol shall be, *inter alia*:

- (a) To keep under review the implementation of the Protocol and to consider the efficacy of the measures adopted and the advisability of any other measures, in particular in the form of annexes;
- (b) To revise and amend any annex to this Protocol, as appropriate;
- (c) To formulate and adopt programmes and measures in accordance with Articles 5, 6 and 15 of this Protocol;
- (d) To adopt, in accordance with Article 7 of this Protocol, common guidelines, standards or criteria, in any form decided upon by the Parties;
- (e) To make recommendations in accordance with Article 12, paragraph 2, of this Protocol;
- (f) To consider the information submitted by the Parties under Article 13 of this Protocol;
- (g) To discharge such other functions as may be appropriate for the application of this Protocol.

#### Article 15

1. The meeting of the Parties shall adopt, by a two-

thirds majority, the programmes and measures for the abatement or the elimination of pollution from land-based sources which are provided for in Articles 5 and 6 of this Protocol.

2. The Parties which are not able to accept a programme or measures shall inform the meeting of the Parties of the action they intend to take as regards the programme or measures concerned, it being understood that these Parties may, at any time, give their consent to the programme or measures that have been adopted.

#### Article 16

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to Article 18 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

3. This Protocol shall be open for signature, at Athens from 17 May 1980 to 16 June 1980, and at Madrid from 17 June 1980 to 16 May 1981, by any State invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea Against Pollution from Land-Based Sources held at Athens from 12 May to 17 May 1980. It shall also be open until the same dates for signature by the European Economic Community and by any similar regional economic grouping of which at least one member is a coastal State of the Mediterranean Sea Area and which exercises competence in fields covered by this Protocol.

4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

5. As from 17 May 1981, this Protocol shall be open for accession by the States referred to in paragraph 3 above, by the European Economic Community and by any grouping referred to in that paragraph.

6. This Protocol shall enter into force on the thirtieth day following the deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 3 of this article.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Athens on this seventeenth day of May one thousand nine hundred and eighty in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.

## Annex I

## A

The following substances, families and groups of substances are listed, not in order of priority, for the purposes of Article 5 of this Protocol. They have been selected mainly on the basis of their

- Toxicity;
- Persistence;
- Bioaccumulation.

1. Organohalogen compounds and substances which may form such compounds in the marine environment.<sup>1</sup>
2. Organophosphorus compounds and substances which may form such compounds in the marine environment.<sup>1</sup>
3. Organotin compounds and substances which may form such compounds in the marine environment.<sup>1</sup>
4. Mercury and mercury compounds.
5. Cadmium and cadmium compounds.
6. Used lubricating oils.
7. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea.
8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment.
9. Radioactive substances, including their wastes, when their discharges do not comply with the principles of radiation protection as defined by the competent international organizations, taking into account the protection of the marine environment.

## B

The present annex does not apply to discharges which contain substances listed in section A that are below the limits defined jointly by the Parties.

<sup>1</sup> With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless substances.

## Annex II

## A

The following substances, families and groups of substances, or sources of pollution, listed not in order of priority for the purposes of Article 6 of this Protocol, have been selected mainly on the basis of criteria used for Annex I, while taking into account the fact that they are generally less noxious or are more readily rendered harmless by natural processes and therefore generally affect more limited coastal areas.

1. The following elements and their compounds:
 

1. zinc	8. antimony	15. uranium
2. copper	9. molybdenum	16. vanadium
3. nickel	10. titanium	17. cobalt
4. chromium	11. tin	18. thallium
5. lead	12. barium	19. tellurium
6. selenium	13. beryllium	20. silver
7. arsenic	14. boron	
2. Biocides and their derivatives not covered in Annex I.
3. Organosilicon compounds and substances which may form such compounds in the marine environment, excluding those which are biologically harmless or are rapidly converted into biologically harmless substances.
4. Crude oils and hydrocarbons of any origin.
5. Cyanides and fluorides.
6. Non-biodegradable detergents and other surface-active substances.
7. Inorganic compounds of phosphorus and elemental phosphorus.
8. Pathogenic micro-organisms.
9. Thermal discharges.
10. Substances which have a deleterious effect on the taste and/or smell of products for human consumption derived from the aquatic environment, and compounds liable to give rise to such substances in the marine environment.
11. Substances which have, directly or indirectly, an adverse effect on the oxygen content of the marine environment, especially those which may cause eutrophication.
12. Acid or alkaline compounds of such composition and in such quantity that they may impair the quality of sea-water.
13. Substances which, though of a non-toxic nature, may become harmful to the marine environment or may interfere with any legitimate use of the sea owing to the quantities in which they are discharged.

## B

The control and strict limitation of the discharge of substances referred to in section A above must be implemented in accordance with Annex III.

### Annex III

With a view to the issue of an authorization for the discharge of wastes containing substances referred to in Annex II or in section B of Annex I to this Protocol, particular account will be taken, as the case may be, of the following factors.

#### A. CHARACTERISTICS AND COMPOSITION OF THE WASTE

1. Type and size of waste source (e.g., industrial process).
2. Type of waste (origin, average composition).
3. Form of waste (solid, liquid, sludge, slurry).
4. Total amount (volume discharged, e.g., per year).
5. Discharge pattern (continuous, intermittent, seasonally variable, etc.).
6. Concentrations with respect to major constituents, substances listed in Annex I, substances listed in Annex II, and other substances as appropriate.
7. Physical, chemical and biochemical properties of the waste.

#### B. CHARACTERISTICS OF WASTE CONSTITUENTS WITH RESPECT TO THEIR HARMFULNESS

1. Persistence (physical, chemical, biological) in the marine environment.
2. Toxicity and other harmful effects.
3. Accumulation in biological materials or sediments.
4. Biochemical transformation producing harmful compounds.
5. Adverse effects on the oxygen content and balance.
6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea-water constituents which may produce harmful biological or other effects on any of the uses listed in section E below.

#### C. CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING MARINE ENVIRONMENT

1. Hydrographic, meteorological, geological and topographical characteristics of the coastal area.
2. Location and type of the discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery, and fishing areas, shellfish grounds) and other discharges.
3. Initial dilution achieved at the point of discharge into the receiving marine environment.

4. Dispersion characteristics such as effects of currents, tides and wind on horizontal transport and vertical mixing.

5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area.

6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

#### D. AVAILABILITY OF WASTE TECHNOLOGIES

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

- (a) Alternative treatment processes;
- (b) Re-use or elimination methods;
- (c) On-land disposal alternatives; and
- (d) Appropriate low-waste technologies.

#### E. POTENTIAL IMPAIRMENT OF MARINE ECOSYSTEMS AND SEA-WATER USES

1. Effects on human health through pollution impact on:

- (a) Edible marine organisms;
- (b) Bathing waters;
- (c) Aesthetics.

2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.

3. Effects on other legitimate uses of the sea.

## CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES [9]

Canberra, 20 May 1980

The Contracting Parties,

Recognising the importance of safeguarding the environment and protecting the integrity of the ecosystem of the seas surrounding Antarctica;

Noting the concentration of marine living resources found in Antarctic waters and the increased interest in the possibilities offered by the utilization of these resources as a source of protein;

Conscious of the urgency of ensuring the conservation of Antarctic marine living resources;

Considering that it is essential to increase knowledge of the Antarctic marine ecosystem and its components so as to be able to base decisions on harvesting on sound scientific information;

Believing that the conservation of Antarctic marine living resources calls for international co-operation with due regard for the provisions of the Antarctic Treaty and with the active involvement of all States engaged in research or harvesting activities in Antarctic waters;

Recognising the prime responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the Antarctic environment and, in particular, their responsibilities under Article IX, paragraph 1(f) of the Antarctic Treaty in respect of the preservation and conservation of living resources in Antarctica;

Recalling the action already taken by the Antarctic Treaty Consultative Parties including in particular the Agreed Measures for the Conservation of Antarctic Fauna and Flora, as well as the provisions of the Convention for the Conservation of Antarctic Seals;

Bearing in mind the concern regarding the conservation of Antarctic marine living resources expressed by the Consultative Parties at the Ninth Consultative Meeting of the Antarctic Treaty and the importance of the provisions of Recommendation IX-2 which led to the establishment of the present Convention;

Believing that it is in the interest of all mankind to preserve the waters surrounding the Antarctic continent for peaceful purposes only and to prevent their becoming the scene or object of international discord;

Recognising, in the light of the foregoing, that it is desirable to establish suitable machinery for recommending, promoting, deciding upon and co-ordinating the measures and scientific studies needed to ensure the conservation of Antarctic marine living organisms;

Have agreed as follows:

### Article I

1. This Convention applies to the Antarctic marine living resources of the area south of 60° south latitude and to the Antarctic marine living resources of the area between that latitude and the Antarctic Convergence which form part of the Antarctic marine ecosystem.

2. Antarctic marine living resources means the populations of fin fish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.

3. The Antarctic marine ecosystem means the complex of relationships of Antarctic marine living resources with each other and with their physical environment.

4. The Antarctic Convergence shall be deemed to be a line joining the following points along parallels of latitude and meridians of longitude:

50°S, 0°; 50°S, 30°E; 45°S, 30°E; 45°S, 80°E;  
55°S, 80°E; 55°S, 150°E; 60°S, 150°E; 60°S,  
50°W; 50°S, 50°W; 50°S, 0°.

### Article II

1. The objective of this Convention is the conservation of Antarctic marine living resources.

2. For the purposes of this Convention, the term "conservation" includes rational use.

3. Any harvesting and associated activities in the area to which this Convention applies shall be conducted in accordance with the provisions of this Convention and with the following principles of conservation:

(a) prevention of decrease in the size of any harvested population to levels below those which ensure its stable recruitment. For this purpose its size should not be allowed to fall below a level close to that which ensures the greatest net annual increment;

(b) maintenance of the ecological relationships between harvested, dependent and related populations of Antarctic marine living resources and the restoration of depleted populations to the levels defined in sub-paragraph (a) above; and

(c) prevention of changes or minimization of the risk of changes in the marine ecosystem which are not potentially reversible over two or three decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effect of the introduction of alien species, the effects of associated activities on the marine ecosystem and of the effects of environmental changes, with the aim of making possible the sustained conservation of Antarctic marine living resources.

### Article III

The Contracting Parties, whether or not they are Parties to the Antarctic Treaty, agree that they will

not engage in any activities in the Antarctic Treaty area contrary to the principles and purposes of that Treaty and that, in their relations with each other, they are bound by the obligations contained in Articles I and V of the Antarctic Treaty.

#### *Article IV*

1. With respect to the Antarctic Treaty area, all Contracting Parties, whether or not they are Parties to the Antarctic Treaty, are bound by Articles IV and VI of the Antarctic Treaty in their relations with each other.

2. Nothing in this Convention and no acts or activities taking place while the present Convention is in force shall:

(a) constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the Antarctic Treaty area or create any rights of sovereignty in the Antarctic Treaty area;

(b) be interpreted as a renunciation or diminution by any Contracting Party of, or as prejudicing, any right or claim or basis of claim to exercise coastal State jurisdiction under international law within the area to which this Convention applies;

(c) be interpreted as prejudicing the position of any Contracting Party as regards its recognition or non-recognition of any such right, claim or basis of claim;

(d) affect the provision of Article IV, paragraph 2, of the Antarctic Treaty that no new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the Antarctic Treaty is in force.

#### *Article V*

1. The Contracting Parties which are not Parties to the Antarctic Treaty acknowledge the special obligations and responsibilities of the Antarctic Treaty Consultative Parties for the protection and preservation of the environment of the Antarctic Treaty area.

2. The Contracting Parties which are not Parties to the Antarctic Treaty agree that, in their activities in the Antarctic Treaty area, they will observe as and when appropriate the Agreed Measures for the Conservation of Antarctic Fauna and Flora and such other measures as have been recommended by the Antarctic Treaty Consultative Parties in fulfilment of their responsibility for the protection of the Antarctic environment from all forms of harmful human interference.

3. For the purposes of this Convention, "Antarctic Treaty Consultative Parties" means the Contracting Parties to the Antarctic Treaty whose Representatives participate in meetings under Article IX of the Antarctic Treaty.

#### *Article VI*

Nothing in this Convention shall derogate from the

rights and obligations of Contracting Parties under the International Convention for the Regulation of Whaling and the Convention for the Conservation of Antarctic Seals.

#### *Article VII*

1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as "the Commission").

2. Membership in the Commission shall be as follows:

(a) each Contracting Party which participated in the meeting at which this Convention was adopted shall be a Member of the Commission;

(b) each State Party which has acceded to this Convention pursuant to Article XXIX shall be entitled to be a Member of the Commission during such time as that acceding party is engaged in research or harvesting activities in relation to the marine living resources to which this Convention applies;

(c) each regional economic integration organization which has acceded to this Convention pursuant to Article XXIX shall be entitled to be a Member of the Commission during such time as its States members are so entitled;

(d) a Contracting Party seeking to participate in the work of the Commission pursuant to sub-paragraphs (b) and (c) above shall notify the Depositary of the basis upon which it seeks to become a Member of the Commission and of its willingness to accept conservation measures in force. The Depositary shall communicate to each Member of the Commission such notification and accompanying information. Within two months of receipt of such communication from the Depositary, any Member of the Commission may request that a special meeting of the Commission be held to consider the matter. Upon receipt of such request, the Depositary shall call such a meeting. If there is no request for a meeting, the Contracting Party submitting the notification shall be deemed to have satisfied the requirements for Commission Membership.

3. Each Member of the Commission shall be represented by one representative who may be accompanied by alternate representatives and advisers.

#### *Article VIII*

The Commission shall have legal personality and shall enjoy in the territory of each of the States Parties such legal capacity as may be necessary to perform its function and achieve the purposes of this Convention. The privileges and immunities to be enjoyed by the Commission and its staff in the territory of a State Party shall be determined by agreement between the Commission and the State Party concerned.

*Article IX*

1. The function of the Commission shall be to give effect to the objective and principles set out in Article II of this Convention. To this end, it shall:

- (a) facilitate research into and comprehensive studies of Antarctic marine living resources and of the Antarctic marine ecosystem;
- (b) compile data on the status of and changes in population of Antarctic marine living resources and on factors affecting the distribution, abundance and productivity of harvested species and dependent or related species or populations;
- (c) ensure the acquisition of catch and effort statistics on harvested populations;
- (d) analyse, disseminate and publish the information referred to in sub-paragraphs (b) and (c) above and the reports of the Scientific Committee;
- (e) identify conservation needs and analyse the effectiveness of conservation measures;
- (f) formulate, adopt and revise conservation measures on the basis of the best scientific evidence available, subject to the provisions of paragraph 5 of this Article;
- (g) implement the system of observation and inspection established under Article XXIV of this Convention;
- (h) carry out such other activities as are necessary to fulfil the objective of this Convention.

2. The conservation measures referred to in paragraph 1(f) above include the following:

- (a) the designation of the quantity of any species which may be harvested in the area to which this Convention applies;
- (b) the designation of regions and sub-regions based on the distribution of populations of Antarctic marine living resources;
- (c) the designation of the quantity which may be harvested from the populations of regions and sub-regions;
- (d) the designation of protected species;
- (e) the designation of the size, age and, as appropriate, sex of species which may be harvested;
- (f) the designation of open and closed seasons for harvesting;
- (g) the designation of the opening and closing of areas, regions or sub-regions for purposes of scientific study or conservation, including special areas for protection and scientific study;
- (h) regulation of the effort employed and methods of harvesting, including fishing gear, with a view, inter alia, to avoiding undue concentration of harvesting in any region or sub-region;
- (i) the taking of such other conservation measures as the Commission considers necessary for the fulfilment of the objective of this Convention, including measures concerning the effects of

harvesting and associated activities on components of the marine ecosystem other than the harvested populations.

3. The Commission shall publish and maintain a record of all conservation measures in force.

4. In exercising its functions under paragraph 1 above, the Commission shall take full account of the recommendations and advice of the Scientific Committee.

5. The Commission shall take full account of any relevant measures or regulations established or recommended by the Consultative Meetings pursuant to Article IX of the Antarctic Treaty or by existing fisheries commissions responsible for species which may enter the area to which this Convention applies, in order that there shall be no inconsistency between the rights and obligations of a Contracting Party under such regulations or measures and conservation measures which may be adopted by the Commission.

6. Conservation measures adopted by the Commission in accordance with this Convention shall be implemented by Members of the Commission in the following manner:

- (a) the Commission shall notify conservation measures to all Members of the Commission;
- (b) conservation measures shall become binding upon all Members of the Commission 180 days after such notification, except as provided in sub-paragraphs (c) and (d) below;
- (c) if a Member of the Commission, within ninety days following the notification specified in sub-paragraph (a), notifies the Commission that it is unable to accept the conservation measure, in whole or in part, the measure shall not, to the extent stated, be binding upon that Member of the Commission;
- (d) in the event that any Member of the Commission invokes the procedure set forth in sub-paragraph (c) above, the Commission shall meet at the request of any Member of the Commission to review the conservation measure. At the time of such meeting and within thirty days following the meeting, any Member of the Commission shall have the right to declare that it is no longer able to accept the conservation measure, in which case the Member shall no longer be bound by such measure.

*Article X*

1. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels which, in the opinion of the Commission, affects the implementation of the objective of this Convention.

2. The Commission shall draw the attention of all Contracting Parties to any activity which, in the opinion of the Commission, affects the implementation by a Contracting Party of the objective of this Convention or the compliance by

that Contracting Party with its obligations under this Convention.

#### *Article XI*

The Commission shall seek to co-operate with Contracting Parties which may exercise jurisdiction in marine areas adjacent to the area to which this Convention applies in respect of the conservation of any stock or stocks of associated species which occur both within those areas and the area to which this Convention applies, with a view to harmonizing the conservation measures adopted in respect of such stocks.

#### *Article XII*

1. Decisions of the Commission on matters of substance shall be taken by consensus. The question of whether a matter is one of substance shall be treated as a matter of substance.
2. Decisions on matters other than those referred to in paragraph 1 above shall be taken by a simple majority of the Members of the Commission present and voting.
3. In Commission consideration of any item requiring a decision, it shall be made clear whether a regional economic integration organization will participate in the taking of the decision and, if so, whether any of its member States will also participate. The number of Contracting Parties so participating shall not exceed the number of member States of the regional economic integration organization which are Members of the Commission.
4. In the taking of decisions pursuant to this Article, a regional economic integration organization shall have only one vote.

#### *Article XIII*

1. The headquarters of the Commission shall be established at Hobart, Tasmania, Australia.
2. The Commission shall hold a regular annual meeting. Other meetings shall also be held at the request of one-third of its members and as otherwise provided in this Convention. The first meeting of the Commission shall be held within three months of the entry into force of this Convention, provided that among the Contracting Parties there are at least two States conducting harvesting activities within the area to which this Convention applies. The first meeting shall, in any event, be held within one year of the entry into force of this Convention. The Depositary shall consult with the signatory States regarding the first Commission meeting, taking into account that a broad representation of such States is necessary for the effective operation of the Commission.
3. The Depositary shall convene the first meeting of the Commission at the headquarters of the Com-

mission. Thereafter, meetings of the Commission shall be held at its headquarters, unless it decides otherwise.

4. The Commission shall elect from among its members a Chairman and Vice-Chairman, each of whom shall serve for a term of two years and shall be eligible for re-election for one additional term. The first Chairman shall, however, be elected for an initial term of three years. The Chairman and Vice-Chairman shall not be representatives of the same Contracting Party.
5. The Commission shall adopt and amend as necessary the rules of procedure for the conduct of its meetings, except with respect to the matters dealt with in Article XII of this Convention.
6. The Commission may establish such subsidiary bodies as are necessary for the performance of its functions.

#### *Article XIV*

1. The Contracting Parties hereby establish the Scientific Committee for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as "the Scientific Committee") which shall be a consultative body to the Commission. The Scientific Committee shall normally meet at the headquarters of the Commission unless the Scientific Committee decides otherwise.
2. Each Member of the Commission shall be a member of the Scientific Committee and shall appoint a representative with suitable scientific qualifications who may be accompanied by other experts and advisers.
3. The Scientific Committee may seek the advice of other scientists and experts as may be required on an ad hoc basis.

#### *Article XV*

1. The Scientific Committee shall provide a forum for consultation and co-operation concerning the collection, study and exchange of information with respect to the marine living resources to which this Convention applies. It shall encourage and promote co-operation in the field of scientific research in order to extend knowledge of the marine living resources of the Antarctic marine ecosystem.
2. The Scientific Committee shall conduct such activities as the Commission may direct in pursuance of the objective of this Convention and shall:
  - (a) establish criteria and methods to be used for determinations concerning the conservation measures referred to in Article IX of this Convention;
  - (b) regularly assess the status and trends of the populations of Antarctic marine living resources;



(c) analyse data concerning the direct and indirect effects of harvesting on the populations of Antarctic marine living resources;

(d) assess the effects of proposed changes in the methods or levels of harvesting and proposed conservation measures;

(e) transmit assessments, analyses, reports and recommendations to the Commission as requested or on its own initiative regarding measures and research to implement the objective of this Convention;

(f) formulate proposals for the conduct of international and national programs of research into Antarctic marine living resources.

3. In carrying out its functions, the Scientific Committee shall have regard to the work of other relevant technical and scientific organizations and to the scientific activities conducted within the framework of the Antarctic Treaty.

#### *Article XVI*

1. The first meeting of the Scientific Committee shall be held within three months of the first meeting of the Commission. The Scientific Committee shall meet thereafter as often as may be necessary to fulfil its functions.

2. The Scientific Committee shall adopt and amend as necessary its rules of procedure. The rules and any amendments thereto shall be approved by the Commission. The rules shall include procedures for the presentation of minority reports.

3. The Scientific Committee may establish, with the approval of the Commission, such subsidiary bodies as are necessary for the performance of its functions.

#### *Article XVII*

1. The Commission shall appoint an Executive Secretary to serve the Commission and Scientific Committee according to such procedures and on such terms and conditions as the Commission may determine. His term of office shall be for four years and he shall be eligible for reappointment.

2. The Commission shall authorize such staff establishment for the Secretariat as may be necessary and the Executive Secretary shall appoint, direct and supervise such staff according to such rules and procedures and on such terms and conditions as the Commission may determine.

3. The Executive Secretary and Secretariat shall perform the functions entrusted to them by the Commission.

#### *Article XVIII*

The official languages of the Commission and of the Scientific Committee shall be English, French, Russian and Spanish.

#### *Article XIX*

1. At each annual meeting, the Commission shall adopt by consensus its budget and the budget of the Scientific Committee.

2. A draft budget for the Commission and the Scientific Committee and any subsidiary bodies shall be prepared by the Executive Secretary and submitted to the Members of the Commission at least sixty days before the annual meeting of the Commission.

3. Each Member of the Commission shall contribute to the budget. Until the expiration of five years after the entry into force of this Convention, the contribution of each Member of the Commission shall be equal. Thereafter the contribution shall be determined in accordance with two criteria: the amount harvested and an equal sharing among all Members of the Commission. The Commission shall determine by consensus the proportion in which these two criteria shall apply.

4. The financial activities of the Commission and Scientific Committee shall be conducted in accordance with financial regulations adopted by the Commission and shall be subject to an annual audit by external auditors selected by the Commission.

5. Each Member of the Commission shall meet its own expenses arising from attendance at meetings of the Commission and of the Scientific Committee.

6. A Member of the Commission that fails to pay its contributions for two consecutive years shall not, during the period of its default, have the right to participate in the taking of decisions in the Commission.

#### *Article XX*

1. The Members of the Commission shall, to the greatest extent possible, provide annually to the Commission and to the Scientific Committee such statistical, biological and other data and information as the Commission and Scientific Committee may require in the exercise of their functions.

2. The Members of the Commission shall provide, in the manner and at such intervals as may be prescribed, information about their harvesting activities, including fishing areas and vessels, so as to enable reliable catch and effort statistics to be compiled.

3. The Members of the Commission shall provide to the Commission at such intervals as may be prescribed information on steps taken to implement the conservation measures adopted by the Commission.

4. The Members of the Commission agree that in any of their harvesting activities, advantage shall be taken of opportunities to collect data needed to assess the impact of harvesting.

#### Article XXI

1. Each Contracting Party shall take appropriate measures within its competence to ensure compliance with the provisions of this Convention and with conservation measures adopted by the Commission to which the Party is bound in accordance with Article IX of this Convention.
2. Each Contracting Party shall transmit to the Commission information on measures taken pursuant to paragraph 1 above, including the imposition of sanctions for any violation.

#### Article XXII

1. Each Contracting Party undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to the objective of this Convention.
2. Each Contracting Party shall notify the Commission of any such activity which comes to its attention.

#### Article XXIII

1. The Commission and the Scientific Committee shall co-operate with the Antarctic Treaty Consultative Parties on matters falling within the competence of the latter.
2. The Commission and the Scientific Committee shall co-operate, as appropriate, with the Food and Agriculture Organization of the United Nations and with other Specialised Agencies.
3. The Commission and the Scientific Committee shall seek to develop co-operative working relationships, as appropriate, with inter-governmental and non-governmental organizations which could contribute to their work, including the Scientific Committee on Antarctic Research, the Scientific Committee on Oceanic Research and the International Whaling Commission.
4. The Commission may enter into agreements with the organizations referred to in this Article and with other organizations as may be appropriate. The Commission and the Scientific Committee may invite such organizations to send observers to their meetings and to meetings of their subsidiary bodies.

#### Article XXIV

1. In order to promote the objective and ensure observance of the provisions of this Convention, the Contracting Parties agree that a system of observation and inspection shall be established.
2. The system of observation and inspection shall be elaborated by the Commission on the basis of the following principles:
  - (a) Contracting Parties shall co-operate with each other to ensure the effective implementation of the

system of observation and inspection, taking account of the existing international practice. This system shall include, *inter alia*, procedures for boarding and inspection by observers and inspectors designated by the Members of the Commission and procedures for flag State prosecution and sanctions on the basis of evidence resulting from such boarding and inspections. A report of such prosecutions and sanctions imposed shall be included in the information referred to in Article XXI of this Convention;

(b) in order to verify compliance with measures adopted under this Convention, observation and inspection shall be carried out on board vessels engaged in scientific research or harvesting of marine living resources in the area to which this Convention applies, through observers and inspectors designated by the Members of the Commission and operating under terms and conditions to be established by the Commission;

(c) designated observers and inspectors shall remain subject to the jurisdiction of the Contracting Party of which they are nationals. They shall report to the Member of the Commission by which they have been designated which in turn shall report to the Commission.

3. Pending the establishment of the system of observation and inspection, the Members of the Commission shall seek to establish interim arrangements to designate observers and inspectors and such designated observers and inspectors shall be entitled to carry out inspections in accordance with the principles set out in paragraph 2 above.

#### Article XXV

1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of this Convention, 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 for settlement to the International Court of Justice or to arbitration; but failure to reach agreement on reference to the International Court or to arbitration 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 above.

3. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this Convention.

#### Article XXVI

1. This Convention shall be open for signature at Canberra from 1 August to 31 December 1980 by the

States participating in the Conference on the Conservation of Antarctic Marine Living Resources held at Canberra from 7 to 20 May 1980.

2. The States which so sign will be the original signatory States of the Convention.

#### *Article XXVII*

1. This Convention is subject to ratification, acceptance or approval by signatory States.

2. Instruments of ratification, acceptance or approval shall be deposited with the Government of Australia, hereby designated as the Depository.

#### *Article XXVIII*

1. This Convention shall enter into force on the thirtieth day following the date of deposit of the eighth instrument of ratification, acceptance or approval by States referred to in paragraph 1 of Article XXVI of this Convention.

2. With respect to each State or regional economic integration organization which subsequent to the date of entry into force of this Convention deposits an instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day following such deposit.

#### *Article XXIX*

1. This Convention shall be open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which this Convention applies.

2. This Convention shall be open for accession by regional economic integration organizations constituted by sovereign States which include among their members one or more States Members of the Commission and to which the States members of the organization have transferred, in whole or in part, competences with regard to the matters covered by this Convention. The accession of such regional economic integration organizations shall be the subject of consultations among Members of the Commission.

#### *Article XXX*

1. This Convention may be amended at any time.

2. If one-third of the Members of the Commission request a meeting to discuss a proposed amendment the Depository shall call such a meeting.

3. An amendment shall enter into force when the Depository has received instruments of ratification, acceptance or approval thereof from all the Members of the Commission.

4. Such amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification, acceptance or approval by it has been

received by the Depository. Any such Contracting Party from which no such notice has been received within a period of one year from the date of entry into force of the amendment in accordance with paragraph 3 above shall be deemed to have withdrawn from this Convention.

#### *Article XXXI*

1. Any Contracting Party may withdraw from this Convention on 30 June of any year, by giving written notice not later than 1 January of the same year to the Depository, which, upon receipt of such a notice, shall communicate it forthwith to the other Contracting Parties.

2. Any other Contracting Party may, within sixty days of the receipt of a copy of such a notice from the Depository, give written notice of withdrawal to the Depository in which case the Convention shall cease to be in force on 30 June of the same year with respect to the Contracting Party giving such notice.

3. Withdrawal from this Convention by any Member of the Commission shall not affect its financial obligations under this Convention.

#### *Article XXXII*

The Depository shall notify all Contracting Parties of the following:

(a) signatures of this Convention and the deposit of instruments of ratification, acceptance, approval or accession;

(b) the date of entry into force of this Convention and of any amendment thereto.

#### *Article XXXIII*

1. This Convention, of which the English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Government of Australia which shall transmit duly certified copies thereof to all signatory and acceding Parties.

2. This Convention shall be registered by the Depository pursuant to Article 102 of the Charter of the United Nations.

Drawn up at Canberra this twentieth day of May 1980.

In witness whereof the undersigned, being duly authorized, have signed this Convention.

#### **Annex for an arbitral tribunal**

The arbitral tribunal referred to in paragraph 3 of Article XXV shall be composed of three arbitrators who shall be appointed as follows:

The Party commencing proceedings shall communicate the name of an arbitrator to the other

Party which, in turn, within a period of forty days following such notification, shall communicate the name of the second arbitrator. The Parties shall, within a period of sixty days following the appointment of the second arbitrator, appoint the third arbitrator, who shall not be a national of either Party and shall not be of the same nationality as either of the first two arbitrators. The third arbitrator shall preside over the tribunal.

If the second arbitrator has not been appointed within the prescribed period, or if the Parties have not reached agreement within the prescribed period on the appointment of the third arbitrator, that arbitrator shall be appointed, at the request of either Party, by the Secretary-General of the Permanent Court of Arbitration, from among persons of international standing not having the nationality of a State which is a Party to this Convention.

The arbitral tribunal shall decide where its headquarters will be located and shall adopt its own rules of procedure.

The award of the arbitral tribunal shall be made by a majority of its members, who may not abstain from voting.

Any Contracting Party which is not a Party to the dispute may intervene in the proceedings with the consent of the arbitral tribunal.

The award of the arbitral tribunal shall be final and binding on all Parties to the dispute and on any Party which intervenes in the proceedings and shall be complied with without delay. The arbitral tribunal shall interpret the award at the request of one of the Parties to the dispute or of any intervening Party.

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.

## EUROPEAN OUTLINE CONVENTION ON TRANSFRONTIER CO-OPERATION BETWEEN TERRITORIAL COMMUNITIES OR AUTHORITIES [10]

Madrid, 21 May 1980

The Member States of the Council of Europe, signatories to this Convention;

Considering that the aim of the Council of Europe is to achieve a greater unity between its members and to promote co-operation between them;

Considering that, as defined in Article 1 of the Council of Europe Statute, this aim will be pursued in particular by agreements in the administrative field;

Considering that the Council of Europe shall ensure the participation of the territorial communities or authorities of Europe in the achievement of its aim;

Considering the potential importance, for the pursuit of this objective, of co-operation between territorial communities or authorities of frontiers in such fields as regional, urban and rural development, environmental protection, the improvement of public facilities and services and mutual assistance in emergencies;

Having regard to past experience which shows that co-operation between local and regional authorities in Europe makes it easier for them to carry out their tasks effectively and contributes in particular to the improvement and development of frontier regions;

Being resolved to promote such co-operation as far as possible and to contribute in this way to the economic and social progress of frontier regions and to the spirit of fellowship which unites the peoples of Europe;

Have agreed as follows:

### Article 1

Each Contracting Party undertakes to facilitate and foster transfrontier co-operation between territorial communities or authorities within its jurisdiction and territorial communities or authorities within the jurisdiction of other Contracting Parties. It shall endeavour to promote the conclusion of any agreements and arrangements that may prove necessary for this purpose with due regard to the different constitutional provisions of each Party.

### Article 2

1. For the purpose of the Convention, transfrontier co-operation shall mean any concerted action designed to reinforce and foster neighbourly relations between territorial communities or authorities within the jurisdiction of two or more Contracting Parties and the conclusion of any agreement and arrangement necessary for this purpose. Transfrontier co-operation shall take place in the framework of territorial communities' or

authorities' powers as defined in domestic law. The scope and nature of such powers shall not be altered by this Convention.

2. For the purpose of this Convention, the expression "territorial communities or authorities" shall mean communities, authorities or bodies exercising local and regional functions and regarded as such under the domestic law of each State. However, each Contracting Party may, at the time of signing this Convention or by subsequent notification to the Secretary General of the Council of Europe, name the communities, authorities or bodies, subjects and forms to which it intends to confine the scope of the Convention or which it intends to exclude from its scope.

#### Article 3

1. For the purpose of this Convention the Contracting Parties shall, subject to the provisions of Article 2, paragraph 2, encourage any initiative by territorial communities and authorities inspired by the outline arrangements between territorial communities and authorities drawn up in the Council of Europe. If they judge necessary they may take into consideration the bilateral or multilateral inter-state model agreements drawn up in the Council of Europe and designed to facilitate co-operation between territorial communities and authorities.

The arrangements and agreements concluded may be based on the model and outline agreements, statutes and contracts appended to this Convention, numbered 1.1 to 1.5 and 2.1 to 2.6, with whatever changes are required by the particular situation of each Contracting Party. These model and outline agreements, statutes and contracts are intended for guidance only and have no treaty value.

2. If the Contracting Parties deem it necessary to conclude inter-state agreements, these may, *inter alia*, establish the context, forms and limits within which territorial communities and authorities concerned with transfrontier co-operation may act. Each agreement may also stipulate the authorities or bodies to which it applies.

3. The above provisions shall not prevent the Contracting Parties from having recourse, by common consent, to other forms of transfrontier co-operation. Similarly, the provisions of this Convention should not be interpreted as invalidating existing agreements on co-operation.

4. Agreements and arrangements shall be concluded with due regard to the jurisdiction provided for by the internal law of each Contracting Party in respect of international relations and general policy and to any rules of control or supervision to which territorial communities or authorities may be subject.

5. To that end, any Contracting Party may, when signing the present Convention or in a later communication to the Secretary General of the

Council of Europe, specify the authorities competent under its domestic law to exercise control or supervision with regard to the territorial communities and authorities concerned.

#### Article 4

Each Contracting Party shall endeavour to resolve any legal, administrative or technical difficulties liable to hamper the development and smooth running of transfrontier co-operation and shall consult with the other Contracting Party or Parties concerned to the extent required.

#### Article 5

The Contracting Parties shall consider the advisability of granting to territorial communities or authorities engaging in transfrontier co-operation in accordance with the provisions of this Convention the same facilities as if they were co-operating at national level.

#### Article 6

Each Contracting Party shall supply to the fullest possible extent any information requested by another Contracting Party in order to facilitate the performance by the latter of its obligations under this Convention.

#### Article 7

Each Contracting Party shall see to it that the territorial communities or authorities concerned are informed of the means of action open to them under the Convention.

#### Article 8

1. The Contracting Parties shall forward to the Secretary General of the Council of Europe all relevant information concerning the agreements and arrangements provided for in Article 3.

2. Any proposal made by one or more Contracting Parties with a view to adding to or extending this Convention or the model agreements and arrangements shall be communicated to the Secretary General of the Council of Europe. The Secretary General shall then submit it to the Committee of Ministers of the Council of Europe which shall decide on the action to be taken.

#### Article 9

1. This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. The Convention shall enter into force three months after the date of the deposit of the fourth

instrument of ratification, acceptance or approval, provided that at least two of the States having carried out this formality possess a common frontier.

3. In respect of a signatory State ratifying, accepting or approving subsequently, the Convention shall come into force three months after the date of the deposit of its instrument of ratification, acceptance or approval.

#### Article 10

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may decide unanimously to invite any European non-member State to accede thereto. This invitation must receive the express agreement of each of the States which have ratified the Convention.

2. Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect three months after the date of its deposit.

#### Article 11

1. Any Contracting Party may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2. Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

#### Article 12

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, and any State that has acceded to this Convention of:

- (a) any signature;
- (b) any deposit of an instrument of ratification, acceptance, approval or accession;
- (c) any date of entry into force of this Convention in accordance with Article 9 thereof;
- (d) any declaration received in pursuance of the provisions of paragraph 2 of Article 2 or of paragraph 5 of Article 3;
- (e) any notification received in pursuance of the provisions of Article 11 and the date on which denunciation takes effect.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at Madrid, the 21st day of May 1980 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 this Convention.

## Appendix 1

### MODEL AND OUTLINE AGREEMENTS, STATUTES AND CONTRACTS ON TRANSFRONTIER CO-OPERATION BETWEEN TERRITORIAL COMMUNITIES OR AUTHORITIES<sup>1</sup>

This graduated system of model agreements was devised by distinguishing between two main categories defined according to the level at which the agreement is concluded:

- model inter-state agreements on transfrontier co-operation at local and regional level;
- outline agreements, statutes and contracts capable of providing a basis for transfrontier co-operation between territorial authorities or communities.

As shown in the table below, only the two model inter-state agreements for the promotion of transfrontier co-operation and regional transfrontier liaison fall exclusively within the jurisdiction of States. The other inter-state agreements merely establish a legal framework for the conclusion of agreements or contracts between territorial authorities or communities, the outlines of which have been placed in the second category.

#### 1. MODEL INTER-STATE AGREEMENTS

General clauses for model agreements

- 1.1 Model inter-state agreement for the promotion of transfrontier co-operation;
- 1.2 Model inter-state agreement on regional transfrontier consultation;
- 1.3 Model inter-state agreement on local transfrontier consultation;
- 1.4 Model inter-state agreement on contractual transfrontier co-operation between local authorities;
- 1.5 Model inter-state agreement on organs of transfrontier co-operation between local authorities.

#### 2. OUTLINE AGREEMENTS, STATUTES AND CONTRACTS BETWEEN LOCAL AUTHORITIES

- 2.1 Outline agreement on the setting up of a consultation group between local authorities;
- 2.2 Outline agreement on co-ordination in the management of transfrontier local public affairs;
- 2.3 Outline agreement on the setting up of private law transfrontier associations;
- 2.4 Outline contract for the provision of supplies or services between local authorities in frontier areas (private-law type);

<sup>1</sup> As stated in Article 3, first paragraph, second sub-paragraph of the Convention, the model and outline agreements, statutes and contracts are intended for guidance only and have no treaty value.

- 2.5 Outline contract for the provision of supplies or services between local authorities in frontier areas (public-law type);
- 2.6 Outline agreement on the setting up of organs of transfrontier co-operation between local authorities.

## 1. MODEL INTER-STATE AGREEMENTS

### Introductory note:

The system of inter-state agreements aims above all to define precisely the context, forms and limits which States favour for territorial authority action, and to eliminate legal uncertainties likely to create problems (definition of the applicable law, judicial authorities, possible avenues of appeal, etc.).

Further, the conclusion of inter-state agreements between the States concerned promoting transfrontier co-operation between local authorities would undoubtedly be advantageous in the following respects:

- official recognition of the legitimacy of such co-operation procedures and encouragement for local authorities to use them;
- purpose and conditions of intervention by supervisory or controlling authorities;
- exchange of information between States;
- links which may be established between such forms of co-operation and other procedures for concerted action in frontier areas;
- amendment of legal rules or interpretations thereof which hinder transfrontier co-operation, etc.

The system of multiple choice model agreements described above enables governments to place frontier co-operation within whatever context is best suited to their needs by using the inter-state agreement for the promotion of transfrontier co-operation (1.1) as a foundation and supplementing it with any of the various options (model agreements 1.2 to 1.5). States could have recourse either to one option only or to more or even all of them, and they could do so either simultaneously or in stages. In the case of agreements between States which already have similar legal systems, such as the Scandinavian States, recourse to agreements of such a specific kind might prove unnecessary.

### GENERAL CLAUSES FOR MODEL AGREEMENTS

#### 1.1. TO 1.5

#### *Article a*

1. For the purposes of this agreement "local authorities" shall mean authorities, communities or bodies exercising local functions under the domestic law of each State.
2. For the purposes of this agreement "regional authorities" shall mean authorities, communities or bodies exercising regional functions under the domestic law of each State.<sup>1</sup>

<sup>1</sup> Paragraph 2 will not be included in draft agreements 1.3, 1.4 and 1.5.

#### *Article b*

This agreement shall not prejudice various existing forms of transfrontier co-operation between the States parties, particularly those based on an international agreement.

#### *Article c*

The Parties shall inform regional and local authorities of the scope for action afforded to them and shall help them to avail themselves thereof.

#### *Article d*

"Higher authorities" shall in the present agreement mean such supervisory authorities as shall be designated by each Party.

#### *Article e*

The extent and nature of local authorities' powers as defined in the domestic law of the States parties shall in no way be modified by this agreement.

#### *Article f*

Each State may at any time specify the areas of its territory, the objectives and forms of co-operation which are excluded from the application of this agreement.

Such a specification shall not, however, prejudice rights acquired in the context of existing co-operation.

#### *Article g*

The Parties shall keep the Secretary General of the Council of Europe informed of the activities of the commissions, committees and other bodies entrusted with a task under this agreement.

#### *Article h*

The Parties may make minor changes to this agreement in the light of experience, by simple exchange of notes.

#### *Article i*

1. Each Party shall notify the other of the completion of the procedures required under its domestic law for the implementation of this agreement, which shall take effect as from the date of the last notification.
2. This agreement is concluded for a period of five years from its entry into force. Unless six months' notice of termination be given prior to its expiry, it shall be tacitly renewed on the same terms for successive further periods of five years.
3. The Party giving notice of termination may signify that it applies only to specified articles, geographical regions or fields of activity. In such a

case, the agreement shall remain in force for the remainder, unless terminated by the other Party or Parties within four months of receiving notice of partial termination.

4. The Parties may at any time suspend application of the present agreement for a specific period. They may similarly agree that the activity of a particular committee be suspended or discontinued.

#### 1.1 MODEL INTER-STATE AGREEMENT FOR THE PROMOTION OF TRANSFRONTIER CO-OPERATION

Introductory note:

This is a model inter-state agreement containing general basic provisions which could be concluded either on its own or in conjunction with one or more of the model inter-state agreements appearing below.

The governments of . . . . ., and . . . . ., aware of the advantages of transfrontier co-operation as defined in the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities

have agreed as follows:

##### Article 1

The Parties shall undertake to seek and promote means for transfrontier co-operation at regional and local level.

By transfrontier co-operation they understand all concerted administrative, technical, economic, social or cultural measures to consolidate and enhance neighbourly co-operation between the areas situated on either side of the frontier, and the conclusion of appropriate agreements for the purpose of resolving such problems as may arise in this field.

These measures should seek, *inter alia*, to improve the conditions for regional and urban development, the protection of natural resources, mutual aid in case of a disaster or calamity and the improvement of public services.

##### Article 2

The Parties shall endeavour, through mutual consultation, to secure to the regional authorities within their jurisdiction the resources needed to permit them to establish co-operation.

##### Article 3

They shall also undertake to encourage local authority action aimed at establishing and developing transfrontier co-operation.

##### Article 4

Local and regional authorities engaging in transfrontier co-operation in accordance with this

agreement shall be entitled to the same facilities and protection as if they were co-operating at national level.

The competent authorities of each Party shall see to it that budget provision is made for the appropriations needed to cover the running expenditure of the bodies responsible for promoting the transfrontier co-operation covered by this agreement.

##### Article 5

Each Party shall instruct such body, commission or institution as it shall designate to study current national legislation and regulations with a view to suggesting changes in any provisions liable to hinder the development of local transfrontier co-operation. Such bodies shall give particular consideration to improving fiscal and customs regulations, foreign exchange and capital transfer rules and procedures governing intervention by higher authorities, particularly as regards supervision or control.

Before taking the steps referred to in the above sub-paragraph, the Parties shall consult with each other as necessary and exchange any relevant information.

##### Article 6

The Parties shall endeavour, by arbitration or other means, to resolve matters in dispute of local importance whose prior settlement would be necessary for the success of transfrontier co-operation projects.

#### 1.2 MODEL INTER-STATE AGREEMENT ON TRANSFRONTIER REGIONAL CONSULTATION

Introductory note:

This agreement may be concluded either individually or in conjunction with one or more of the model inter-state agreements (texts 1.1 to 1.5).

##### Article 1

In order to promote transfrontier consultation between the regions defined in the appendix to this text, the Parties shall establish a joint commission (hereinafter referred to as "the Commission"), and if necessary one or more regional committees (hereinafter referred to as "Committees") to deal with matters relating to transfrontier consultation.

##### Article 2

1. The Commission and Committees comprise delegations whose members are chosen by each of the Parties.

2. Delegations to the Commission shall comprise not more than 8 members, of whom at least 3 shall represent the regional authorities. The chairmen of delegations to the Committees, or their represen-



tatives, shall take part, in an advisory capacity, in the proceedings of the Commission.<sup>1</sup>

3. The Committees shall be composed of . . . delegations, each comprising . . . members, and shall be formed at the instigation of the Commission in agreement with the regional and local authorities of the frontier areas covered by this agreement. Delegations to the Committees shall be composed of representatives of those authorities or of regional or local bodies. One delegate shall be appointed by the central authorities. He shall, where appropriate, be chosen from among the bodies representing the central authorities in the frontier areas for which the Committees are responsible.

4. The Commission shall meet at least once per year. The Committees shall meet as required, but at least twice per year.

5. The Commission and the Committees shall draw up their own rules of procedure.

#### Article 3

Each Party shall defray the expenditure of its own delegation to the Commission.

The expenditure of delegations to the Committees shall be defrayed by the authorities forming such delegations.

#### Article 4

For purposes of co-ordination and continuity in the work of the Commission and the Committees, the Parties shall if need be establish a Secretariat whose composition, headquarters, manner of operation and financing shall be laid down in an *ad hoc* arrangement between them, as proposed by the Commission. Failing agreement between the Parties, the Commission itself may establish such a Secretariat.

#### Article 5

The frontier areas covered by this agreement shall be specified in an Annex thereto, the content of which may be amended simply by an exchange of notes.

<sup>1</sup> The figures given for the number of members of the Commission are intended for guidance only and should be adapted to individual situations, as indeed should all the provisions in this model agreement. By giving figures the authors of the model agreements intended to highlight the need for efficient commissions with relatively few members. They also wanted to give an indication of the *ratio* to be maintained between representatives of central authorities on the one hand and of regional authorities on the other.

#### Article 6

1. The matters dealt with under transfrontier consultation shall be those arising in the following fields:<sup>1</sup>

- urban and regional development;
- transport and communications (public transport, roads and motorways, joint airports, waterways, seaports, etc.);
- energy (power stations, gas, electricity and water supplies);
- nature conservation (places requiring protection, recreation areas, natural parks, etc.);
- water conservation (pollution control, treatment plants, etc.);
- protection of the atmosphere (air pollution, noise abatement, noise-free zones, etc.);
- education, training and research;
- public health (e.g. use of medical facilities in one of the areas by the inhabitants of another);
- culture, leisure and sport (theatres, orchestras, sports centres, holiday homes and camps, youth centres, etc.);
- mutual assistance in disaster relief (fire, flood, epidemics, air crashes, earthquakes, mountain accidents, etc.);
- tourism (joint projects for the promotion of tourism);
- problems relating to frontier workers (transport facilities, housing, social security, taxation, employment, unemployment, etc.);
- economic projects (new industry, etc.);
- miscellaneous projects (refuse disposal plant, sewerage, etc.);
- improvement of the agrarian system;
- social facilities.

2. The Parties may agree to amend this list by simply exchanging notes.

#### Article 7

1. Unless otherwise provided, the Commission shall be responsible for dealing with general matters and matters of principle, such as drawing up programmes for the Committees, co-ordination and contact with the central administrations concerned and with joint Commissions established before the entry into force of this agreement.

2. The Commission shall in particular be responsible for referring to the respective governments, as appropriate, its own and the Committees' recommendations and any projects for the conclusion of international agreements.

3. The Commission may avail itself of the services of experts for the investigation of particular questions.

<sup>1</sup> This list is given merely for guidance and should be adapted to each co-operation project. It is not to be interpreted as modifying the powers vested in territorial authorities by domestic law. Both central and regional authorities are, after all, represented on the Commission.

*Article 8*

1. The primary function of the Committees shall be to investigate problems arising in the fields specified in Article 6 and to make proposals and recommendations accordingly. Such problems may be referred to them by the Commission, by the Parties' central, regional or local authorities and by institutions, associations or other public or private bodies. They may also take up matters on their own initiative.

2. The Committees may, for the purpose of studying these matters, set up working parties. They may also avail themselves of the services of experts and request legal opinions or technical reports. The Committees shall, through the fullest possible consultation, seek to obtain results in keeping with the interest of the population concerned.

*Article 9*

1. The Committees shall inform the Commission of matters referred to them and of the conclusions which they have reached.

2. Where their conclusions require decisions by the Commission or by the respective governments, the Committees shall make recommendations to the Commission.

*Article 10*

1. Both the Commission and the Committees shall be empowered to settle matters of common interest which are referred to them with the members' agreement, provided that their members hold powers in respect thereof according to the legislation of the Parties.

2. The Commission and the Committees shall exchange information on the decisions reached in this respect.

*Article 11*

1. The delegations to the Commission or the Committees shall exchange information on the action taken by the competent authorities on recommendations made or agreements drafted in accordance with Article 7.2 and Article 9.2.

2. The Commission and the Committees shall consider the action required on the measures taken by the competent authorities referred to in paragraph 1.

### 1.3 MODEL INTER-STATE AGREEMENT ON LOCAL TRANSFRONTIER CONSULTATION

#### Introductory note:

This agreement may be concluded either individually or in conjunction with one or more of the model inter-state agreements (Texts 1.1 to 1.5).

*Article 1*

With a view to ensuring a fuller exchange of information and developing consultation between local authorities on either side of frontiers, the Parties call on such authorities to make a joint study of problems of common interest through consultation committees.

*Article 2*

The rules of procedure of such committees shall be agreed by their members. Higher authorities shall be associated with their proceedings or kept informed of them.

The consultation committees shall be associated with the work of regional transfrontier consultation commissions on terms to be decided by the latter, should such commissions have been set up in the regions in question. Similarly, these commissions shall give their assistance to the work of the consultation committees.

They may also act as advisory bodies in connection with the implementation of special inter-state agreements concluded in the context of transfrontier co-operation.

*Article 3*

The function of the consultation committees shall be to organise exchanges of information and consultations on both sides as well as to study matters of common interest and determine common aims.

Their activities shall be governed by respect for the responsibilities of their members and no transfer of powers shall be involved.

The members of these committees may, however, within the framework of co-operation agreements, decide together what measures or restrictions are to guide their respective activities or what preliminary consultation procedures they wish to see followed.

*Article 4 (alternative)*

To assist these consultation committees in their work, the local authorities concerned may, within the limits of the powers conferred on them under domestic law, form associations to provide a legal framework for their co-operation.

Such associations shall be set up under the civil law or commercial law applicable to associations in one of the States concerned. For the application of the legal system chosen, should the occasion arise, the conditions, formalities and particular authorizations concerning the nationality of members of the associations should be disregarded.

The information provided to the higher authorities, conforming to Article 2, will include all information on the activities of the associations mentioned in the present article.

1.4 MODEL INTER-STATE AGREEMENT ON  
CONTRACTUAL TRANSFRONTIER CO-OPERATION  
BETWEEN LOCAL AUTHORITIES

Introductory note:

This agreement may be concluded either individually or in conjunction with one or more of the draft inter-state agreements (Texts 1.1 to 1.5).

Article 1

Transfrontier co-operation between local authorities shall be conducted, *inter alia*, by means of administrative, economic or technical contracts.

Article 2

Transfrontier co-operation contracts shall be concluded by local authorities within the limits of their powers under domestic law.

They shall, *inter alia*, relate to the provision of supplies or services, the taking of joint action, the creation of associations established on the basis of civil or commercial law of one of the States parties or the membership of such an association.<sup>1</sup>

Article 3

The Parties to such a contract shall specify the law applicable thereto by reference to the law of contracts (both public and private) of one of the States parties to this agreement.

They shall also specify, as far as is necessary, those derogations that may be made from such provisions of that law as are not binding.

Failing any relevant stipulation in the contract, the law applicable shall be that of the State of whichever local authority is responsible thereunder for providing the principal service, or failing this, the local authority with the most important financial involvement.

Under all circumstances the persons subject to the local authorities parties to the contract shall retain any right to take action against or seek remedy from the said authorities which they would have enjoyed with regard to the authorities if the latter had retained their duty to provide the said persons with the supplies or services in question. The local authorities against which such action is taken or from which remedies are sought shall be entitled to institute proceedings against those local authorities which have assumed responsibility for providing the supplies or services.

Article 4

Proposals for the conclusion or amendment of contracts shall be simultaneously subject in each

State to the ordinary rules governing intervention by higher authorities. However, no approval shall be required from authorities parties to the contract. Any decision taken by a higher authority which may prevent the conclusion or application, or which may provoke the cancellation, of a transfrontier co-operation contract, should imply previous consultation with the corresponding higher authorities of the other States concerned.

Article 5

In the event of a dispute, the competent judicial authority shall be determined by the applicable law. However, transfrontier co-operation contracts may include arbitration clauses. Notwithstanding any such clauses users and third parties shall retain any existing legal remedies against the local authorities of the State to which they belong, it lying with those authorities to seek redress against the defaulting contractor.

Higher authorities shall take all measures in their power to secure the prompt execution of judicial decisions, whatever the nationality of the court from which they emanated.

Article 6

Contracts concluded under this agreement shall remain in effect after its denunciation. However, the contracts will include a clause authorizing the parties to terminate such contracts, subject to five years' notice, in the event of the denunciation of the present agreement. The States parties will have the power to bring about the application of this clause.

1.5 MODEL INTER-STATE AGREEMENT ON  
ORGANS OF TRANSFRONTIER CO-OPERATION  
BETWEEN LOCAL AUTHORITIES

Introductory note:

This agreement may be concluded either individually or in conjunction with one or more of the model inter-state agreements (Texts 1.1 to 1.5).

Article 1

For the purposes which they are permitted under domestic law to pursue through an association or consortium, local authorities and other public-law bodies may take part in associations or consortia of local authorities formed in the territory of another Party in accordance with the latter's domestic law.

Article 2

Within the limits of their members' powers, the associations or consortia referred to in Article 1 shall be entitled to pursue their activities arising out of their statutory purpose in the territory of each of the Parties concerned. In so doing, they shall be subject to the rules laid down by that State, unless exceptions are allowed by that State.

<sup>1</sup> The coherence of this agreement remains the same whether or not this paragraph is included.

### Article 3

1. The instrument of establishment of association or consortium, the articles of association and any alterations thereto shall be subject to approval by the higher authorities of all the local authorities participating. The same shall apply to admission to an already existing association or consortium.
2. The population concerned shall be notified of such instruments and the approval thereof, in accordance with each country's normal publicity arrangements. The same shall apply to any change in official headquarters and to any decisions regarding the persons authorised to act on behalf of the association or consortium and the limits of their powers.
3. The above instruments shall be drawn up in the official languages in use in each of the States where they are to have effect. Each such version of the text shall be authentic.

### Article 4

1. The articles of association shall specify rules governing the association's or consortium's relations in law. They shall include the subjects required by the relevant legislation, in accordance with Article 1. In every case, they shall designate its members, its name and its headquarters. They shall determine the purpose of the association or consortium and, where appropriate, the functions of its installations and the location thereof. They shall determine the manner of appointment of the managerial and administrative bodies, the extent of the members' obligations and their contribution to joint expenditure. The management bodies shall include at least one representative of the member local authorities of each country. The articles of association shall determine the composition and the mode of deliberation of the General Assembly, the form of minutes of sittings, the mode of dissolution or liquidation and the rules governing budgets and accounts.
2. The articles shall also include a provision whereby members may withdraw from the association on giving a period of notice which will be fixed by the articles, after settlement of any debts to the association and on payment to the association of compensation, as assessed by experts, in respect of investment effected or expenditure incurred by the association for or on behalf of the members concerned. They shall also specify rules governing members' dismissal or exclusion for failure to honour their undertakings.

### Article 5

The Parties undertake to give the authorization necessary to the accomplishment within their territory by the association or consortium of its task, subject to the requirements of public policy and public safety.

### Article 6

Where, pursuant to domestic law, the association or consortium may not, on the territory of a State, exercise certain powers, rights or advantages necessary to the accomplishment of its task for the benefit of that State's member local authorities, the latter shall have the right and the duty to act for and on behalf of the association or consortium for the purpose of exercising or securing these powers, rights or advantages.

### Article 7

1. Powers of supervision or control over the association or consortium shall be exercised, in accordance with domestic law, by the responsible authorities of the State in which its headquarters are located. Such authorities shall also ensure that the interests of local authorities of other States are safeguarded.
2. The responsible authorities of the other States shall have a right to information on the activities and decisions of the association or consortium and on action taken in the exercise of supervision or control. They shall, in particular, be supplied on request with the adopted texts and minutes of meetings of the bodies of the association or consortium, the annual accounts and the draft budget, if any, insofar as domestic law requires that these be communicated to the authorities responsible for supervision or control. They may communicate directly with the bodies of the association or consortium and with the supervisory or controlling authorities, submit observations to them or ask to be directly consulted in specific instances and on specific matters.
3. The responsible authorities of the other States shall also have the right to notify the association or consortium that they object to those authorities falling under their jurisdiction continuing to take part in the association or consortium. Such notification, duly justified, shall be deemed to be grounds for exclusion and shall be specified as such in the association's articles. The authorities referred to in paragraphs 1 and 2 of this Article shall also be entitled to be represented by a delegate to the management bodies of the association or consortium; such delegate shall be entitled to attend all the bodies' meetings and to receive their agendas and minutes.

### Article 8

The supplies or services with which the association or consortium is to be entrusted, in accordance with its articles, in the territory of its members shall be provided on its responsibility, thereby completely releasing its members from their obligations in respect thereof. The association or consortium shall also be responsible *vis-à-vis* users and third parties. The latter shall, however, retain, with regard to the local authorities for and on whose behalf the supplies or services are provided, all such rights of action and

legal remedy as they would enjoy if the authorities themselves had retained the obligation to provide them with the supplies and services concerned. The authorities against whom such action or recourse is directed may themselves take action against the association.

#### Article 9

1. Failing conciliation, disputes between the association and its members, or between several members, regarding its operation shall be referred to the administrative and judicial authorities of the State in which the headquarters of the association or consortium are located.

2. All disputes other than those referred to in paragraph 1 may be referred to the administrative and judicial authorities according to the ordinary rules applying in the territory of the States parties, unless those interested decide to refer such disputes to a tribunal which they may designate.

3. The States parties will take the necessary measures in order to ensure the execution on their territory of decisions and judgments, relating to the above provisions.

#### Article 10

The associations or consortia created according to this agreement shall remain in effect after the denunciation of this agreement, though without prejudice to the provisions of Article 7, paragraph 3.

### 2. OUTLINE AGREEMENTS, STATUTES AND CONTRACTS BETWEEN LOCAL AUTHORITIES

#### Introductory note:

#### OUTLINE AGREEMENTS, CONTRACTS AND STATUTES INTENDED FOR LOCAL AUTHORITIES

Like States, local authorities could be offered a choice of agreements and contracts. In fact, such a choice already exists in a number of countries, as is shown by the appreciable volume of documentation on agreements concluded that has already been assembled.

The proposed system comprises six outline agreements, contracts and statutes corresponding to different degrees and formulae of local transfrontier co-operation. According to the scope and state of national legislation, these outlines may either be put to immediate use or may be subordinated to the adoption of an inter-state agreement governing their use.

In general, the conclusion of inter-state agreements, even when it does not seem absolutely essential, could help to clarify the conditions on which these agreements may be used by the local authorities. In any event, the conclusion of an inter-state agreement would seem to be a prerequisite for recourse to the agreement numbered 2.6 (transfrontier co-operation organs).

This system of outline agreements intended for local authorities corresponds to the model inter-state agreements. Reference is made to the inter-state agreements in the introductory note to each outline.

It is then possible to integrate the agreements and organs set up at local level, into the structures of transfrontier consultation to be set up at regional or national level. For example, the local liaison committees (outline 2.1) could be integrated into the structure of the Commissions, Committees and working parties stipulated in the model inter-state agreement on regional transfrontier consultation (1.2).

Also, these models have been designed on a schematic basis, as it was not possible to take a global view of all the problems that could arise in each particular case. The outlines are a valuable guide, but may be amended according to the needs encountered by the local authorities using them.

Likewise, local authorities must determine means of encouraging citizen participation in transfrontier consultation in the socio-cultural sphere. Such participation would certainly overcome the psychological obstacles sometimes seriously impeding transfrontier co-operation. Consultation, supported by public interest, would also benefit from a solid foundation. One way of encouraging public participation would be to have recourse to an association. Thus, one of the outlines (2.3) concerns the setting up of a private law association.

#### 2.1 OUTLINE AGREEMENT ON THE SETTING UP OF A CONSULTATION GROUP BETWEEN LOCAL AUTHORITIES

##### Introductory note:

Normally, the creation of such a group is possible without the need for inter-state agreements. There are numerous examples of such a possibility. However, if legal or other uncertainties exist, an inter-state agreement would provide the conditions under which such consultation could be used (see model agreement 1.3).

#### PURPOSE OF THE GROUP AND HEADQUARTERS

##### Article 1

The local authorities Parties to this agreement undertake to co-ordinate their efforts in the following fields within their powers (specify the field(s) of responsibility or refer to "local problems"). For this purpose, they hereby establish a Consultation Group, hereinafter referred to as "the Group", with headquarters at . . . .

The Group's function shall be to ensure the exchange of information, co-ordination and consultation between its members in the fields specified in the preceding sub-paragraph. The member authorities undertake to supply it with all information necessary for the discharge of its function and to consult each other, via the Group,

prior to the adoption of decisions or measures affecting the fields specified above.

#### MEMBERSHIP

##### *Article 2*

Each participating local authority shall be represented in the Group by a delegation of . . . members appointed by it. Each delegation may, with the Group's agreement, be accompanied by representatives of private socio-economic bodies and by experts (this alternative excludes entities other than local authorities from membership, which distinguishes this arrangement from the private law association dealt with under 2.3).

Possible variant: The number of members in each delegation may vary. Membership shall be open to local and regional authorities, socio-economic groups and private persons subscribing to this agreement. The Group shall decide on the admission of new members. Each delegation may, with the Group's agreement, be accompanied by representatives of private bodies and by experts.

#### TERMS OF REFERENCE

##### *Article 3*

The Group may deliberate on all matters specified in Article 1. All questions on which a consensus is reached, and recommendations which the Group decides to make to the relevant authorities or groups, shall be recorded in the minutes.

The Group shall be authorised to commission studies and investigations on matters within its competence.

##### *Article 4*

The members of the Group may agree to entrust the Group with the execution of certain well-defined practical duties. The Group may also carry out any tasks entrusted to it by other agencies.

#### OPERATION

##### *Article 5*

The Group shall draw up its own rules of procedure.

##### *Article 6*

The Group shall, as a general rule, be convened twice a year, or at the request of one-third of its members proposing the entry of an item on its agenda.

Notice of the meeting must be given and the agenda circulated at least 15 days in advance, in order that the deliberations may be prepared by each of the institutions represented.

##### *Article 7*

The Group shall appoint from among its members a permanent Bureau whose membership and powers it shall determine.

The Chair shall be taken in accordance with the rules of procedure or, where they do not apply, by the oldest member present.

#### RELATIONS WITH OUTSIDE PERSONS AND HIGHER AUTHORITIES

##### *Article 8*

In relations with outside persons, the Group shall be represented by its Chairman, except as otherwise provided for in the rules of procedure. Higher authorities, to which members of the Group belong, may obtain from the Group such information as they may request on the Group's work and shall be authorized to send an observer to its meetings.

#### SECRETARIAT AND FINANCE

##### *Article 9*

Secretarial services shall be provided by one of the member institutions (with or without a system of annual replacement).

Each authority shall be required to contribute to the cost of secretarial services as specified hereunder:

Information and documentation shall normally be circulated in the language of the State from which it originates.

#### ACCESSION AND WITHDRAWAL

##### *Article 10*

Membership of the Group shall be open to such additional local and regional authorities as may subscribe to this agreement. The Group shall decide on the admission of new members.

##### *Article 11*

Any member may withdraw from the Group by notifying the Chairman to that effect. The withdrawal of a member from the Group shall not affect its operation unless otherwise decided upon by the Group.

##### *Article 12*

The Parties shall inform the Secretary General of the Council of Europe of the conclusion of this agreement and supply him with the text.

## 2.2 OUTLINE AGREEMENT ON CO-ORDINATION IN THE MANAGEMENT OF TRANSFRONTIER LOCAL PUBLIC AFFAIRS

### Introductory note:

In several States this type of transfrontier cooperation agreement is already possible. Where this is not the case, the conditions under which such an agreement could be used should be defined within the framework of an inter-state agreement (see model agreement 1.3).

### PURPOSE OF THE AGREEMENT

#### Article 1

Article 1 specifies the purpose of the agreement (e.g. harmonious development of frontier regions) and the fields concerned.

### TERRITORY COVERED BY THE AGREEMENT

#### Article 2

Article 2 should specify the territories covered by the agreement on either side (or on all three sides) of the frontier.

### UNDERTAKINGS

#### Article 3

Article 3 should define the means of achieving the aims of the agreement (Article 1). According to the material purpose of the agreement, the following undertakings may be specified:

- the Parties undertake to comply with a prior consultation procedure before reaching decisions on a number of measures they have to take within the limits of their powers and of the territory administered by them;
- the Parties undertake, within their territory and within the limits of their powers, to take the measures necessary to the achievement of the agreement's objectives;
- the Parties undertake to do nothing detrimental to the objectives of this agreement.

### CO-ORDINATION

#### Article 4

Article 4 should specify, in accordance with the particular circumstances and requirements of each agreement, the arrangements for co-ordination:

- either by designating for co-ordination purposes the general purpose group referred to in outline agreement 2.1;
- or by providing for the establishment of a specific consultation group for the purpose of this agreement;
- or simply by means of direct bilateral contracts between the authorities concerned.

### CONCILIATION

#### Article 5

Each member of the Group (each Party, if there is no Group) may raise with the Group (the other Party, if there is no Group) any case in which it considers that the agreement has not been observed in that:

- either there has been no prior consultation;
- or the measures taken are not in keeping with the agreement;
- or the measures necessary to the achievement of the aims of the agreement have not been taken.

If the Parties fail to reach agreement, the dispute may be referred to a Conciliation Board entrusted with ensuring compliance with the undertakings entered into.

### CONTROLLING BODY

#### Article 6

The Parties may agree to set up a specific Controlling Body to ensure compliance with the undertakings entered into, composed of an equal number of experts appointed by each Party and a neutral expert whose appointment or the mode of such appointment shall be provided for in advance.

The Controlling Body shall give an opinion, which it shall have the authority to make public, as to whether the agreement has been observed.

#### Article 7

The Parties shall inform the Secretary General of the conclusion of this agreement and supply him with the text.

## 2.3 OUTLINE AGREEMENT ON THE SETTING UP OF PRIVATE LAW TRANSFRONTIER ASSOCIATIONS

### Introductory note:

It is assumed that the local authority of one State may belong to a private law association of another State in accordance with the same rules and conditions as apply to that local authority's membership of a private law association in its own State. If such is not the case at present, the possibility should be expressly provided for by means of an inter-state agreement between the States concerned (see inter-state model agreements 1.3 and 1.4).

Private associations are normally required to comply with rules laid down in the law of the country where they have their headquarters. The following list shows the provisions which should be included in their Articles, where this is not specified by law. The provisions governing consultation groups (see outline agreement 2.1) may also apply, *mutatis mutandis*, to associations of this type.

The association's Articles should specify:

1. its founder members and the conditions for the admission of new members;
2. its name, headquarters and legal form (with reference to the relevant national legislation);
3. its object, the manner of achieving this object and the resources at the association's disposal;
4. its bodies and in particular the functions and mode of operation of its General Assembly (representation and voting);
5. appointment of administrators or executive officers and their powers;
6. the extent of members' liabilities *vis-à-vis* third parties;
7. conditions for modification of the Articles and for winding-up the association;
8. an undertaking by the Parties to inform the Secretary General of the Council of Europe of the formation of a transfrontier association and to supply him with its Articles.

#### 2.4 OUTLINE CONTRACT FOR THE PROVISION OF SUPPLIES OR SERVICES BETWEEN LOCAL AUTHORITIES IN FRONTIER AREAS ("PRIVATE-LAW" TYPE)

Introductory note:

It is assumed that local authorities have the right to conclude such a contract with local authorities of other countries. Where this is not the case, this possibility should be expressly provided for within the framework of an inter-state agreement (see model agreement 1.4).

This is a type of contract which may be used by local authorities for sales, leases, works contracts, the supply of goods or services, the granting of operating concessions, etc. Local authorities' use of "private-law" contracts is permitted to varying degrees in national legislation and practice and it is difficult to draw the line between "public-law" and "private-law" contracts. Nevertheless it may be assumed that this type of contract may be used wherever, according to the prevailing interpretation in each particular country, the agreement concerns an operation of a commercial or economic type for which a private person or corporate body could also have contracted. In the case of operations which involve action by local authorities in the exercise of functions reserved to public authority, the supplementary rules specified in the "public-law" outline contract (see 2.5) must be borne in mind, in addition to the provisions set out below.

#### PARTIES

Article 1 specifies the Parties (and whether the agreement is open to other local authorities).

Article 2 specifies the problems connected with general contractual powers and, in particular, beneficiaries and terms and conditions. It may also, where appropriate, specify the necessary reservations regarding authorization by higher authorities, where this affects the applicability of the contract.

#### OBJECT OF THE CONTRACT

Article 3 specifies the object of the contract by reference to:

- specific matters;
- geographical areas;
- corporate bodies (municipalities, national bodies with local powers, etc.);
- specific legal forms.

Article 4 specifies the duration of the contract, the conditions for renewal and any completion dates.

#### LEGAL REGIME AND FINANCIAL PROVISIONS

Article 5 indicates the place of signature and performance of the contract and specifies the legal regime by which it is governed (private international law) and the law which applies.

Article 6 deals, where appropriate, with financial questions (currency in which payment is to be made and the mode of price adjustment in the case of long-term services) and insurance.

#### ARBITRATION

Article 7 provides, if necessary, for a conciliation procedure and provides for an arbitration procedure.

In the event of arbitration the arbitration board shall be made up as follows:

- each Party with opposing interests (Variant: the presidents of the administrative courts with jurisdiction over each of the parties) shall designate a member of the arbitration board and the Parties shall jointly appoint one or two independent members so that there may be an odd number of members.
- where there is an even number of members of the arbitration board and the votes are tied, the independent member shall have a casting vote.

#### ALTERATION AND TERMINATION OF THE CONTRACT

Article 8 specifies the rules to apply in the event of alteration or termination of the contract.

Article 9. The Parties shall inform the Secretary General of the Council of Europe of the conclusion of this agreement and supply him with the text.



## 2.5 OUTLINE CONTRACT FOR THE PROVISION OF SUPPLIES OR SERVICES BETWEEN LOCAL AUTHORITIES IN FRONTIER AREAS ("PUBLIC-LAW" TYPE)

### Introductory note:

This type of contract is similar to that dealt with under 2.4 ("private-law" contracts) in that it relates to specific purposes. This type is more particularly concerned with concessions or contracts for public services or public works (or services or works which are regarded as "public" by one of the countries concerned), or the provisions of contributory finance<sup>1</sup>, from one authority to another on the other side of the frontier. Such public concessions entail special risks and responsibilities related to the public services provided which require the inclusion in the contract of other provisions in addition to those specified in the model "private-law" contract.

"Transfrontier" contracts of this type are not necessarily permitted in all countries. Consequently, the possibility of such arrangements and the conditions for their use would often first have to be provided for in an inter-state agreement (see model agreement 1.4).

The use of such a contract, which is simple enough to devise and implement, could in some cases obviate the need for a joint agency of the "Transfrontier Syndicate of Local Authorities" type (see 2.6), which raises other legal problems.

### CONTRACTUAL PROVISIONS

Where the contract involves the establishment or administration of public property, a public service or facility belonging to a local authority in at least one of the countries, contractual guarantees must be specified in accordance with the rules which apply in the country or countries concerned.

The contract will also, where necessary, make reference to the following specific conditions:

1. the regulations governing the establishment or operation of the facility or service concerned (e.g. timetable, charges, conditions of use, etc.);
2. special conditions governing the setting up of the facility or service (e.g. permits required, procedure, etc.);
3. the conditions of contract for the facility or service;
4. the procedure for adjusting the contract for reasons of public interest and resulting financial compensation;
5. ensuing relations between users of the facility or service and the operator (e.g. conditions of access, charges, etc.);
6. withdrawal from, surrender or termination of the contract.

<sup>1</sup> This arrangement might be particularly useful to frontier authorities, e.g. in the case of pollution: one authority might offer another contributory finance to enable it to carry out work within its competence but of value to the first.

In addition to these special requirements, the provisions specified in the specimen "private-law" contract 2.4 will also apply.

## 2.6 OUTLINE AGREEMENT ON THE SETTING UP OF ORGANS OF TRANSFRONTIER CO-OPERATION BETWEEN LOCAL AUTHORITIES

### Introductory note:

It is assumed that several local authorities may get together and form a legally based organisation with a view to providing and operating some public utility, service or facility body.

The creation and functioning of such an association or syndicate will mainly depend on the applicable legislation and the provisions of any previous inter-state agreement authorising this form of co-operation (see model agreement 1.5).

There follows a list of the provisions that the articles of association should include, insofar as they are not embodied in the applicable legislation.

The articles of association should specify, *inter alia*:

1. the names of the founding members of the association and the conditions on which new members may join;
2. the name, headquarters, duration and legal status of the association (with references to the law conferring legal status upon it);
3. the object of the association, the way in which it is to be pursued and the resources at the association's disposal;
4. the way in which the registered capital is constituted;
5. the scope and limits of members' liabilities;
6. the procedure for appointing and dismissing administrators or managers of the association, as well as their powers;
7. the association's relations with its members, third parties and higher authorities, especially as regards the communication of budgets, balance sheets and accounts;
8. the people with responsibility for financial and technical control over the activity of the association and the reports arising out of such control;
9. the conditions for altering the articles of association and for the dissolution of the association;
10. the rules applying to personnel;
11. the rules applying to languages.

**CONVENTION ON FUTURE  
MULTILATERAL CO-OPERATION IN  
NORTH-EAST ATLANTIC  
FISHERIES [11]**

**London, 18 November 1980**

The Contracting Parties,

Noting that the coastal States of the North-East Atlantic have, in accordance with relevant principles of international law, extended their jurisdiction over the living resources of the adjacent waters to limits of up to two hundred nautical miles from the baselines from which the breadth of the territorial sea is measured, and exercise within these areas sovereign rights for the purpose of exploring and exploiting, conserving and managing these resources,

Taking into account the work of the Third United Nations Conference on the Law of the Sea in the field of fisheries,

Desiring to promote the conservation and optimum utilization of the fishery resources of the North-East Atlantic area within a framework appropriate to the régime of extended coastal State jurisdiction over fisheries, and accordingly to encourage international co-operation and consultation with respect to these resources,

Considering that the North-East Atlantic Fisheries Convention of 24 January 1959 should accordingly be replaced,

Have agreed as follows:

*Article 1*

1. The area to which this Convention applies, hereinafter referred to as 'the Convention area', shall be the waters:

(a) within those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding:

(i) the Baltic Sea and the Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to the Kullen, and

(ii) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° latitude and the meridian of 5°36' west longitude,

(b) within that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.

2. This Convention applies to all fishery resources of the Convention area with the exception of sea mammals, sedentary species, i.e. organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil and, in so far as they are dealt with by other international agreements, highly migratory species and anadromous stocks.

*Article 2*

Nothing in this Convention shall be deemed to affect the rights, claims, or views of any Contracting Party with regard to the limits or extent of jurisdiction over fisheries.

*Article 3*

1. For the purposes of this Convention the Contracting Parties agree to establish and maintain a North-East Atlantic Fisheries Commission, hereinafter referred to as 'the Commission'.

2. The Commission shall have legal personality and shall enjoy in its relations with other international organizations and in the territories of the Contracting Parties such legal capacity as may be necessary to perform its functions and achieve its ends.

3. Each Contracting Party shall appoint to the Commission not more than two representatives who may be accompanied at any of its meetings by experts and advisers.

4. The Commission shall elect its own president and not more than two vice-presidents.

5. The office of the Commission shall be in London.

6. Except when the Commission determines otherwise, it shall meet once a year in London at such time as it decides; provided, however, that upon the request of a Contracting Party and subject to the concurrence of three other Contracting Parties, the President shall, as soon as practicable, convene a meeting at such time and place as he may determine.

7. The Commission shall appoint its own secretary and such other staff as it may require.

8. The Commission may set up such committees and other subsidiary bodies as it considers desirable for the exercise of its duties and functions.

9. Each Contracting Party shall have one vote in the Commission. Decisions of the Commission shall be taken by a simple majority, or, if this Convention specifically requires a qualified majority, by a two-thirds majority of the votes of all Contracting Parties present and casting affirmative or negative votes, provided that no vote shall be taken unless there is a quorum of at least two-thirds of the Contracting Parties. If there is an even division of votes on any matter which is subject to a simple majority decision, the proposal shall be regarded as rejected.

10. Subject to the provisions of this Article, the Commission shall adopt its own Rules of Procedure, including provisions for the election of the president and vice-presidents and their terms of office.

11. Reports of the proceedings of the Commission shall be transmitted as soon as possible to the Contracting Parties in English and French.

*Article 4*

1. The Commission shall perform its functions in the interests of the conservation and optimum utilization of the fishery resources of the Convention area and shall take into account the best scientific evidence available to it.

2. The Commission shall provide a forum for consultation and exchange of information on the state of the fishery resources in the Convention area and on management policies, including examination of the overall effect of such policies on the fishery resources.

*Article 5*

1. The Commission shall, as appropriate, make recommendations concerning fisheries conducted beyond the areas under fisheries jurisdiction of Contracting Parties. Such recommendations shall be adopted by a qualified majority.

2. The Commission in the exercise of its functions under paragraph 1 shall seek to ensure consistency between:

(a) any recommendation that applies to a stock or group of stocks occurring both within an area under the fisheries jurisdiction of a Contracting Party and beyond, or any recommendation that would have an effect through species inter-relationships on a stock or group of stocks occurring in whole or in part within an area under the fisheries jurisdiction of a Contracting Party, and

(b) any measures and decisions taken by such Contracting Party for the management and conservation of that stock or group of stocks with respect to fisheries conducted within the area under its fisheries jurisdiction.

The appropriate Contracting Party and the Commission shall accordingly promote the co-ordination of such recommendations, measures and decisions.

3. For the purpose of paragraph 2 each Contracting Party shall keep the Commission informed of its measures and decisions.

*Article 6*

1. The Commission may make recommendations concerning fisheries conducted within an area under fisheries jurisdiction of a Contracting Party, provided that the Contracting Party in question so requests and the recommendation receives its affirmative vote.

2. The Commission may give advice concerning fisheries referred to in paragraph 1 if the Contracting Party in question so requests.

*Article 7*

In the exercise of its functions, as set out in Articles 5 and 6, the Commission may consider *inter alia* measures for:

(a) the regulation of fishing gear and appliances, including the size of mesh of fishing nets,

(b) the regulation of the size limits of fish that may be retained on board vessels, or landed or exposed or offered for sale,

(c) the establishment of closed seasons and of closed areas,

(d) the improvement and increase of fishery resources, which may include artificial propagation, the transplantation of organisms and the transplantation of young,

(e) the establishment of total allowable catches and their allocation to Contracting Parties,

(f) the regulation of the amount of fishing effort and its allocation to Contracting Parties.

*Article 8*

1. The Commission may by a qualified majority make recommendations concerning measures of control relating to fisheries conducted beyond areas under the fisheries jurisdiction of Contracting Parties for the purpose of ensuring the application of this Convention and any recommendations adopted thereunder.

2. The Commission may also make recommendations concerning measures of control relating to fisheries conducted within an area under the fisheries jurisdiction of a Contracting Party, provided that the Contracting Party in question so requests and the recommendation receives its affirmative vote.

3. Recommendations adopted under this Article may include provisions for termination different from those provided for in Article 13.

*Article 9*

1. The Commission may by a qualified majority make recommendations providing for the collection of statistical information relating to fisheries conducted beyond areas under the fisheries jurisdiction of Contracting Parties.

2. The Commission may also make recommendations providing for the collection of statistical information relating to fisheries conducted within an area under the fisheries jurisdiction of a Contracting Party, provided that the recommendation receives the affirmative vote of that Contracting Party.

*Article 10*

When adopting recommendations the Commission shall determine whether, and under which conditions, those recommendations shall apply to fishing operations conducted solely for the purpose of scientific investigation carried out according to relevant principles and rules of international law.

### Article 11

1. The Commission shall, without undue delay, notify the Contracting Parties of the recommendations adopted by the Commission under this Convention.

2. The Commission may publish or otherwise disseminate reports of its activities and other information relating to the fisheries in the Convention area.

### Article 12

1. A recommendation shall become binding on the Contracting Parties subject to the provisions of this Article and shall enter into force on a date determined by the Commission, which shall not be before 30 days after the expiration of the period or periods of objection provided for in this Article.

2. (a) Any Contracting Party may, within 50 days of the date of notification of a recommendation adopted under paragraph 1 of Article 5, under paragraph 1 of Article 8 or under paragraph 1 of Article 9, object thereto. In the event of such an objection, any other Contracting Party may similarly object within 40 days after receiving notification of that objection. If any objection is made within this further period of 40 days, other Contracting Parties are allowed a final period of 40 days after receiving notification of that objection in which to lodge objections.

(b) A recommendation shall not become binding on a Contracting Party which has objected thereto.

(c) If three or more Contracting Parties have objected to a recommendation it shall not become binding on any Contracting Party.

(d) Except when a recommendation is not binding on any Contracting Party according to the provisions of subparagraph (c), a Contracting Party which has objected to a recommendation may at any time withdraw that objection and shall then be bound by the recommendation within 70 days, or as from the date determined by the Commission under paragraph 1, whichever is the later.

(e) If a recommendation is not binding on any Contracting Party, two or more Contracting Parties may nevertheless at any time agree among themselves to give effect thereto, in which event they shall immediately notify the Commission accordingly.

3. In the case of a recommendation adopted under paragraph 1 of Article 6, under paragraph 2 of Article 8, or under paragraph 2 of Article 9, only the Contracting Party exercising fisheries jurisdiction in the area in question may, within 60 days of the date of notification of the recommendation, object thereto, in which case the recommendation shall not become binding on any Contracting Party.

4. The Commission shall notify the Contracting Parties of any objection and withdrawal immediately

upon the receipt thereof, and of the entry into force of any recommendation and of the entry into effect of any agreement made pursuant to subparagraph (e) of paragraph 2.

### Article 13

1. (a) After the expiration of one year from the date of entry into force of a recommendation adopted under paragraph 1 of Article 5, paragraph 1 of Article 8 or paragraph 1 of Article 9, any Contracting Party may notify the Commission of the termination of its acceptance of the recommendation and, if that notification is not withdrawn, the recommendation shall cease to be binding on that Contracting Party at the end of one year from the date of notification.

(b) A recommendation which has ceased to be binding on a Contracting Party shall cease to be binding on any other Contracting Party 30 days after the date on which the latter notifies the Commission of the termination of its acceptance of the recommendation.

2. In the case of recommendations adopted under paragraph 1 of Article 6, paragraph 2 of Article 8 or paragraph 2 of Article 9, only the Contracting Party exercising fisheries jurisdiction in the area in question may notify the Commission of termination of its acceptance of the recommendation, in which event it shall cease to be binding on any Contracting Party at the end of 90 days from the date of the notification.

3. The Commission shall notify the Contracting Parties of any notification under this Article immediately upon the receipt thereof.

### Article 14

1. In the interest of the optimal performance of the functions set out in Articles 4, 5 and 6, the Commission shall seek information and advice from the International Council for the Exploration of the Sea. Such information and advice shall be sought on matters related to the Commission's activities and falling within the competence of the Council, including information and advice on the biology and population dynamics of the fish species concerned, the state of the fish stocks, the effect of fishing on those stocks, and measures for their conservation and management.

2. In order to facilitate the tasks of the International Council for the Exploration of the Sea in providing information and advice to the Commission, the Commission shall seek to establish, in co-operation with the Council, arrangements to ensure that research studies for this purpose, including joint studies, are encouraged and conducted efficiently and without undue delay.

3. The Commission may establish working arrangements with any other international organization which has related objectives.

*Article 15*

1. Without prejudice to the rights of Contracting Parties in regard to waters under their fisheries jurisdiction, the Contracting Parties shall take such action, including the imposition of adequate sanctions for infractions, as may be necessary to make effective the provisions of this Convention and to implement any recommendation which becomes binding under Article 12.

2. Each Contracting Party shall transmit to the Commission an annual statement of the actions it has taken pursuant to paragraph 1.

*Article 16*

1. Each Contracting Party shall inform the Commission of its legislative measures and of any agreements which it may have concluded, in so far as those measures and agreements relate to the conservation and utilization of fishery resources in the Convention area.

2. Each Contracting Party shall furnish on the request of the Commission any available scientific and statistical information needed for the purposes of this Convention and such additional information as may be required under Article 9.

*Article 17*

1. Each Contracting Party shall pay the expenses of its own delegation to all meetings held under this Convention.

2. At its first meeting the Commission shall adopt a budget for its first financial year. At this meeting the Commission may also, as appropriate, adopt a budget for the second financial year.

3. At each annual session the Commission shall adopt a budget for the following financial year and a budget estimate for the financial year following thereafter. A draft budget and draft budget estimate shall be submitted by the President of the Commission to the Contracting Parties not less than 40 days before the meeting of the Commission at which they are to be considered.

4. The Commission shall determine the contributions due from each Contracting Party under the annual budgets according to the following formula:

(a) one-third of the budget shall be divided equally among the Contracting Parties;

(b) two-thirds of the budget shall be divided among the Contracting Parties in proportion to their nominal catches in the Convention area, on the basis of the International Council for the Exploration of the Sea definitive catch statistics for the calendar year ending not more than 24 and not less than 18 months before the beginning of the budget year;

(c) however, the annual contribution of any Contracting Party which has a population of less than 300 000 inhabitants shall be limited to a maximum of

5% of the total budget. When this contribution is so limited, the remaining part of the budget shall be divided among the other Contracting Parties in accordance with subparagraphs (a) and (b). This rule shall be effective for the first five budget years of the Commission and thereafter it shall be subject to annual review by the Commission which may change it by a decision adopted by a three-fourths majority of all Contracting Parties.

5. The Commission shall notify each Contracting Party of the contribution due from that Party as determined under paragraph 4 and of the date as determined by the Commission by which this contribution shall be paid.

6. The contribution of a Contracting Party which has acceded to this Convention during the course of a financial year shall, in respect of that year, be a part proportional to the number of complete months remaining in the year of the annual contribution calculated in accordance with paragraph 4.

7. Contributions shall be payable in the currency of the country in which the office of the Commission is located.

8. A Contracting Party which has not paid by the date determined by the Commission its contributions for two years shall not enjoy the right of casting votes and of making objections under this Convention until it has fulfilled its obligations, unless, at the request of the Contracting Party concerned, the Commission decides otherwise.

9. The Commission shall adopt rules for the conduct of its financial affairs.

*Article 18*

By a qualified majority the Commission may subdivide the Convention area into regions and may alter the boundaries and vary the number of regions provided that the decision receives the affirmative vote of each Contracting Party exercising fisheries jurisdiction in any part of the area affected.

*Article 19*

1. Any Contracting Party may propose amendments to this Convention. Any such proposed amendment shall be sent to the Secretary at least 90 days prior to the meeting at which the Contracting Party proposes it to be acted upon. The Secretary shall transmit the proposal immediately to the Contracting Parties.

2. The adoption of a proposed amendment requires a three-fourths majority of all Contracting Parties. The text of any proposed amendment so adopted shall be transmitted by the Commission to the Depositary which shall forthwith forward it to the Contracting Parties.

3. An amendment shall take effect for the Contracting Parties 120 days following the date of the

notification by the Depositary of receipt of written notification of approval by three-fourths of all Contracting Parties, unless any other Contracting Party notifies the Depositary, within 90 days of the date of the notification by the Depositary of such receipt, that it objects to the amendment, in which case the amendment shall not take effect for any Contracting Party. A Contracting Party which has objected to an amendment may at any time withdraw its objection. If all objections to an amendment are withdrawn, the amendment shall take effect for the Contracting Parties 120 days following the date of the notification by the Depositary of receipt of the last withdrawal.

4. A Party which ratifies, accepts, approves or accedes to this Convention after an amendment has been adopted in accordance with paragraph 2 shall be deemed to have approved the said amendment.

5. The Depositary shall promptly notify the Contracting Parties of the receipt of notifications of approval of amendments, the receipt of notification of objection or withdrawal of objections, and the entry into force of amendments.

#### *Article 20*

1. The Convention shall be open for signature from 18 November 1980 to 28 February 1981 by the following Parties: Bulgaria, Cuba, Denmark in respect of the Faroe Islands, the European Economic Community, Finland, the German Democratic Republic, Iceland, Norway, Poland, Portugal, Spain, Sweden and the Union of Soviet Socialist Republics. It shall be ratified, accepted, or approved as soon as possible and the instruments of ratification, acceptance or approval shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland, referred to in this Convention as 'the Depositary'.

2. This Convention shall enter into force upon the deposit of instruments of ratification, acceptance or approval by not less than seven signatories, provided that these include at least three signatories exercising fisheries jurisdiction within the Convention area. If, however, this Convention has not entered into force one year from the date on which this Convention is opened for signature, but not less than five signatories have deposited instruments of ratification, acceptance or approval, including at least three signatories exercising fisheries jurisdiction within the Convention area, these signatories may agree among themselves, by special protocol on the date on which this Convention shall enter into force; in that case this Convention shall enter into force with respect to any Party that ratifies, accepts or approves thereafter on the date of deposit of its instrument of ratification, acceptance or approval.

3. Any of the Parties referred to in paragraph 1 which has not signed this Convention may accede thereto at any time after it has entered into force in accordance with paragraph 2.

4. Any State not referred to in paragraph 1, except a Member State of the European Economic Community, may accede to this Convention at any time after it has entered into force in accordance with paragraph 2, provided that an application for accession of that State meets with the approval of three-fourths of all the Contracting Parties.

An application for accession shall be addressed in writing to the Depositary which shall notify all Contracting Parties thereof. The application is approved if within 90 days from the date of such notification three-fourths of all the Parties in respect of which this Convention has already entered into force by that date have notified the Depositary of their approval of the application.

The Depositary shall notify the State applying for accession and all Contracting Parties of the result of the application.

5. Accession shall be effected by the deposit of an instrument of accession with the Depositary and shall take effect on the date of its receipt. As from that date any Party which accedes to this Convention shall be bound by the recommendations which are, at the time of its accession, binding on all the other Contracting Parties as well as by any other recommendations which are, at that time, binding on one or more of the Contracting Parties and are not specifically excluded by the acceding Party in its instrument of accession.

6. The Depositary shall inform all signatories and all acceding Parties of all instruments of ratification, acceptance, approval or accession deposited, and shall notify signatories of the date and the Parties in respect of which this Convention enters into force.

7. The Depositary shall call the first meeting of the Commission as soon as practicable after the entry into force of this Convention and shall communicate the provisional agenda to each Contracting Party.

#### *Article 21*

At any time after two years from the date on which this Convention has entered into force with respect to a Contracting Party, that Party may denounce the Convention by means of a notification in writing addressed to the Depositary. Any such denunciation shall take effect twelve months after the date of its receipt, and shall be notified to the Contracting Parties by the Depositary.

#### *Article 22*

This Convention, of which the English and French texts are equally authentic, shall be deposited with the Government of the United Kingdom of Great Britain and Northern Ireland. The Depositary shall transmit duly certified copies to the signatories and acceding Parties, and shall register the Convention in accordance with Article 102 of the Charter of the United Nations.

## CONVENTION CREATING THE NIGER BASIN AUTHORITY [12]

**Faranah, 21 November 1980**

The President of the People's Republic of Benin;  
 The President of the United Republic of Cameroon;  
 The President of the Republic of Ivory Coast;  
 The President of the Revolutionary People's Republic of Guinea;  
 The President of the Republic of Upper Volta;  
 The President of the Republic of Mali;  
 The Chairman of the Supreme Military Council, Head of State of the Republic of Niger;  
 The President of the Federal Republic of Nigeria;  
 The President of the Republic of Chad.

Whereas the Act of Niamey relating to the Navigation and the Economic Co-operation between the States of the Niger Basin was signed on the 26th October 1963 at Niamey,

Whereas the Summit of Heads of State and Government met on the 26th January 1979 at Lagos and set up the objectives of dynamising the Organization,

Considering the guiding Speech made by the Current Chairman of the Summit of Heads of State and Government to the 6th Ministerial Session of the River Niger Commission on the 11th March 1980 in Conakry,

Bearing in mind the need to promote the social and economic progress of their countries in order to improve the standard of living of their Peoples,

Convinced that the social and economic progress of their countries calls for an effective economic co-operation based on determined and concerted policy to put together their individual means for the attainment of a collective welfare,

Convinced of the necessity to promote the economic development of their countries through an integrated development of the Niger River Basin,

Reaffirming their willingness for unity and solidarity in the organization for the overall development of the Niger Basin,

Decide to transform the River Niger Commission into a "Niger Basin Authority".

### Chapter I

#### CREATION AND COMPOSITION

##### Article 1

1. By this Convention, the High Contracting Parties decide to change the River Niger Commission to "Niger Basin Authority" hereinafter referred to as "the Authority".

2. The Authority is established in lieu of the River Niger Commission established by the Agreement Relating to the River Niger Commission and to Navigation and Transports on the River Niger, made

in Niamey on 25th November 1964, and revised in Niamey on 2nd February 1968 and on 15th June 1973 and in Lagos on 26th January 1979.

3. The Authority inherits all the assets and assumes all the obligations of the River Niger Commission.

4. The Headquarters of the Authority shall be in Niamey, Republic of Niger.

##### Article 2

#### COMPOSITION OF THE AUTHORITY

The Riparian States of the Niger River, its tributaries and sub-tributaries, who are signatories of this Convention are members of the Authority and hereafter referred to as "Member States".

### Chapter II

#### AIM AND OBJECTIVES OF THE AUTHORITY

##### Article 3

#### AIM

1. The aim of the Authority is to promote the co-operation among member States and to ensure an integrated development of the Niger Basin in all fields, by developing its resources particularly in the fields of energy, water resources, agriculture, animal husbandry, fishing and fisheries, forestry and forestry exploitation, transport, communications and industry.

2. In pursuance of the purpose mentioned in the preceding paragraph, the action of the Authority shall be directed to the harmonization of national development policies in the Basin through the implementation of integrated development projects and programmes.

##### Article 4

#### OBJECTIVES

1. The Authority shall be responsible for:

(a) The harmonization and the co-ordination of national development policies, in order to ensure an equitable policy as regards sharing of the water resources among member States.

(b) The formulation, in agreement with the member States, of the general policy of the development of the Basin which shall be consistent with the international status of the River Basin.

(c) The elaboration and the execution of an integrated development plan of the Basin.

(d) The initiating and monitoring of an orderly and rational regional policy for the utilization of the surface and underground waters in the Basin.

(e) The designing and conduct of studies, research and surveys.

(f) The formulation of plans, the construction, exploitation and maintenance of structure and

projects realized within the general objectives of the integrated development of the Basin.

2. For the purpose set out in the above paragraph (1) the Authority shall notably undertake, in harmony with the development plans of States relating to Niger Basin and in accordance with the general objectives of integrated development of the Basin, the following activities:

(a) *Statistics and Planning:*

(i) Collection, centralization, standardization, exploitation, dissemination, exchange of technical and related data;

(ii) Co-ordination of plans, projects and research carried out in the member States;

(iii) Consideration of projects presented by the member States with a view to making recommendations on co-ordinated programmes of research and implementation;

(iv) Monitoring of research and works undertaken by member States and subsequent exploitation of reports which such States should submit periodically;

(v) Drawing up a master plan and an integrated development programme of the Basin with an identification, at the various stages of the programme, of priorities among alternative uses, projects and sectors.

(b) *Infrastructure:*

(i) Designing, study and construction of hydraulic multi-purpose structures of all types and sizes;

(ii) Designing, study and construction of works, plants and projects in the fields of transports and communications;

(iii) Improvement and maintenance of navigable water-ways;

(iv) Development of river transport and promotion of an integrated multi-modal transport system (sea-river-rail-road) as a factor of integration and for opening up the land-locked Sahelian member States.

(c) *Water Control and Utilization:*

(i) Regulation of the flow and drainage of the main waterway;

(ii) Flood control;

(iii) Construction and maintenance of dikes;

(iv) Prevention and control of drought and desertification;

(v) Prevention of soil erosion and sedimentation;

(vi) Setting up of structures and works for land development including salt water and drainage control.

(d) *Environment Control and Preservation:*

(i) Protection of the environment comprising the establishment of norms and measures applicable to the States in the alternative uses of waters in the Basin;

(ii) Prevention and reduction of water pollution;

(iii) Preservation of human health and genetic resources (fauna and flora).

(e) *Navigation Control and Regulation:*

The control and the rules of all forms of navigation on the River, its tributaries and sub-tributaries are governed by the principles laid down in the Act of Niamey relating to the Navigation and the Economic Co-operation among the States of the Niger Basin, signed at Niamey in 1963.

(f) *Land and Agro-Pastoral Development:*

(i) Development of food crops;

(ii) Development of agro-pastoral, fishery and forestry resources;

(iii) Implementation of programmes allowing the rational use of waters for domestic, industrial, agricultural and pastoral purposes.

(g) *Financing the Projects and Works:*

Applying for financial and technical assistance on a bilateral, multilateral or international basis for carrying out studies and works for the development of the Niger River Basin and to that effect conclude agreements, provided that agreements involving financial commitments for the member States become effective only after approval by the Council of Ministers.

3. The terms, conditions and statutory provisions to be defined with the view to achieving the objectives as stated in paragraph (2) above, shall be, if necessary and in each case, provided for in riders which shall be annexed to the Convention of which they shall form an integral part.

4. The member States pledge to keep the Executive Secretariat informed of all projects and works they might intend to carry out in the Basin.

Moreover, they pledge not to undertake any work on the portion of the River, its tributaries and sub-tributaries under their territorial jurisdiction which pollute the waters or modify the biological features of the fauna and the flora.

## Chapter III

### THE INSTITUTIONS OF THE AUTHORITY

#### Article 5

##### INSTITUTIONS

1. The institutions of the Authority shall be as follows:

(a) The Summit of Heads of State and Government;

(b) The Council of Ministers;

(c) The Technical Committee of Experts;

(d) The Executive Secretariat and its specialised Organs.



*Article 6*

## THE SUMMIT OF HEADS OF STATE AND GOVERNMENT — COMPOSITION AND FUNCTIONS

1. The Summit of Heads of State and Government hereinafter referred to as "the Summit" is the supreme organ of orientation and decision.
2. The Summit is made up of Heads of State and Government or their duly accredited Representatives.
3. The Summit shall define the general orientation of the development policy of the Authority and ensure the control of its executive functions with a view to achieving its objectives.
4. It shall meet once every two years in ordinary Session in the member State holding the Chairmanship. The quorum shall be the simple majority.
5. The Summit may meet in extraordinary Session at the request of the Current Chairman or a member State on the unanimous agreement of other member States.
6. The decisions and the directives of the Summit shall commit all the Institutions of the Authority.
7. The Summit shall definitely pronounce judgement on any matter which has not been resolved at the level of Council of Ministers.
8. Except otherwise decided, the Summit shall elect a Chairman for two years by rotation among member States according to the French alphabetical order by country. Between two sessions he shall represent the Summit and take decisions within his powers in the interest and for a harmonious operation of the Organization.

*Article 7*

## COUNCIL OF MINISTERS — COMPOSITION AND FUNCTIONS

1. The Council of Ministers of the Authority hereinafter referred to as "the Council" is the organ of control of the Authority. It is made up of Ministers or their accredited representatives. Each member State shall have one vote. Each Minister may be assisted by experts.
2. The Council is responsible for the monitoring of the activities of the Executive Secretariat and shall report them to the Summit. It shall prepare the meetings of the Summit and examine all the problems, deal with matters presented to it and submit the recommendations of these meetings to the Summit.
3. The Council shall meet once a year in ordinary Session. The quorum shall be reached on simple majority. The recommendations and resolutions shall be adopted by consensus.

4. The Current Chairman of the Council shall convene an extraordinary meeting of the Council at the request of a member State.

5. The Council shall meet in the country assuming the chairmanship, or the Host Country, or in any other place designated by the Chairman of the Summit. The Chairman is elected for two years. Between Sessions, he shall represent the Council. He takes decisions according to the directives of the Summit and within the limit of the powers conferred upon him. The Chairmanship is assumed by rotation according to French alphabetical order of the names of the countries.

*Article 8*

## THE TECHNICAL COMMITTEE OF EXPERTS — CREATION, COMPOSITION AND FUNCTIONS

1. The Technical Committee of Experts shall comprise representatives from each member State, with the mandate to:
  - (a) Prepare all meetings of the Council of Ministers;
  - (b) Submit reports and recommendations to the Council of Ministers.
2. The Technical Committee of Experts may meet at the Executive Secretary's request according to a schedule approved by the Council of Ministers.
3. Any other meeting of the Technical Committee of Experts shall be approved by the Chairman of the Council of Ministers.

*Article 9*

## THE EXECUTIVE SECRETARIAT

1. The Executive Secretariat is the executive organ of the Authority.
2. The Executive Secretariat is run by an Executive Secretary who is appointed, upon recommendation by the Council of Ministers, to the Summit of Heads of State and Government for a period of four (4) years, renewable only once. Each member State has the right to present a candidate for the post of Executive Secretary.
3. The Executive Secretary is the Chief Executive Officer of the Authority. He is assisted by a Deputy Executive Secretary appointed by the Council of Ministers for a term of four (4) years, renewable only once. The Deputy Executive Secretary is under the authority of the Executive Secretary.
4. The Executive Secretary and/or the Deputy Executive Secretary may be removed from office by the Summit on the recommendation of the Council of Ministers.
5. Subject to the overriding importance of securing for the Authority the services of persons possessing the highest qualifications and technical experience, due regard shall be paid, on appointing officers to the

offices of the Executive Secretariat, to the desirability of maintaining an equitable distribution of appointments to such posts among member States.

6. In the exercise of his duties, the Executive Secretary shall be responsible to the superior organs of the Authority. The Deputy Executive Secretary and the other officials of the Secretariat shall be responsible to the Executive Secretary.

7. The Executive Secretary shall be responsible for the administration of the Authority and all its organs. For this purpose, he shall specifically:

(a) undertake such works and studies with a view to achieving the objectives of the Authority, as may be assigned to him by the Council of Ministers and formulate such proposals as may assist in the harmonious development of the Authority;

(b) negotiate loans and receive gifts on behalf of the Authority with approval by the Council of Ministers.

#### Chapter IV

##### FINANCIAL PROVISIONS

###### Article 10

###### THE BUDGET OF THE AUTHORITY

1. It is established for every year a balanced Budget of the Authority.

2. All the expenses of the Authority, including those relating to the specialized organs of the Executive Secretary, are approved, for each fiscal year, by the Council of Ministers and are imputable to the Budget according to conditions and modalities which are defined in the financial regulations of the Authority.

###### Article 11

###### CONTRIBUTIONS OF MEMBER STATES

1. The operating Budget of the Executive Secretary of the Authority shall be financed by contributions equally shared among the member States.

2. The member States pledge to pay regularly their annual contributions to the Budget of the Authority.

###### Article 12

###### CURRENCIES OF PAYMENT OF CONTRIBUTIONS

1. The contributions payable by each member State of the Authority under this Convention shall be paid in convertible currency.

2. The Unit of Account in which the Budget of the Authority is established is that of the host country.

3. Are considered as "convertible currencies" under this Article: currencies declared as such by the International Monetary Fund and other currencies which the Council shall consider as such.

4. The exchange rate of the currencies of the member States of the Authority meant for the payments of their contributions under this Convention, shall be the official rate declared to the International Monetary Fund at the date of payment. In case the currency of a member State depreciates, the normal rate of buying and selling of the member State's Central Bank shall be applied.

###### Article 13

###### FINANCIAL REGULATION

1. The Council of Ministers shall establish the Financial Regulation with a view to implementing the provisions of this Chapter.

###### Article 14

###### THE FINANCIAL CONTROLLER AND THE EXTERNAL AUDITOR

1. A Financial Controller shall be appointed by the Council of Ministers to whom he shall be answerable. He shall be directly responsible as far as the financial management of the Secretariat is concerned.

2. An External Auditor of the Authority is appointed on the recommendation of the host country to the Council of Ministers and may be removed from office, when need be, by the Council.

3. The rules governing the terms and conditions of service of the Financial Controller and the powers of the External Auditor are as laid down in the Financial Regulation.

#### Chapter V

##### SETTLEMENT OF DISPUTES

###### Article 15

###### PROCEDURE FOR THE SETTLEMENT OF DISPUTES

Any dispute that may arise among the member States over the interpretation and/or implementation of this Convention shall be amicably settled through direct negotiation. In the event of failure to settle such disputes, the matter shall be referred to the Summit by a party to such disputes and the decision on the same shall be final.

#### Chapter VI

##### OTHER PROVISIONS

###### Article 16

###### IMMUNITIES; PRIVILEGES AND ADVANTAGES

1. The Authority as an Inter-Governmental Institution shall enjoy legal personality.

2. The Authority shall have in the territory of each member State:

- (a) The legal capacity required for the performance of its functions under this Convention;
- (b) The power to acquire, enjoy and dispose of movable and immovable property;
- (c) The right to institute legal proceedings.

3. In the exercise of its legal capacity under this Article the Authority shall be represented by the Executive Secretary.

4. The Executive Secretary and his Deputy shall be accorded diplomatic privileges and immunities by the member States. The other staff of the Commission shall be accorded such privileges and immunities as accorded to officials of the Organization of African Unity of equivalent status.

#### *Article 17*

##### ENTRY INTO FORCE

The present Convention which is a revision of the Agreement of Niamey and the Riders which shall be annexed and which shall form an integral part of the Convention upon their signature by member States shall enter into force upon ratification by two thirds of signatory States in accordance with the constitutional procedures applicable in each signatory State.

#### *Article 18*

##### AMENDMENTS AND REVISIONS

1. Any member State may submit proposals for the amendment or revision of this Convention.
2. Any such amendment or revision proposed shall be sent to the Current Chairman of the Council who shall communicate them to other member States not later than 60 days after the receipt of such proposals.
3. All amendments and revisions to this Convention shall enter into force in conformity with the provisions of Article 17.

#### *Article 19*

##### DENUNCIATION

1. Any member State may denounce this Convention after the expiration of ten years (10) as from the date of its entry into force.
2. The denunciation shall be made under the form of notification written to the depositary Government which will in turn acknowledge receipt and communicate it to the Governments of other member States.
3. The denunciation shall take effect one year after the date of its reception unless it has been previously withdrawn. It shall not affect any study programme, works or other commitments already agreed upon before the denunciation, unless there is a previous contrary agreement to this effect.

4. The member State concerned shall meet all obligations under this Convention and by virtue of its status as a member, before the date mentioned in paragraph (3) above.

#### *Article 20*

##### DEPOSITARY GOVERNMENT

The present Convention and all the instruments of ratification and accession shall be deposited with the Government of the Republic of Niger which shall forward certified true copies to all member States and notify them of the date of deposits of the instruments of ratification and accession and shall register this Convention with the Organization of African Unity and the United Nations Organization.

#### **Chapter VII**

##### FINAL PROVISION

#### *Article 21*

##### NIAMEY AGREEMENT

This Convention revises the Niamey Agreement, signed in Niamey on the 25th of November 1964, revised in Niamey on the 2nd February 1968 and on the 15th June 1973, and in Lagos on the 26th January 1979.

In witness whereof, we, the Heads of State and Government of Niger Basin Authority, have signed this Convention.

Made at Faranah, this 21st Day of November 1980 in single original in the English and French languages, both texts being equally authentic.

## PROTOCOL RELATING TO THE DEVELOPMENT FUND OF THE NIGER BASIN [13]

**Faranah, 21 November 1980**

The High Contracting Parties:

In pursuance of the objectives of the Act of Niamey dated 26 October, 1963 relating to Navigation and Economic Co-operation among Member States of the Niger Basin and the Convention creating the Niger Basin Authority;

Considering the new orientation of activities of the Authority towards concrete projects of development;

Recognizing the necessity to provide and finance the development projects of the Authority through its own resources;

Determined to reinforce and develop the economic co-operation among their countries for the welfare of their peoples:

Therefore agreed as follows:

### Chapter I

#### GENERAL PROVISIONS

##### Article 1

###### CREATION

1. It is created a Development Fund for the aim of contributing to the development of the Niger Basin.
2. All member States of the Authority are also members of the Fund.

##### Article 2

###### FUNCTIONS

The Fund shall undertake the following activities:

1. Collection of financial resources necessary for the implementation of the objectives of the Authority.
2. Guarantee loans for the implementation of projects.

### Chapter II

#### THE RESOURCES

##### Article 3

###### VALUE AND RESOURCES

1. The value shall be fixed every year and shall be calculated on the approved capital expenditure in the following year.
2. The resources shall be from:
  - (a) Contributions of member States;

- (b) External resources mobilised for operations of the Fund;
- (c) Gifts and grants;
- (d) Trust Fund;
- (e) Any income from the Fund's operations.

##### Article 4

###### UNIT OF ACCOUNT

The Unit of Account in which the Budget of the Fund is determined is the Special Drawing Right of the International Monetary Fund.

### Chapter III

#### OPERATIONS

##### Article 5

###### METHODS OF OPERATIONS

The Fund shall be guided by sound banking principles.

In conformity with its objectives, the Fund shall facilitate the financing of regional projects and shall help to promote development in the member States.

### Chapter IV

#### ORGANIZATION AND MANAGEMENT

##### Article 6

###### ORGANS OF THE FUND

The organs of orientation, decision and management of the Fund are:

- The Board of Directors;
- The Executive Secretariat.

##### Article 7

###### THE COUNCIL OF MINISTERS

1. The Board of Directors of the Fund is the Council of Ministers of the Niger Basin Authority.
2. The powers of the Fund shall remain with the Board of Directors. In particular, the Board of Directors shall formulate general directives concerning the policy of the Fund in matters of expenditure.
3. The Board of Directors may assign some powers to the Executive Secretary.
4. The Financial Controller of the Fund is the same as that of the Executive Secretariat of the Authority.

##### Article 8

###### THE EXECUTIVE SECRETARY

The Executive Secretary is the accounting Officer for the management of the Fund. He shall negotiate

different transactions of the Fund. He is responsible to the Board of Directors of the Fund.

## Chapter V

### THE FINANCIAL PROVISIONS

#### Article 9

##### FINANCIAL YEAR

The financial year shall be from 1st January to 31st December of each year.

## Chapter VI

### WITHDRAWAL

#### Article 10

##### WITHDRAWAL

The withdrawal of a member State shall be in conformity with the provisions of the Convention creating the Authority.

## Chapter VII

### CESSATION OF ACTIVITIES

#### Article 11

##### CESSATION

1. The Board of Directors may by consensus propose to the Summit of Heads of State and Government to put an end to the Fund's activities.

2. The Board of Directors shall take necessary steps towards putting an end to the activities of the Fund upon notification by the Summit.

## Chapter VIII

### OTHER PROVISIONS

#### Article 12

1. The amendment, interpretation, arbitration, relations with the other Interafrican and International Establishments shall be in accordance with the Convention establishing the Authority.

2. This Protocol shall enter into force under the same condition stipulated in the Convention creating the Niger Basin Authority of which it will be an integral part.

In witness whereof, we, the Heads of State and Government of the Niger Basin Authority, have signed this Convention.

Made at Faranah, this 21st Day of November 1980 in single original in the English and French languages, both texts being equally authentic.

## CONVENTION FOR CO-OPERATION IN THE PROTECTION AND DEVELOPMENT OF THE MARINE AND COASTAL ENVIRONMENT OF THE WEST AND CENTRAL AFRICAN REGION [14]

Abidjan, 23 March 1981

The Contracting Parties,

Conscious of the economic, social and health value of the marine environment and coastal areas of the West and Central African Region,

Fully aware of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations,

Recognizing the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the absence of an integration of an environmental dimension into the development process,

Realizing fully the need for co-operation among the Contracting Parties in order to ensure sustainable, environmentally-sound development through a co-ordinated and comprehensive approach,

Realizing also the need for a carefully planned research, monitoring and assessment programme in view of the scarcity of scientific information on marine pollution in the West and Central African Region,

Noting that existing conventions concerning marine pollution do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and do not entirely meet the special requirements of the West and Central African Region,

Have agreed as follows:

#### Article 1

##### GEOGRAPHICAL COVERAGE

This Convention shall cover the marine environment, coastal zones and related inland waters falling within the jurisdiction of the States of the West and Central African Region, from Mauritania to Namibia inclusive, which have become Contracting Parties to this Convention under conditions set forth in article 27 and paragraph 1 of article 28 (hereinafter referred to as the Convention area).

#### Article 2

##### DEFINITIONS

For the purposes of this Convention:

1. "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, coastal zones, and related inland waters resulting in such deleterious effects as harm to living resources, hazards to human health,

hindrance to marine activities, including fishing, impairment of quality for use of sea-water and reduction of amenities.

2. "Organization" means the body designated as the secretariat of the Convention and its related protocols according to article 16 of the Convention.

### Article 3

#### GENERAL PROVISIONS

1. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or subregional agreements, for the protection of the marine and coastal environment of the West and Central African Region, provided that such agreements are consistent with this Convention and conform to international law. Copies of such agreements shall be deposited with the Organization and, through the Organization, communicated to all Contracting Parties.

2. Nothing in this Convention or related protocols shall be deemed to affect obligations assumed by a Contracting Party under agreements previously concluded.

3. 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 Contracting Party concerning the nature and extent of its maritime jurisdiction.

### Article 4

#### GENERAL OBLIGATIONS

1. The Contracting Parties shall, individually or jointly as the case may be, take all appropriate measures in accordance with the provisions of this Convention and its protocols in force to which they are parties to prevent, reduce, combat and control pollution of the Convention area and to ensure sound environmental management of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities.

2. In addition to the Protocol concerning co-operation in combating pollution in cases of emergency opened for signature on the same date as this Convention, the Contracting Parties shall co-operate in the formulation and adoption of other protocols prescribing agreed measures, procedures, and standards to prevent, reduce, combat and control pollution from all sources or promoting environmental management in conformity with the objectives of this Convention.

3. The Contracting Parties shall establish national laws and regulations for the effective discharge of the obligations prescribed in this Convention, and shall

endeavour to harmonize their national policies in this regard.

4. The Contracting Parties shall co-operate with the competent international, regional and sub-regional organizations to establish and adopt recommended practices, procedures and measures to prevent, reduce, combat and control pollution from all sources in conformity with the objectives of this Convention and its related protocols, and to assist each other in fulfilling their obligations under this Convention and its related protocols.

5. In taking measures to prevent, reduce, combat and control pollution of the Convention area or to promote environmental management, the Contracting Parties 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 5

#### POLLUTION FROM SHIPS

The Contracting Parties shall take all appropriate measures in conformity with international law to prevent, reduce, combat and control pollution in the Convention area caused by normal or accidental discharges from ships, and shall ensure the effective application in the Convention area of the internationally recognized rules and standards relating to the control of this type of pollution.

### Article 6

#### POLLUTION CAUSED BY DUMPING FROM SHIPS AND AIRCRAFT

The Contracting Parties shall take all appropriate measures to prevent, reduce, combat and control pollution in the Convention area caused by dumping from ships and aircraft, and shall ensure the effective application in the Convention area of the internationally recognized rules and standards relating to the control of this type of pollution.

### Article 7

#### POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall take all appropriate measures to prevent, reduce, combat and control pollution of the Convention area caused by discharges from rivers, estuaries, coastal establishments and outfalls, coastal dumping or emanating from any other sources on their territories.

### Article 8

#### POLLUTION FROM ACTIVITIES RELATING TO EXPLORATION AND EXPLOITATION OF THE SEA-BED

The Contracting Parties shall take all appropriate measures to prevent, reduce, combat and control pollution resulting from or in connection with activities relating to the exploration and exploitation

of the sea-bed and its subsoil subject to their jurisdiction and from artificial islands, installations and structures under their jurisdiction.

#### *Article 9*

##### POLLUTION FROM OR THROUGH THE ATMOSPHERE

The Contracting Parties shall take all appropriate measures to prevent, reduce, combat and control pollution in the Convention area resulting from or transported through the atmosphere.

#### *Article 10*

##### COASTAL EROSION

The Contracting Parties shall take all appropriate measures to prevent, reduce, combat and control coastal erosion in the Convention area resulting from man's activities, such as land reclamation and coastal engineering.

#### *Article 11*

##### SPECIALLY PROTECTED AREAS

The Contracting Parties shall, individually or jointly as the case may be, take all appropriate measures to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other marine life. To this end, the Contracting Parties shall endeavour to establish protected areas, such as parks and reserves, and to prohibit or control any activity likely to have adverse effects on the species, ecosystems or biological processes in such areas.

#### *Article 12*

##### CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Contracting Parties shall co-operate in taking all necessary measures to deal with pollution emergencies in the Convention area, whatever the cause of such emergencies, and to reduce or eliminate damage resulting therefrom.

2. Any Contracting Party which becomes aware of a pollution emergency in the Convention area should, without delay, notify the Organization and, either through this Organization or directly, any other Contracting Party likely to be affected by such emergency.

#### *Article 13*

##### ENVIRONMENTAL IMPACT ASSESSMENT

1. As part of their environmental management policies, the Contracting Parties shall develop technical and other guidelines to assist the planning of their development projects in such a way as to minimize their harmful impact on the Convention area.

2. Each Contracting Party shall endeavour to include an assessment of the potential environmental effects in any planning activity entailing projects within its territory, particularly in the coastal areas, that may cause substantial pollution of, or significant and harmful changes to, the Convention area.

3. The Contracting Parties shall, in consultation with the Organization, develop procedures for the dissemination of information concerning the assessment of the activities referred to in paragraph 2 of this article.

#### *Article 14*

##### SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION

1. The Contracting Parties shall co-operate, with the assistance of competent international and regional organizations, in the field of scientific research, monitoring and assessment of pollution in the Convention area, and shall exchange data and other scientific information for the purpose of this Convention and its related protocols.

2. In addition, the Contracting Parties shall develop and co-ordinate national research and monitoring programmes concerning all types of pollution in the Convention area and shall establish, in co-operation with competent international and regional organizations, a regional network of national research centres and institutions to ensure compatible results. The Contracting Parties shall endeavour to participate in international arrangements for pollution research and monitoring in areas beyond their national jurisdiction.

3. The Contracting Parties shall co-operate, directly or through competent international or regional organizations, in the development of programmes for technical and other assistance in fields related to marine pollution and sound environmental management of the Convention area.

#### *Article 15*

##### LIABILITY AND COMPENSATION

The Contracting Parties shall co-operate in the formulation and adoption of appropriate rules and procedures for the determination of liability and the payment of adequate and prompt compensation for damage resulting from pollution of the Convention area.

#### *Article 16*

##### INSTITUTIONAL ARRANGEMENTS

1. The Contracting Parties designate the United Nations Environment Programme as the secretariat of the Convention to carry out the following functions:

(i) To prepare and convene the meetings of Contracting Parties and conferences provided for in articles 17 and 18;

(ii) To transmit to the Contracting Parties notifications, reports and other information received in accordance with articles 3, 12, and 22;

(iii) To perform the functions assigned to it by the protocols to this Convention;

(iv) To consider enquiries by, and information from, the Contracting Parties and to consult with them on questions relating to this Convention and its related protocols and annexes thereto;

(v) To co-ordinate the implementation of co-operative activities agreed upon by the meetings of Contracting Parties and conferences provided for in article 17;

(vi) To enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions.

2. Each Contracting Party shall designate an appropriate national authority as responsible for the co-ordination of national efforts for implementing this Convention and its related protocols. The appropriate national authority shall serve as the channel of communication between the Contracting Party and the Organization.

#### *Article 17*

##### MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings once every two years and extraordinary meetings at any other time deemed necessary, upon the request of the Organization or at the request of any Contracting Party, supported by at least three other Contracting Parties.

2. It shall be the function of the meetings of the Contracting Parties to keep under review the implementation of this Convention and its related protocols and, in particular:

(i) To consider reports submitted by the Contracting Parties under article 22;

(ii) To adopt, review and amend as required annexes to this Convention and to its related protocols, in accordance with the provisions of article 20;

(iii) To make recommendations regarding the adoption of any additional protocols or amendments to this Convention or its related protocols in accordance with the provisions of articles 18 and 19;

(iv) To establish working groups as required to consider any matters concerning this Convention and its related protocols and annexes;

(v) To review the state of pollution in the Convention area;

(vi) To consider and to adopt decisions concerning co-operative activities to be undertaken within the framework of this Convention and its related protocols, including their financial and institutional implications;

(vii) To consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its related protocols.

#### *Article 18*

##### ADOPTION OF ADDITIONAL PROTOCOLS

1. The Contracting Parties, at a conference of plenipotentiaries, may adopt additional protocols to this Convention pursuant to paragraph 2 of article 4.

2. A conference of plenipotentiaries shall be convened for the purpose of adopting additional protocols by the Organization at the request of not less than two thirds of the Contracting Parties.

3. Pending the entry into force of this Convention, the Organization may, after consulting with the signatories to this Convention, convene a conference of plenipotentiaries for the purpose of adopting additional protocols.

#### *Article 19*

##### AMENDMENT OF THE CONVENTION OR PROTOCOLS

1. Any Contracting Party to this Convention may propose amendments to the Convention or to any of the protocols. The texts of any such draft amendments shall be communicated to the Contracting Parties by the Organization six months before their submission to an ordinary meeting of the Contracting Parties for examination.

2. Any amendment shall be adopted by a two-thirds majority of the Contracting Parties and shall enter into force twelve months after its approval.

#### *Article 20*

##### ANNEXES AND AMENDMENTS TO ANNEXES

1. Annexes to this Convention or to any of its protocols shall form an integral part of the Convention or such protocol.

2. Except as may be otherwise provided in any protocol, the procedure foreseen in article 19 shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to any protocol.

3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as the adoption and entry into force of an amendment to an annex in accordance with the provisions of paragraph 2 of this article, provided that, if any amendment to the Convention or the protocol concerned is involved, the new annex shall not enter into force until such time as the amendment to the Convention or the protocol concerned enters into force.

#### *Article 21*

##### RULES OF PROCEDURE AND FINANCIAL RULES

1. The Contracting Parties shall adopt rules of procedure for their meetings and conferences envisaged in articles 17 and 18 above.



2. The Contracting Parties shall adopt financial rules, prepared in consultation with the Organization, to determine, in particular, their financial participation.

*Article 22*  
REPORTS

The Contracting Parties shall transmit to the Organization reports on the measures adopted in the implementation of this Convention and of protocols to which they are Parties, in such form and at such intervals as the meetings of Contracting Parties may determine.

*Article 23*  
COMPLIANCE CONTROL

The Contracting Parties undertake to co-operate in the development of procedures enabling them to control the application of this Convention and its related protocols.

*Article 24*  
SETTLEMENT OF DISPUTES

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or its related protocols, 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 shall be submitted to arbitration under conditions to be adopted by the Contracting Parties in an annex to this Convention.

*Article 25*  
RELATIONSHIP BETWEEN THE CONVENTION AND ITS RELATED PROTOCOLS

1. No State may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one protocol. No State may become a Contracting Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.
2. Any protocol to this Convention shall be binding only on the Contracting Parties to the protocol in question.
3. Decisions concerning any protocol pursuant to articles 17, 19 and 20 of this Convention shall be taken only by the Parties to the protocol concerned.

*Article 26*  
SIGNATURE

This Convention and the Protocol on Co-operation in Combating Pollution in Cases of Emergency shall be in Abidjan from 23 March to 22

June 1981 for signature by any coastal or island State, from Mauritania to Namibia inclusive.

*Article 27*  
RATIFICATION, ACCEPTANCE AND APPROVAL

This Convention and any protocol thereto shall be subject to ratification, acceptance, or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Ivory Coast, which will assume the functions of Depositary.

*Article 28*  
ACCESSION

1. As from 23 June 1981, the present Convention and the Protocol concerning Co-operation in Combating Pollution in Cases of Emergency shall be open for accession by the States referred to in article 26.
2. After the entry into force of this Convention and any protocol thereto, any African State not referred to in article 26 may accede to them.
3. This Convention and any protocol thereto shall also remain open after the entry into force for accession by any other State, subject to the prior approval of three quarters of the States referred to in article 26 which have become Contracting Parties.
4. Instruments of accession shall be deposited with the Depositary.

*Article 29*  
ENTRY INTO FORCE

1. This Convention and the first of its protocols shall enter into force on the same date, in accordance with the following paragraph 2.
2. The Convention and any of its protocols shall enter into force on the sixtieth day following the date of deposit of at least six instruments of ratification, acceptance or approval of, or accession to, such Convention and protocol by the Parties referred to in article 26.
3. Thereafter, this Convention and any protocol thereto shall enter into force with respect to any State referred to in article 26 on the sixtieth day following the date of deposit of the instruments of ratification, acceptance, approval or accession.

*Article 30*  
WITHDRAWAL

1. At any time after five years from the date of entry into force of this Convention, any Contracting Party may withdraw from this Convention by giving written notification of withdrawal.
2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party

may, at any time after five years from the date of entry into force of such protocol, withdraw from such protocol by giving written notification of withdrawal.

3. Withdrawal shall take effect ninety days after the date on which notification of withdrawal is received by the Depositary.

4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Party.

5. Any Contracting Party which, upon its withdrawal from a protocol, is no longer a Party to any protocol to this Convention, shall be considered as also having withdrawn from this Convention.

#### Article 31

##### RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the Contracting Parties, any other Party referred to in article 26, and the Organization:

(i) Of the signature of this Convention and any protocol thereto, and of the deposit of instruments of ratification, acceptance, approval or accession in accordance with articles 26, 27 and 28;

(ii) Of the date on which the Convention and any protocol will come into force in accordance with the provisions of article 29;

(iii) Of notifications of withdrawal made in accordance with article 30;

(iv) Of the amendments adopted with respect to the Convention and to any protocol, their acceptance by the Contracting Parties and the date of entry into force of these amendments in accordance with the provisions of article 19;

(v) Of the adoption of new annexes and of the amendment of any annex in accordance with article 20.

2. The original of this Convention and of any protocol thereto shall be deposited with the Depositary, the Government of the Ivory Coast, which shall send certified copies thereof to the Contracting Parties, to the Organization of African Unity, to the Organization, and to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Convention.

Done at Abidjan on this twenty-third day of March one thousand nine hundred and eighty-one in a single copy in the English, French and Spanish languages, the three texts being equally authentic.

## PROTOCOL CONCERNING CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY [15]

Abidjan, 23 March 1981

#### Article 1

For the purposes of this Protocol:

1. "Appropriate National Authority" means the authority designated by the Government of a Contracting Party in accordance with paragraph 2 of article 16 of the Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region, and responsible for:

(a) Combating and otherwise operationally responding to marine emergencies;

(b) Receiving and co-ordinating reports of particular marine emergencies;

(c) Co-ordinating activities relating to marine emergencies in general within its own Government and with other Contracting Parties.

2. "Marine Emergency" means any incident, occurrence or situation, however caused, resulting in substantial pollution or imminent threat of substantial pollution to the marine and coastal environment by oil or other harmful substances and includes, in particular, collisions, strandings and other incidents involving ships, including tankers, petroleum production blow-outs and the presence of oil or other harmful substances arising from the failure of industrial installations.

3. "Marine Emergency Contingency Plan" means a plan, prepared on a national, bilateral or multilateral basis, to deal with pollution and other adverse effects on the marine and coastal environment, or the threat thereof, resulting from accidents or other unforeseen events.

4. "Marine Emergency Response" means any activity intended to prevent, reduce, combat and control pollution by oil or other harmful substances or threat of such pollution resulting from marine emergencies and includes the clean-up of oil slicks and recovery or salvage of packages, freight containers, portable tanks, or road and rail wagons.

5. "Related Interests" means the interests of a Contracting Party directly or indirectly affected or threatened by a marine emergency, such as:

(a) Maritime, coastal, port or estuarine activities, including fisheries activities;

(b) Historic and tourist attractions of the area concerned;

(c) The health and well-being of the inhabitants of the area concerned, including the conservation of living marine resources and wildlife and the protection of marine and coastal parks and reserves.

6. "Convention" means the Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region.

7. "Organization" means the organization referred to in article 16 of the Convention as responsible for the secretariat functions of the Convention.

#### Article 2

The area to which this Protocol applies (hereinafter referred to as the "protocol area") shall be the same as the Convention area as defined in article 1 of the Convention.

#### Article 3

This Protocol shall apply to actual or potential marine emergencies which constitute a substantial pollution danger to the Protocol area and related interests of the Contracting Parties.

#### Article 4

The Contracting Parties undertake to co-operate in all matters relating to the taking of necessary and effective measures to protect their respective coastlines and related interests from the threat and effects of pollution resulting from marine emergencies.

#### Article 5

Each Contracting Party shall provide the other Contracting Parties and the Organization with information concerning:

- (a) Its appropriate national authority;
- (b) Its laws, regulations and other legal instruments relating generally to matters referred to in this Protocol, including those concerning the organization and operation of the appropriate national authority, to the extent that this organization and operation relates to matters referred to in this Protocol;
- (c) Its national marine emergency contingency plans.

#### Article 6

The Contracting Parties shall exchange, either through the Organization or directly, information on research and development programmes, including results concerning ways in which pollution by oil and other harmful substances may be dealt with, and on experiences in combating such pollution.

#### Article 7

1. Each Contracting Party undertakes to require masters of ships flying its flag and pilots of aircraft registered in its territory, and persons in charge of offshore structures operating under its jurisdiction,

to report by the most rapid and adequate channels in the circumstances, and in accordance with the annex to this Protocol, to any Contracting Party:

- (a) All accidents causing or likely to cause pollution of the sea by oil or other harmful substances;
- (b) The presence, characteristics and extent of spillages of oil or other harmful substances observed at sea which are likely to present a serious and imminent threat to the marine environment or to the coast or related interests of one or more of the Contracting Parties.

2. Any Contracting Party receiving a report pursuant to paragraph 1 above shall promptly inform the Organization and, either through the Organization or directly, the appropriate national authority of any Contracting Party likely to be affected by the marine emergency.

#### Article 8

1. Any Contracting Party requiring assistance for dealing with a marine emergency, including the recovery or salvage of packages, freight containers, portable tanks, or road or rail wagons, may call for assistance from any other Contracting Party. The call for assistance shall be made initially to other Contracting Parties whose coastlines and related interests might be affected by the marine emergency involved. The Contracting Parties to whom a request is made pursuant to this paragraph undertake to use their best endeavours to render the assistance requested.

2. The assistance referred to in paragraph 1 of this article may include:

- (a) The provision and reinforcement of personnel, material, and equipment;
- (b) The provision and reinforcement of surveillance and monitoring capacity;
- (c) The provision of pollution disposal sites; or
- (d) The facilitation of the transfer of personnel, equipment and material into, out of, and through the territories of the Contracting Parties.

3. Any Contracting Party requesting assistance pursuant to paragraph 1 of this article shall report the results following from the request to the other Contracting Parties and to the Organization.

4. The Contracting Parties undertake to consider as soon as possible and in accordance with the means available to them the allocation of tasks for responding to marine emergencies within the Protocol area.

5. Each Contracting Party undertakes to inform the other Contracting Parties and the Organization of measures taken in dealing with marine emergencies in cases where those other Contracting Parties are not called upon to provide assistance.

### Article 9

1. The Contracting Parties shall endeavour to maintain and promote, either individually or through bilateral or multilateral co-operation, marine emergency contingency plans and means for combating pollution by oil and other harmful substances. These means shall include, in particular, equipment, ships, aircraft and manpower prepared for operations in cases of emergency.

2. The Contracting Parties shall co-operate in developing standing instructions and procedures to be followed by their appropriate national authorities who have responsibility for receiving and transmitting reports of pollution by oil and other harmful substances made pursuant to article 7 of this Protocol. Such co-operation shall be designed to ensure speedy and routine reception, transmission and dissemination of these reports.

### Article 10

1. Each Contracting Party shall act in accordance with the following principles in the conduct of marine emergency responses carried out under its authority:

(a) Make an assessment of the nature and extent of the marine emergency and transmit the results of the assessment to any other Contracting Party concerned;

(b) Determine the necessary and appropriate action to be taken with respect to the marine emergency in consultation, where appropriate, with other Contracting Parties;

(c) Make the necessary reports and requests for assistance under articles 7 and 8 of this Protocol; and

(d) Take appropriate and practical measures to prevent, reduce, combat and control the effects of pollution, including surveillance and monitoring of the marine emergency.

2. In carrying out marine emergency responses under this Protocol the Contracting Parties shall:

(a) Act in conformity with the principles of international law and with international conventions having applicability to marine emergency responses; and

(b) Inform the Organization of those marine emergency responses.

### Article 11

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention, held pursuant to article 17 of the Convention. The Contracting Parties to this Protocol may also hold extraordinary meetings, as provided in article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties to this Protocol, in particular:

(a) To keep under review the implementation of this Protocol, and to consider the efficacy of the measures adopted and the need for any other measures, in particular in the form of annexes;

(b) To review and amend as required any annex to this Protocol;

(c) To discharge such other functions as may be appropriate for implementation of this Protocol.

### Article 12

1. The provisions of the Convention relating to any protocol shall apply with respect to this Protocol.

2. The rules of procedure and financial rules adopted pursuant to article 21 of the Convention shall apply with respect to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Abidjan on this twenty-third day of March one thousand nine hundred and eighty-one in a single copy in the English, French and Spanish languages, the three texts being equally authentic.

### Annex

#### GUIDELINES FOR THE REPORT TO BE MADE PURSUANT TO ARTICLE 7 OF THE PROTOCOL

1. Each report shall, as far as possible, contain:

(a) The identification of the source of pollution (e.g. identity of the ship), where appropriate;

(b) The geographical position, time and date of the occurrence of the incident or of the observation;

(c) The marine meteorological conditions prevailing in the area;

(d) Where the pollution originates from a ship, relevant details respecting the condition of the ship.

2. Each report shall also contain, whenever possible:

(a) A clear indication or description of the harmful substances involved, including the correct technical names of such substances (trade names should not be used in place of the correct technical names);

(b) A statement or estimate of the quantity, concentration and likely condition of harmful substances discharged or likely to be discharged into the sea;

(c) Where relevant, a description of the packaging and identifying marks; and

(d) The name of the consignor, consignee or producer.

3. Each report shall clearly indicate, whenever possible, whether the harmful substance discharged or likely to be discharged is oil or a noxious liquid,

solid or gaseous substance, and whether such substance was or is carried in bulk or contained package form, freight containers, portable tanks, or submarine pipelines.

4. Each report shall be supplemented, as necessary, by any relevant information requested by a recipient of the report or deemed appropriate by the person sending the report.

5. Any of the persons referred to in article 7 of this Protocol shall:

(a) Supplement, as far as possible, the initial report, and as necessary, with information concerning further development; and

(b) Comply as fully as possible with requests from affected Parties for additional information.

## CONVENTION CONCERNING OCCUPATIONAL SAFETY AND HEALTH AND THE WORKING ENVIRONMENT [16]

Geneva, 22 June 1981

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 this 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 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 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 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 arise 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 known 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 as 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 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 ratification 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 shall 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 it 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.

## CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AND COASTAL AREA OF THE SOUTH-EAST PACIFIC [17]

Lima, 12 November 1981

The High Contracting Parties,

Conscious of the need to protect and preserve the marine environment and coastal area of the South-East Pacific against all types and sources of pollution,

Convinced of the economic, social and cultural values of the South-East Pacific as a means of linking the countries of the region,

Considering that the various international agreements concerning marine pollution which are in force, despite all the progress achieved, do not cover all types and sources of pollution and do not completely satisfy the needs and requirements of the countries of the region,

Recognizing the desirability of co-operating at the regional level, either directly or with the assistance of the Permanent Commission of the South Pacific or other competent international organizations, in protecting and preserving the aforesaid marine environment and coastal area,

Have agreed on the following:

*Article 1*

## GEOGRAPHICAL COVERAGE

The sphere of application of this Convention shall be the sea area and the coastal zone of the South-East Pacific within the 200-mile maritime area of sovereignty and jurisdiction of the High Contracting Parties and, beyond that area, the high seas up to a distance within which pollution of the high seas may affect that area.

*Article 2*

## DEFINITIONS

For the purpose of this Convention:

(a) "Pollution of the marine environment" means the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

(b) "National authority" means the authority designated by each Party, in accordance with article 9.

(c) "Executive Secretariat" means the body specified in article 13 of this Convention.

### Article 3

#### GENERAL OBLIGATIONS

1. The High Contracting Parties shall endeavour, either individually or through bilateral or multilateral co-operation, to adopt appropriate measures in accordance with the provisions of this Convention and any supplementary instruments in force to which they are party in order to prevent, reduce and control pollution of the marine environment and coastal area of the South-East Pacific and to ensure appropriate environmental management of natural resources.

2. In addition to the "Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances in Cases of Emergency", the High Contracting Parties shall co-operate in formulating, adopting and implementing any other protocols that may establish rules, standards, practices and procedures for the implementation of this Convention.

3. The High Contracting Parties shall endeavour to ensure that such laws and regulations as they may promulgate to prevent, reduce and control pollution of their respective marine environment and coastal area from any source and to promote the appropriate environmental management of such environment and area are as effective as the existing international standards.

4. The High Contracting Parties shall co-operate, on a regional basis, directly or in collaboration with the competent international organizations, in formulating, adopting and implementing effective rules, standards, practices and procedures for the protection and preservation of the marine environment and coastal area of the South-East Pacific against all types and sources of pollution, and in promoting appropriate environmental management of such environment and area, taking into account characteristic regional features.

Such rules, standards, practices and procedures shall be communicated to the Executive Secretariat.

5. The High Contracting Parties shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted that they do not cause damage by pollution to others or to their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not, as far as possible, spread beyond the areas where the High Contracting Parties exercise sovereignty and jurisdiction.

### Article 4

#### MEASURES TO PREVENT, REDUCE AND CONTROL POLLUTION OF THE MARINE ENVIRONMENT

The measures adopted by the High Contracting Parties to prevent and control pollution of the marine

environment shall include, *inter alia*, measures designed to minimize to the fullest possible extent:

(a) Release of toxic, harmful or noxious substances, especially those which are persistent:

- (i) From land-based sources;
- (ii) From or through the atmosphere; and
- (iii) 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 discharges and regulating the design, construction, equipment, operation and manning of vessels pursuant to the generally accepted international standards and rules; and

(c) Pollution from any 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, operations and manning of such installations or devices.

### Article 5

#### EROSION OF COASTAL AREA

The High Contracting Parties shall adopt all appropriate measures to prevent, reduce and control erosion of the coastal area of the South-East Pacific resulting from the activities of man.

### Article 6

#### CO-OPERATION IN CASES OF POLLUTION RESULTING FROM EMERGENCY SITUATIONS

1. High Contracting Parties which become aware of cases in which the marine environment is in danger of being damaged or has been damaged by pollution shall immediately notify the other High Contracting Parties which they deem likely to be affected by such damage and the Executive Secretariat.

The High Contracting Parties, individually or by means of bilateral or multilateral co-operation, shall endeavour, to the extent possible, to eliminate the effects of pollution and to prevent or minimize damage.

Accordingly, the High Contracting Parties shall jointly endeavour to promote and develop contingency plans for responding to pollution incidents in the marine environment.

2. High Contracting Parties which are faced with pollution resulting from emergency situations shall:

- (a) Make an assessment of the nature and extent of the emergency;
- (b) Adopt appropriate measures to avoid or reduce the effects of the pollution;
- (c) Immediately report the measures adopted and any action which they are undertaking or intend to undertake in order to combat the pollution;

(d) Observe the emergency situation for as long as it lasts, any changes that may occur and, in general, the development of the pollution.

The information obtained shall be communicated to the other High Contracting Parties and to the Executive Secretariat.

3. High Contracting Parties requiring assistance in combating pollution resulting from emergency situations may request, either directly or through the Executive Secretariat, the co-operation of other Parties, especially those which may be affected by the pollution.

Such co-operation may include expert advice and the provision of equipment and materials necessary to combat the pollution.

The High Contracting Parties to which a request has been addressed shall, as soon as possible, consider the request in the light of their capabilities and shall immediately inform the requesting Party of the form and conditions of the co-operation they are able to provide.

#### Article 7

##### MONITORING OF POLLUTION

The High Contracting Parties, directly or in collaboration with the competent international organizations, shall establish complementary or joint programmes for monitoring pollution in the South-East Pacific area, including, when appropriate, bilateral or multilateral programmes, and shall endeavour to implement a pollution monitoring system for that area.

To this end, the High Contracting Parties shall designate the authorities responsible for monitoring pollution within their respective maritime areas of sovereignty and jurisdiction and shall participate, to the extent feasible, in international arrangements for that purpose in areas situated outside the limits of their sovereignty and jurisdiction.

#### Article 8

##### ENVIRONMENTAL IMPACT ASSESSMENT

1. As part of their environmental management policies, the High Contracting Parties shall develop technical and other guidelines to assist the planning of their development projects in such a way as to minimize their harmful impact in the sphere of application of the Convention.

2. Each High Contracting Party shall endeavour to include an assessment of the potential environmental effects in any planning activity entailing projects within its territory, particularly in the coastal areas, that may cause substantial pollution of, or significant and harmful changes to, the area of application of the Convention.

3. The High Contracting Parties shall, in co-operation with the Executive Secretariat, develop procedures for the dissemination of information

concerning the assessment of the activities referred to in paragraph 2 of this article.

#### Article 9

##### EXCHANGE OF INFORMATION

The High Contracting Parties undertake to exchange among themselves, and to transmit to the Executive Secretary, information on the following:

(a) The competent national organization or authorities responsible for combating marine pollution;

(b) The competent national authorities and bodies responsible for receiving information on marine pollution and for carrying out assistance programmes of measures for the benefit of the Parties; and

(c) The programmes and research which they are conducting in order to develop new methods and techniques for preventing marine pollution as well as the results of such programmes and research.

The High Contracting Parties shall co-ordinate the use of the available communication media in order to ensure the timely reception, transmission and dissemination of the information to be exchanged.

#### Article 10

##### SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION

1. The High Contracting Parties shall, to the extent possible, co-operate directly, or through the Executive Secretariat or other competent international organization, when appropriate, in the fields of science and technology, and shall exchange data and any other specific information for the purposes of this Convention.

To this end, the High Contracting Parties shall, directly or through the Executive Secretariat or another competent international organization:

(a) Promote programmes of scientific, educational, technical and other assistance for the protection and preservation of the marine environment and the coastal area, and for the prevention, reduction and control of marine pollution. Such assistance shall include, *inter alia*:

(i) Training of scientific and technical personnel;

(ii) Participation in relevant international programmes;

(iii) Provision of necessary equipment and facilities;

(iv) Strengthening the capacity of the High Contracting Parties to manufacture such equipment; and

(v) Provision of facilities for, and advice on, research, monitoring, educational and other programmes;

(b) Provide appropriate assistance to minimize the effects of major incidents or accidents which may cause serious pollution of the marine environment;

(c) Provide appropriate assistance in the preparation of environmental assessments; and

(d) Co-operate in developing programmes for appropriate assistance in the environmental management of the marine environment and the coastal area.

2. The High Contracting Parties undertake, to the extent possible, to promote and co-ordinate their national research programmes on all the types of pollution which exist within the geographical sphere of application of this Convention, and to co-operate in the establishment of regional research programmes.

#### Article 11

##### LIABILITY AND COMPENSATION

1. The High Contracting Parties shall endeavour to formulate and adopt appropriate procedures for determining civil liability and compensation for damage resulting from pollution of the marine environment and coastal area caused by natural or juridical persons in their maritime and coastal areas as a consequence of any infringement by such persons of the provisions of this Convention and its supplementary instruments.

2. The High Contracting Parties shall ensure that recourse is available in accordance with their legal systems for compensation or other relief in respect of damage caused by pollution of the marine environment and coastal area by natural or juridical persons under their jurisdiction.

#### Article 12

##### MEETINGS OF THE HIGH CONTRACTING PARTIES

The High Contracting Parties shall hold ordinary and extraordinary meetings.

1. Ordinary meetings shall be held every two years on the same occasion as the Ordinary Meeting of the Permanent Commission of the South Pacific. These meetings shall be convened by the Executive Secretariat.

Extraordinary meetings shall be held whenever special circumstances so warrant. They shall be convened by the Executive Secretariat at the request of any High Contracting Party. The Executive Secretariat may also convene extraordinary meetings at its request following the unanimous agreement of the High Contracting Parties.

2. At ordinary meetings, the High Contracting Parties shall examine, *inter alia*, the following points:

(a) The extent to which this Convention is being implemented, the effectiveness of the measures taken and the need to develop other kinds of activities in furtherance of objectives of this Convention and the protocols thereto including their institutional and financial aspects;

(b) The adoption of additional protocols, the advisability of amending or revising this Convention and the protocols thereto, and the modification or expansion of any resolutions adopted in pursuance of the provisions of the Convention and protocols;

(c) The environmental assessment undertaken in the geographical area covered by this Convention; and

(d) The performance of any other function which may assist in achieving the purposes of this Convention.

#### Article 13

##### EXECUTIVE SECRETARIAT OF THE CONVENTION

For the purposes of the administration and application of this Convention, the High Contracting Parties hereby designate the Permanent Commission of the South Pacific to discharge the functions of Executive Secretariat under the Convention. At their first meeting, the High Contracting Parties shall establish the procedure and financing for the performance of this function.

#### Article 14

##### REPORTS

The High Contracting Parties shall transmit to the Executive Secretariat reports on the measures adopted for the implementation of this Convention and the additional protocols which form part of it, in such form and at such intervals as determined by their meetings. The Executive Secretariat shall bring these reports to the attention of the High Contracting Parties.

#### Article 15

##### ENTRY INTO FORCE

This Convention shall enter into force sixty days after the third instrument of ratification has been deposited with the General Secretariat of the Permanent Commission of the South Pacific.

#### Article 16

##### DENUNCIATION

This Convention may be denounced by any of the High Contracting Parties after it has been in force for two years for the High Contracting Party denouncing it.

Such denunciation shall be effected by means of written notification to the Executive Secretariat, which shall communicate it forthwith to the High Contracting Parties.

The denunciation shall take effect one hundred and eighty days after the date of such notification.

#### Article 17

##### AMENDMENTS TO THE CONVENTION OR ITS PROTOCOLS

1. Any High Contracting Party may propose amendments to this Convention or to its protocols. Such amendments shall be adopted at a Conference of Plenipotentiaries convened by the Executive Secretary at the request of any Contracting Party.

2. Amendments to this Convention and the protocols shall be adopted unanimously by the High Contracting Parties.

3. The amendments shall be subject to ratification and shall enter into force after the third instrument of ratification has been deposited with the Executive Secretariat.

#### *Article 18*

##### ACCESSION

This Convention shall be open for accession by any State bordering the South-East Pacific. Accession shall be effected by the deposit of the relevant instrument with the Executive Secretariat, which shall communicate it to the High Contracting Parties.

This Convention shall enter into force for the State acceding to it sixty days after the deposit of the relevant instrument.

#### *Article 19*

##### ADOPTIONS OF PROTOCOLS

The High Contracting Parties may adopt unanimously, at a Conference of Plenipotentiaries, additional protocols to this Convention, which shall enter into force after the third instrument of ratification has been deposited with the Executive Secretariat.

#### *Article 20*

##### GENERAL PROVISION

The provisions of this Convention shall not affect any more stringent obligations which have been assumed by the High Contracting Parties under special conventions and agreements that they have concluded or may conclude on the protection of the marine environment.

At the request of any of the High Contracting Parties, the Executive Secretariat shall convene a Conference of Plenipotentiaries on this question.

Before the entry into force of this Convention, the Executive Secretariat may, after consultation with the signatories of the Convention, convene a Conference of Plenipotentiaries for the adoption of additional protocols.

Done in six identical copies, one of which shall be deposited with the General Secretariat of the Permanent Commission of the South Pacific, all being equally authentic for the purposes of implementation and interpretation.

In witness whereof the Plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention in the city of Lima, on the twelfth day of November, one thousand nine hundred and eighty-one.

## AGREEMENT ON REGIONAL CO-OPERATION IN COMBATING POLLUTION OF THE SOUTH-EAST PACIFIC BY HYDROCARBONS OR OTHER HARMFUL SUBSTANCES IN CASES OF EMERGENCY [18]

Lima, 12 November 1981

The High Contracting Parties,

Recognizing that pollution of the sea by hydrocarbons or other harmful substances in the South-East Pacific constitutes a danger to the coastal States and the marine ecosystem,

Considering that the co-operation of all coastal States is necessary in order to combat such pollution,

Have agreed on the following:

#### *Article I*

The High Contracting Parties hereby agree to co-operate in taking the necessary measures to neutralize or control harmful effects in cases which they consider constitute a serious and imminent danger to the marine environment, the coast or related interests of one or more of them caused by the presence of massive quantities of hydrocarbons or other harmful substances resulting from emergency situations and polluting or threatening to pollute the maritime area specified in the following article.

#### *Article II*

The sphere of application of this Agreement shall be the area of the South-East Pacific within the 200-mile maritime area of sovereignty and jurisdiction of the High Contracting Parties and, beyond that area, in the high seas up to a distance within which discharged pollutants constitute a danger, as referred to in article I, to the waters of the aforesaid area.

#### *Article III*

For the purposes of this Agreement, the term "related interests" shall mean the interests of a coastal State directly affected or threatened and, in particular, the following:

- (a) The quality of life and health of coastal populations;
- (b) The conservation of living resources;
- (c) Activities in coastal waters, islands, ports and estuaries, including fishing activities; and
- (d) The historical and touristic heritage of the area concerned, including sporting and recreational activities.

#### *Article IV*

The High Contracting Parties shall endeavour to promote and establish contingency plans and programmes aimed at combating marine pollution by hydrocarbons or other harmful substances, and to maintain and increase the resources necessary for those purposes, through bilateral or multilateral co-

operation and the individual actions of each State. Such resources shall include, *inter alia*, equipment, ships, aircraft and trained manpower for emergency operations.

#### Article V

The High Contracting Parties shall carry out, either individually or through bilateral or multilateral co-operation, monitoring activities covering the South-East Pacific with the aim of obtaining accurate and timely information in emergency situations referred to in article I of this agreement.

#### Article VI

If harmful substances in containers, portable tanks or tank-vehicles, such as trucks or railway wagons, are thrown or lost overboard, the High Contracting Parties shall co-operate, to the extent of their capabilities, in salvaging and recovering such substances, with the aim of reducing the danger of pollution of the marine environment.

#### Article VII

The High Contracting Parties undertake to exchange information on the following:

- (a) The competent national organization or authorities responsible for combating marine pollution;
- (b) The competent national authorities and bodies responsible for receiving information on marine pollution and for carrying out assistance programmes or measures for the benefit of the parties; and
- (c) Research programmes which they are conducting in order to develop new methods and techniques for preventing marine pollution as well as the results of such programmes.

#### Article VIII

The High Contracting Parties undertake to co-ordinate the use of the available communication media in order to ensure the timely reception, transmission and dissemination of all information on emergency situations referred to in article I.

#### Article IX

The High Contracting Parties shall issue instructions to the masters of ships flying their flag and the commanders or pilots of aircraft registered in their territory to report the following by the most expeditious means and in accordance with the guidelines contained in the annex to this Agreement:

- (a) The presence, characteristics and extent of oil slicks and other harmful substances observed in the sea which may constitute an imminent threat to the marine environment or related interests of one or more of the Contracting Parties; and
- (b) Any other emergency which causes or threatens to cause pollution of the marine environment.

Information collected in accordance with the first paragraph of this article shall immediately be communicated to the Contracting Parties which may be affected by the danger of pollution.

#### Article X

High Contracting Parties faced with an emergency situation as defined in article I of this Agreement shall take the following measures:

- (a) They shall assess the nature and extent of the emergency and, as the case may be, the type and approximate quantity of hydrocarbons or other pollutants, including the direction and the speed of drift of the spillage;
- (b) They shall adopt all appropriate measures to avoid or reduce the effects of the pollution;
- (c) They shall immediately report upon the activities referred to in the preceding sub-paragraphs and any other action which they are undertaking or intend to undertake in order to combat the pollution; and
- (d) They shall observe the emergency situation for as long as it lasts, any changes that may occur and, in general, the development of the pollution. The information obtained from such observation shall be communicated to the High Contracting Parties in the manner provided for in the preceding article.

#### Article XI

High Contracting Parties requiring assistance in combating pollution in cases of emergency as referred to in article I may request the co-operation of the other Parties, especially those which may be affected by the pollution.

Such co-operation may include expert advice and the provision of equipment and materials necessary to combat the pollution.

The High Contracting Parties to which a request has been addressed shall, as soon as possible, consider the request in the light of their capabilities and shall immediately inform the requesting Party of the form, extent and conditions of the co-operation they are able to provide.

#### Article XII

The High Contracting Parties shall hold ordinary sessions at least every two years and extraordinary sessions at any time whenever two or more of them so request.

The ordinary sessions shall be held at the same time as those of the Co-ordinating Commission for Scientific Research of the Permanent Commission of the South Pacific, or its Legal Commission.

At ordinary sessions, the High Contracting Parties shall examine, *inter alia*, the following points:

- (a) The extent to which this Agreement is being implemented, the effectiveness of the measures taken and the need to develop other kinds of activities;

(b) The advisability of amending or revising the annex to this Agreement, and of modifying or expanding any resolutions adopted in pursuance thereof; and

(c) The performance of any other function which may assist in achieving the purposes of this Agreement.

#### *Article XIII*

For the purposes of the administration and application of this Agreement, the High Contracting Parties hereby designate the Permanent Commission of the South Pacific as Executive Secretariat of the Agreement. At their first meeting the Parties shall establish the procedure and financing for the performance of this function.

#### *Article XIV*

This Agreement shall enter into force sixty days after the third instrument of ratification has been deposited with the General Secretariat of the Permanent Commission of the South Pacific.

#### *Article XV*

This Agreement may be denounced by any of the High Contracting Parties after it has been in force for two years for the High Contracting Party denouncing it.

Such denunciation shall be effected by means of written notification to the Executive Secretariat, which shall communicate it forthwith to the High Contracting Parties.

The denunciation shall take effect one hundred and eighty days after the date of such notification.

#### *Article XVI*

This Agreement may be amended only with the unanimous agreement of the High Contracting Parties. Amendments shall be subject to ratification and shall enter into force once the third instrument of ratification has been deposited with the Executive Secretariat.

#### *Article XVII*

This Agreement shall be open for accession by any State bordering the South-East Pacific.

Accession shall be effected by the deposit of the relevant instrument with the Executive Secretariat, which shall communicate it to the High Contracting Parties.

This Agreement shall enter into force for the State acceding to it sixty days after the deposit of the relevant instrument.

#### *Article XVIII*

No reservations concerning this Agreement may be entered.

Done in six identical copies, one of which shall be deposited with the General Secretariat of the

Permanent Commission of the South Pacific, all being equally authentic for the purposes of implementation and interpretation.

In witness whereof the Plenipotentiaries, being duly authorized by their respective Governments, have signed this Agreement in the city of Lima, on the twelfth day of November, one thousand nine hundred and eighty-one.

#### **Annex**

##### CONTENT OF THE REPORT TO BE DRAFTED PURSUANT TO ARTICLE IX OF THE AGREEMENT

#### *Article I*

Each report shall, if possible, contain the following:

- (a) Identification of the source of pollution, identity of the ship, where appropriate;
- (b) The geographical position, time and date of the incident or sighting;
- (c) The wind and sea conditions prevailing in the area;
- (d) If the pollution has been caused by a ship, relevant details concerning the state of that ship;
- (e) A clear indication or description of the harmful substances involved, including their correct technical names. Trade names shall not be used in place of such technical names;
- (f) An accurate or estimated indication of the quantities, concentration and likely condition of the harmful substances discharged or likely to be discharged into the sea;
- (g) A description of the packaging and identification marks;
- (h) The name of the consignor, consignee or manufacturer; and
- (i) Such other information as the reporting officer may consider relevant.

#### *Article II*

Each report shall, as far as possible, indicate clearly whether the harmful substance discharged or likely to be discharged is a hydrocarbon or a harmful liquid, solid or gaseous substance and whether the substance was or is carried in bulk or contained in packaging, portable tanks, tank-vehicles or tank-wagons.

#### *Article III*

Any person referred to in article IX of this Agreement shall, as far as possible:

- (a) Include in the initial report data concerning the development of the situation; and
- (b) Comply with such requests for additional information as may be made by the States affected.

**SUPPLEMENTARY PROTOCOL TO  
THE AGREEMENT ON REGIONAL  
CO-OPERATION IN COMBATING  
POLLUTION OF THE SOUTH-EAST  
PACIFIC BY HYDROCARBONS OR  
OTHER HARMFUL SUBSTANCES [19]**

**Quito, 22 July 1983**

The High Contracting Parties,

Recognizing that the Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances in Cases of Emergency establishes general principles on the subject,

Considering that it is necessary to supplement those rules by specifying the co-operation mechanisms that would function in the event of a massive oil spill with which an individual country is unable to cope single-handedly, together with the contingency plan that each country should establish,

Bearing in mind that the high cost of the measures that should be adopted calls for a rational employment of equipment, material and experts so as to enhance the possibilities of making good use of external assistance,

Hereby agree as follows:

*Article I*

**CO-OPERATION MECHANISMS IN THE EVENT OF  
OIL SPILLS**

(a) Each High Contracting Party shall designate the authority responsible for requesting or providing assistance in cases of emergency and shall keep the other High Contracting Parties informed of any change or designation for this purpose.

It shall also keep the other High Contracting Parties informed of the experts and equipment, material and other items which it is able to provide in cases of emergency.

(b) Requests for assistance shall be made by the most expeditious means, if possible by telex. Such requests should indicate the nature and scale of the assistance requested, stating the amount and type of such assistance and the approximate period for which it would be required.

The Executive Secretariat, in consultation with the High Contracting Parties, shall endeavour to establish a procedure for the fulfilment of such requests and for the exchange of information required in order to provide assistance in cases of emergency.

The requesting High Contracting Party should state exactly the number of experts it requires and the type, make and quantity of equipment and material required. It should also state how many trained personnel it has available to make use of such equipment and material and the supplementary equipment and installations needed in order to operate them.

The High Contracting Party or Parties to which a request has been addressed shall consider the assistance requested and shall take a decision as soon as possible, immediately stating the form, extent and conditions of the co-operation that they will provide.

(c) Without prejudice to the provisions of the second section of paragraph (a), the High Contracting Parties shall conduct a study of the existing stock of items that may be provided and their estimated cost, so that the Agreement may be implemented in cases of emergency, and in particular on:

(i) The rental cost of each item of spill control equipment, including the payment of insurance coverage against possible damage and partial or total loss during the period for which assistance is extended;

(ii) The value of the material which they are able to provide in cases of emergency;

(iii) The cost of transporting the equipment and material from the various places where they are stored to specific destinations in the other High Contracting Parties;

(iv) The cost of the participation of experts and trained personnel in an assistance operation;

(v) The payment arrangements for the services, material and equipment requested.

The figures arrived at by each High Contracting Party on the basis of the above-mentioned estimates shall reflect the actual cost of the co-operation to be extended. They shall not incorporate any earnings or profit for the High Contracting Party providing the assistance.

(d) Each High Contracting Party shall determine the approximate length of time during which it would be able to provide the assistance requested. In any case, it shall enjoy priority in the use of equipment and material should an emergency occur simultaneously in its own maritime area of sovereignty and jurisdiction.

A High Contracting Party receiving material undertakes to pay for it or replace it promptly, including the cost of carriage back to the place from which it came.

In each case the High Contracting Parties shall adopt the most appropriate and expeditious procedures for replacing any material they requested, taking account of the time required to purchase and transport it to its final destination.

(e) The High Contracting Parties shall keep a record of the amount and condition of the equipment and material dispatched and received. Once such goods have been received, any damage or loss, up to the time they are returned or reimbursed, shall be borne by the High Contracting Party requesting the assistance.

(f) The experts participating in emergency operations shall furnish advice to the authority officially designated in accordance with paragraph (a) and shall in no case be responsible for taking decisions. Such experts shall receive the same



treatment as experts of international organizations in the same field.

(g) In view of the urgency of the co-operation requested, the customs and immigration services shall extend special concessions permitting the free movement of equipment, material and personnel necessary for the implementation of this Protocol; such equipment, material and personnel shall be granted appropriate exemptions so that timely and effective assistance can be afforded.

#### *Article II*

##### DESCRIPTION OF THE NATIONAL CONTINGENCY PLAN

The National Contingency Plan referred to in article IV of the Agreement shall cover at least the following aspects:

- (a) Allocation of institutional and functional responsibilities for directing and executing operations to prevent, control and clean up spills of hydrocarbons or other harmful substances;
- (b) Selection of the areas most vulnerable or sensitive to ecological or economic damage which will require special protection;
- (c) The natural, atmospheric and marine conditions prevalent in such vulnerable areas;
- (d) Optimum control and clean-up methods in various circumstances and vulnerable areas;
- (e) Financial and physical resources, such as material and equipment available in the country and in the vulnerable areas, and criteria for the allocation of specialized equipment;
- (f) Plan of action in cases of emergency;
- (g) Arrangements for requesting and using outside assistance; and
- (h) List of personnel and institutions involved in the plan of action.

#### *Article III*

##### TRAINING, PROGRAMMES

The High Contracting Parties shall endeavour to develop and organize regular training programmes in order to maintain regional co-operation mechanisms referred to in this Protocol at peak efficiency.

#### *Article IV*

##### EXECUTIVE SECRETARIAT

For the purposes of the administration and application of this Protocol, the High Contracting Parties hereby designate the Permanent Commission of the South Pacific as Executive Secretariat of the Protocol. At their first meeting, the High Contracting Parties shall establish the procedure and financing for the performance of this function.

#### *Article V*

##### ENTRY INTO FORCE

This Protocol shall enter into force 60 days after the third instrument of ratification has been deposited with the General Secretariat of the Permanent Commission of the South Pacific.

#### *Article VI*

##### SCOPE OF THE PROTOCOL

Once this Additional Protocol enters into force, it shall form an integral part of the Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances in Cases of Emergency.

#### *Article VII*

##### DENUNCIATION

This Protocol may be denounced by any of the High Contracting Parties after it has been in force for two years for the High Contracting Party denouncing it.

Such denunciation shall be effected by means of a written notification to the Executive Secretariat, which shall communicate it forthwith to the High Contracting Parties.

The denunciation shall take effect 180 days after the date of such notification.

#### *Article VIII*

##### AMENDMENTS

This Protocol may be amended only with the unanimous agreement of the High Contracting Parties. Amendments shall be subject to ratification and shall enter into force once the third instrument of ratification has been deposited with the Executive Secretariat.

#### *Article IX*

##### ACCESSION

This Protocol shall be open for accession by any State bordering the South-East Pacific.

Accession shall be effected by the deposit of the relevant instrument with the Executive Secretariat, which shall communicate it to the High Contracting Parties.

This Protocol shall enter into force for the State acceding to it 60 days after the deposit of the relevant instrument.

#### *Article X*

##### RESERVATIONS

No reservations concerning this Protocol may be entered.

Done in six identical copies, one of which shall be deposited with the General Secretariat of the

Permanent Commission of the South Pacific, all being equally authentic for the purposes of implementation and interpretation.

In witness whereof the Plenipotentiaries, being duly authorized by their respective Governments, have signed this Protocol in the city of Quito on the twenty-second day of July, one thousand nine hundred and eighty-three.

**PROTOCOL FOR THE PROTECTION OF THE SOUTH-EAST PACIFIC AGAINST POLLUTION FROM LAND-BASED SOURCES [20]**

**Quito, 23 July 1983**

*Article I*

AREA OF APPLICATION

The sphere of application of this Protocol shall be the area of the South-East Pacific<sup>1</sup> within the 200-mile maritime area of sovereignty and jurisdiction of the High Contracting Parties and waters on the landward side up to the freshwater limit.

The freshwater limit will be determined by each State Party, in accordance with the relevant technical and scientific criteria.

*Article II*

SOURCES OF POLLUTION

Marine pollution from land-based sources comprises:

- (a) Coastal outfalls or disposal and discharges;
- (b) Discharges through rivers, canals and other watercourses, including underground watercourses; and
- (c) In general, any other land-based source situated within the territories of the High Contracting Parties, whether through water, through the atmosphere or directly from the coast.

*Article III*

GENERAL OBLIGATIONS

The High Contracting Parties shall, either individually or through bilateral or multilateral co-operation, endeavour to adopt appropriate measures in accordance with the provisions of this Protocol to prevent, reduce and control pollution of the marine environment from land-based sources, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for the use of sea water and reduction of amenities.

The High Contracting Parties 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.

The High Contracting Parties shall endeavour to harmonize their policies in this connection at the regional level.

<sup>1</sup> The geographical coverage of this Protocol comprises the 200-mile maritime area of sovereignty and jurisdiction of the High Contracting Parties.

*Article IV*

## OBLIGATIONS IN RESPECT OF ANNEX I

The High Contracting Parties shall endeavour to prevent, reduce, control and eliminate in their respective zones within the sphere of application of this Protocol pollution from land-based sources caused by the substances listed in annex I to this Protocol. To this end they shall, jointly or individually, elaborate and implement suitable programmes and measures.

Such programmes and measures shall take into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

Without prejudice to the aim of eliminating discharges of the substances listed in annex I, to the extent that such substances occur, they shall be subject to a system of self-monitoring and control. Authorization by the competent national authorities shall depend upon the levels of such substances, taking into account the harm or deleterious effects which may result in the marine environment.

*Article V*

## OBLIGATIONS IN RESPECT OF ANNEX II

The High Contracting Parties shall endeavour progressively to reduce in their respective zone within the sphere of application of this Protocol pollution from land-based sources caused by the substances or sources listed in annex II to this Protocol. To this end they shall, jointly or individually, elaborate and implement suitable programmes and measures.

Such programmes and measures shall take into account, for their progressive implementation, the capacity to adapt and reconvert existing installations, the economic capacity of the Parties and their need for development.

Discharges of the substances listed in annex II to this Protocol shall be subject to a system of self-monitoring and control. Authorization by the competent national authorities shall depend on the levels of such substances, taking into account the harm or deleterious effects which may result in the marine environment.

*Article VI*

## PRACTICES AND PROCEDURES

The High Contracting Parties shall endeavour to formulate and progressively adopt, acting individually or jointly as appropriate, in co-operation with the Executive Secretariat or another competent international organization, as the case may be, rules, standards and common practices and procedures dealing with:

(a) Studies to determine the length, depth and position of coastal outfalls;

(b) Special requirements for effluents necessitating separate treatment;

(c) The quality of sea water necessary to guarantee the preservation of human health, living resources and ecosystems;

(d) The control of products, installations and industrial and other processes causing significant pollution from land-based sources;

(e) Special studies concerning the quantities discharged with a view to controlling the concentration of substances in effluents and the method of discharging the substances listed in annexes I and II, in order to comply with the provisions of subparagraph (c) of this article.

Such rules, standards, practices and procedures shall take into account local ecological, geographical and physical characteristics, the economic capacity of the Parties and their need for development, the level of existing pollution and the real absorptive capacity of the marine environment.

*Article VII*

## CO-OPERATION AMONG THE PARTIES

High Contracting Parties requiring assistance in combating pollution from land-based sources may, either directly or through the Executive Secretariat, request the co-operation of other Parties, especially those which may be affected by the pollution.

Such co-operation may include expert advice and the provision of equipment and materials necessary to combat the pollution.

The High Contracting Parties to which a request has been addressed shall, as soon as possible, consider the request and shall meet it to the extent of their capabilities and shall immediately inform the requesting Party of the form, extent and conditions of the co-operation they are in a position to provide.

*Article VIII*

## MONITORING PROGRAMMES

The High Contracting Parties shall, directly or in co-operation with the Executive Secretariat or another competent international organization, progressively establish individual or joint programmes involving two or more Parties for monitoring pollution from land-based sources in order to:

(a) Make an assessment of the nature and extent of the pollution;

(b) Adopt appropriate measures to avoid or reduce the effects of the pollution;

(c) Assess the effects of the measures taken under this Protocol to reduce the pollution of the marine environment;

(d) Report to the other High Contracting Parties and the Executive Secretariat on the measures to be adopted and any activity which they are undertaking or intend to undertake in order to combat the pollution.

**Article IX**

## EXCHANGE OF INFORMATION

The High Contracting Parties undertake to exchange among themselves and to transmit to the Executive Secretariat information on the following:

(a) The competent national authorities and bodies responsible for receiving information about pollution from land-based sources and for carrying out assistance programmes or measures among the Parties;

(b) The competent national organization or authorities responsible for combating pollution from land-based sources;

(c) The research programmes which they are conducting in order to develop new methods and techniques for preventing pollution from land-based sources, as well as the results of such programmes; and

(d) The measures taken, the results achieved and the difficulties encountered in the application of this Protocol. Such information shall include *inter alia*:

(i) Statistical data on the authorizations granted under articles IV and V of this Protocol;

(ii) Data resulting from monitoring as provided for in article VIII of this Protocol;

(iii) Quantities of pollutants discharged from their territories;

(iv) Measures taken in accordance with articles IV and V of this Protocol.

The High Contracting Parties shall co-ordinate use of the available means of communication in order to ensure timely reception, transmittal and dissemination of the information to be exchanged.

**Article X**

## SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION

The High Contracting Parties shall, to the extent possible, co-operate directly, through the Executive Secretariat or another competent international organization, when appropriate, in the fields of science and technology and shall exchange data and any other scientific information for the purposes of this Protocol.

**Article XI**

## OBLIGATION IN RESPECT OF THE OTHER HIGH CONTRACTING PARTIES

The High Contracting Parties shall take the necessary measures to ensure to the extent possible that activities under their jurisdiction or control are so conducted that they do not cause damage by pollution to the other Parties or to their environment and that pollution rising from accidents or from activities under their jurisdiction or control does not spread beyond the areas in which the High Contracting Parties exercise sovereignty and jurisdiction.

**Article XII**

## CONSULTATIONS BETWEEN THE PARTIES

When pollution from land-based sources of one of the High Contracting Parties is likely to affect adversely the interests of one or more of the Contracting Parties to this Protocol, the Parties affected shall, at the request of one or more of them, enter into consultation with a view to seeking a satisfactory solution.

At the sessions held by the High Contracting Parties in accordance with article XV, recommendations may be made with a view to reaching a satisfactory solution.

**Article XIII**

## PUNITIVE MEASURES

Each High Contracting Party undertakes to ensure compliance with the provisions of this Protocol and to adopt measures available to it that it deems pertinent in order to prevent and penalize any act which infringes these provisions.

The High Contracting Parties shall report to the Executive Secretariat on the legislative measures and regulations they have adopted for the application of the provisions of the foregoing paragraph.

**Article XIV**

## APPLICATION OF OTHER MEASURES

Nothing in this Protocol shall prevent the High Contracting Parties from adopting for application, either individually or by two or more of them, stricter measures to combat pollution from land-based sources.

**Article XV**

## ORDINARY AND EXTRAORDINARY SESSIONS

The High Contracting Parties shall hold ordinary sessions every two years and extraordinary sessions at any time, whenever two or more of them so request.

Ordinary sessions shall be held at the same time as the sessions of the Co-ordinating Committee for Scientific Research or the Legal Commission of the Permanent Commission of the South Pacific.

At ordinary sessions, the High Contracting Parties shall examine, *inter alia*, the following:

(a) The extent to which this Protocol is being implemented, the effectiveness of the measures taken and the need to develop other kinds of activities in furtherance of the objectives of this Protocol;

(b) The need to amend or revise this Protocol and its annexes and to adopt additional protocols and the desirability of expanding or amending the resolutions adopted in pursuance of this Protocol and its annexes;

- (c) The formulation and adoption of programmes and measures, in accordance with articles IV and V;
- (d) The drafting and adoption of rules and standards, practices and procedures, in accordance with article VI;
- (e) The need to make recommendations, in accordance with the provisions of article XII;
- (f) The performance of any other function which may assist in achieving the aims of this Protocol.

*Article XVI*

## EXECUTIVE SECRETARIAT

For the purposes of the administration and the application of this Protocol, the High Contracting Parties hereby designate the Permanent Commission of the South Pacific to discharge the functions of Executive Secretariat under the Protocol. At their first meeting, the High Contracting Parties shall establish the procedure and financing for the performance of this function.

*Article XVII*

## ENTRY INTO FORCE

This Protocol shall enter into force 60 days after the third instrument of ratification has been deposited with the General Secretariat of the Permanent Commission of the South Pacific.

*Article XVIII*

## DENUNCIATION

This Protocol may be denounced by any of the High Contracting Parties after it has been in force for two years for the High Contracting Party denouncing it.

Such denunciation shall be effected by means of written notification to the Executive Secretariat, which shall communicate it forthwith to the High Contracting Parties.

The denunciation shall take effect 180 days after the date of such notification.

*Article XIX*

## AMENDMENTS

This Protocol may be amended only with the unanimous agreement of the High Contracting Parties. Amendments shall be subject to ratification and shall enter into force after the third instrument of ratification has been deposited with the Executive Secretariat.

*Article XX*

## ACCESSION

This Protocol shall be open for accession by any coastal State in the South-East Pacific, on the unanimous invitation of the High Contracting Parties.

Accession shall be effected by deposit of the relevant instrument with the Executive Secretariat, which shall communicate it to the High Contracting Parties.

This Protocol shall, for the State acceding to it, enter into force 60 days after the deposit of the relevant instrument.

*Article XXI*

## RESERVATIONS

No reservations concerning this Protocol may be entered.

Done in six identical copies, one of which shall be deposited with the General Secretariat of the Permanent Commission of the South Pacific, all being equally authentic for the purposes of implementation and interpretation.

In witness whereof, the Plenipotentiaries, being duly authorized by their respective Governments, have signed this Protocol in the city of Quito on the twenty-second day of July, one thousand nine hundred and eighty-three.

**Annex I**

A. The following substances, families and groups of substances are listed, not in order of priority, for the purposes of article IV of this Protocol. They have been selected mainly on the basis of their:

- Toxicity;
- Persistence;
- Bioaccumulation.

1. Organohalogen compounds and substances which may form such compounds in the marine environment.<sup>2</sup>
2. Organophosphorous compounds and substances which may form such compounds in the marine environment.<sup>2</sup>
3. Organotin compounds and substances which may form such compounds in the marine environment.<sup>2</sup>
4. Mercury and mercury compounds.
5. Cadmium and cadmium compounds.
6. Used lubricating oils.
7. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea.
8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment.

<sup>2</sup> With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless substances.

9. Radioactive substances, including their wastes, when their discharges do not comply with the principles of radiation protection as defined by the competent international organizations, taking into account the protection of the marine environment.

B. The present annex does not apply to discharges which contain substances listed in section A that are below the limits defined jointly by the Parties.

## Annex II

A. The following substances, families and groups of substances, or sources of pollution, listed not in order of priority for the purposes of article V of this Protocol, have been selected mainly on the basis of criteria used for annex I, while taking into account the fact that they are generally less noxious or are more readily rendered harmless by natural processes and therefore generally affect more limited coastal areas.

1. The following elements and their compounds:

Zinc	Antimony	Uranium
Copper	Molybdenum	Vanadium
Nickel	Titanium	Cobalt
Chromium	Tin	Thallium
Lead	Barium	Tellurium
Selenium	Beryllium	Silver
Arsenic	Boron	

2. Biocides and their derivatives not covered in annex I.

3. Organosilicon compounds and substances which may form such compounds in the marine environment, excluding those which are biologically harmless or are rapidly converted into biologically harmless substances.

4. Crude oils and hydrocarbons of any origin.

5. Cyanides and fluorides.

6. Non-biodegradable detergents and other surface-active substances.

7. Inorganic compounds of phosphorus and elemental phosphorus.

8. Pathogenic micro-organisms.

9. Thermal discharges.

10. Substances which have a deleterious effect on the taste and/or smell of products for human consumption derived from the aquatic environment, and compounds liable to give rise to such substances in the marine environment.

11. Substances which have, directly or indirectly, an adverse effect on the oxygen content of the marine environment, especially those which may cause eutrophication.

12. Acid or alkaline compounds of such

composition and in such quantity that they may impair the quality of sea water.

13. Substances which, though of a non-toxic nature, may become harmful to the marine environment or may interfere with any legitimate use of the sea owing to the quantities in which they are discharged.

B. The control and strict limitation of the discharge of substances referred to in section A above must be implemented in accordance with annex III.

## Annex III

With a view to the issue of an authorization for the discharge of wastes containing substances referred to in annexes I and II of this Protocol, particular account will be taken, as the case may be, of the following factors:

### A. CHARACTERISTICS AND COMPOSITION OF THE WASTE

1. Type and size of waste source (e.g. industrial process).
2. Type of waste (origin, average composition).
3. Form of waste (solid, liquid, sludge, slurry).
4. Total amount (volume discharged, e.g. per year).
5. Discharge pattern (continuous, intermittent, seasonally variable, etc.)
6. Concentrations with respect to major constituents, substances listed in annex I, substances listed in annex II, and other substances as appropriate.
7. Physical, technical and biochemical properties of the waste.

### B. CHARACTERISTICS OF WASTE CONSTITUENTS WITH RESPECT TO THEIR HARMFULNESS

1. Persistence (physical, chemical, biological) in the marine environment.
2. Toxicity and other harmful effects.
3. Accumulation in biological materials or sediments.
4. Biochemical transformation producing harmful compounds.
5. Adverse effects on the oxygen content and balance.
6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea-water constituents which

may produce harmful biological or other effects on any of the uses listed in section E below.

#### C. CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING MARINE ENVIRONMENT

1. Hydrographic, meteorological, geological and topographic characteristics of the coastal area.
2. Location and type of discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery, and fishing areas, shellfish grounds) and other discharges.
3. Initial dilution achieved at the point of discharge into the receiving marine environment.
4. Dispersion characteristics such as effect of currents, tides and wind on horizontal transport and vertical mixing.
5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area.
6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

#### D. AVAILABILITY OF WASTE TECHNOLOGIES

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

- (a) Alternative treatment processes;
- (b) Re-use or elimination methods;
- (c) On-land disposal alternatives; and
- (d) Appropriate low-waste technologies.

#### E. POTENTIAL IMPAIRMENT OF MARINE ECOSYSTEMS AND SEA-WATER USES

1. Effects on human health through pollution impact on:

- (a) Edible marine organisms;
- (b) Bathing waters;
- (c) Aesthetics.

Discharges of waste containing substances listed in annexes I and II shall be subject to a system of self-monitoring and control by the competent national authorities.

2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.

3. Effects on other legitimate uses of the sea.

### REGIONAL CONVENTION FOR THE CONSERVATION OF THE RED SEA AND GULF OF ADEN ENVIRONMENT [21]

Jeddah, 14 February 1982

The Governments of:

the Democratic Republic of the Sudan,  
the Hashemite Kingdom of Jordan,  
the Kingdom of Saudi Arabia,  
Palestine represented by the Palestine Liberation Organization,  
the People's Democratic Republic of Yemen,  
the Somali Democratic Republic,  
the Yemen Arab Republic,

Realizing that pollution of the marine environment in the waters of the Red Sea and Gulf of Aden by oil and other harmful or noxious materials arising from human activities on land or at sea, especially through indiscriminate and uncontrolled discharge of these substances, presents a growing threat to marine life, fisheries, human health, recreational uses of beaches and other amenities,

Mindful of the special hydrographic and ecological characteristics of the marine environment of the Red Sea and Gulf of Aden and the particular vulnerability of its coral reefs where most biota exist,

Conscious of the need to ensure that the processes of urban and rural development and resultant land use should be carried out in such a manner as to preserve, as far as possible, marine resources and coastal amenities, and that such development should not lead to deterioration of the marine environment,

Convinced of the need to ensure that the processes of industrial development should not, in any way, cause damage to the marine environment, jeopardize its living resources or create hazards to human health,

Recognizing the need to develop an integrated management approach to the use of the marine environment and the coastal areas which will allow the achievement of environmental and development goals in a harmonious manner,

Recognizing also the need for a carefully planned research, monitoring and assessment programme in view of the scarcity of scientific information on marine pollution in the region,

Considering that the States of the Red Sea and Gulf of Aden have a special responsibility to protect the marine environment of the region,

Aware of the importance of co-operation and co-ordination of action on a regional basis with the aim of protecting the marine environment of the Red Sea and Gulf of Aden for the benefit of all concerned, including future generations,

Bearing in mind the existing international conventions relevant to the present Convention,

Aiming to fulfil the objectives of the Charter of the League of Arab States, and the Charter and

Constitution of the Arab League Educational, Cultural and Scientific Organization,

Have agreed as follows:

### Article I

#### DEFINITIONS

For the purposes of this Convention and its Protocols, the following terms and expressions have the meanings indicated below, except when otherwise inferred from the text:

1. "Conservation" of the marine environment of the Red Sea and Gulf of Aden: Rational use by man of living and non-living marine and coastal resources in a manner ensuring optimum benefit for the present generation while maintaining the potential of that environment to satisfy the needs and aspirations of future generations. Such a definition of the term "conservation" should be construed as including conservation, protection, maintenance, sustainable and renewable utilization, and enhancement of the environment.
2. "Sea Area": Sea Area as defined in article II of this Convention.
3. "Marine pollution": Introduction by man, directly or indirectly, of substances or energy into the marine environment which results or is likely to result in such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities including fishing, impairment of quality for use of sea water and reduction of amenities.
4. "Ships and aircraft": Any waterborne or airborne or amphibious craft of any type whatsoever, including hydrofoil boats, air cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms and any other structure.
5. "Oil": Petroleum in any form including crude oil, fuel oil, sludge, refined oil, gases and other oil products, whose introduction might impair the marine environment.
6. "Harmful substance": Any substance whose introduction or presence in the marine environment causes a danger threatening or impairing that environment.
7. "National Authority": The authority designated by each Contracting Party as responsible for the co-ordination of national efforts for implementing this Convention and its protocols.
8. "ALECSO": The Arab League Educational, Cultural and Scientific Organization.
9. "Organization": The Regional Organization for the Conservation of the Red Sea and Gulf of Aden Environment established in accordance with article XVI of this Convention.

10. "Council": The Council established in accordance with article XVI of this Convention.

11. "General Secretariat": The organ of the Organization established in accordance with article XVI of this Convention.

12. "Action Plan": The Action Plan for the Conservation of the Marine Environment and Coastal Areas of the Red Sea and Gulf of Aden.

### Article II

#### GEOGRAPHICAL COVERAGE

The present Convention shall apply to the entire sea area, taking into account integrated ecosystems of the Red Sea, Gulf of Aqaba, Gulf of Suez, Suez Canal to its end on the Mediterranean, and the Gulf of Aden as bounded by the following rhumb lines:

1. From Ras Dharbat Ali (lat. 16°39' N, long. 53°03.5' E), thence to a point (lat. 16°00' N, long. 53°25' E), thence to a point (lat. 12°40' N, long. 55°00' E) lying ENE of Socotra Island, thence to Ras Hafun (lat. 10°26' N, long. 51°25' E).
2. Any Contracting Party may request the Organization to include areas within that Party's national jurisdiction and lying adjacent to those described in paragraph 1 above within the area of application of this Convention or for the purposes of activities resulting therefrom.
3. The geographical coverage does not include internal waters of the Contracting Parties unless otherwise stated in this Convention or any of its protocols.

### Article III

#### GENERAL OBLIGATIONS

1. The Contracting Parties shall, individually or jointly, take all appropriate measures, in accordance with the present Convention and those protocols in force to which they are party, for the conservation of the Red Sea and Gulf of Aden environment including the prevention, abatement and combating of marine pollution.
2. In addition to the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency, the Contracting Parties shall co-operate in the formulation and adoption of other protocols prescribing agreed measures, procedures and standards for the implementation of this Convention.
3. The Contracting Parties shall establish national standards, laws and regulations as required for the effective discharge of the obligation prescribed in paragraph 1 of this article, and shall endeavour to harmonize their national policies in this regard and for this purpose appoint the National Authority.
4. The Contracting Parties shall co-operate with the competent international, regional and sub-



regional organizations to establish and adopt regional standards, recommended practices and procedures for the conservation of the Red Sea and Gulf of Aden environment, including the prevention, abatement and combating of pollution from all sources in conformity with the objectives of the present Convention, and to assist each other in fulfilling their obligations under the present Convention.

5. The Contracting Parties shall use their best endeavours to ensure that the implementation of the present Convention shall not cause transformation of one type or form of pollution to another which could be more detrimental to the environment.

#### *Article IV*

##### POLLUTION FROM SHIPS

The Contracting Parties shall take all appropriate measures in conformity with the present Convention and with generally recognized international rules to prevent, abate and combat pollution in the Sea Area caused by intentional or accidental discharges from ships and shall ensure effective compliance in the Sea Area with generally recognized international rules relating to the control of this type of pollution including load-on-top, segregated ballast and crude oil washing procedures for tankers.

#### *Article V*

##### POLLUTION CAUSED BY DUMPING FROM SHIPS AND AIRCRAFT

The Contracting Parties shall take all appropriate measures to prevent, abate and combat pollution in the Sea Area caused by dumping of wastes and other matter from ships and aircraft, and shall ensure effective compliance in the Sea Area with generally recognized international rules relating to the control of this type of pollution as provided for in relevant international conventions.

#### *Article VI*

##### POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall take all appropriate measures to prevent, abate and combat pollution caused by discharges from land reaching internal waters and the Sea Area whether water-borne, air-borne or directly from the coast including outfalls and pipelines.

#### *Article VII*

##### POLLUTION RESULTING FROM EXPLORATION AND EXPLOITATION OF THE BED OF THE TERRITORIAL SEA, THE CONTINENTAL SHELF AND THE SUB-SOIL THEREOF

The Contracting Parties shall take all appropriate measures to prevent, abate and combat pollution in the Sea Area resulting from exploration and exploitation of the bed of the territorial sea, the

continental shelf and the sub-soil thereof, including the prevention of accidents and the combating of pollution emergencies resulting in damage to the marine environment.

#### *Article VIII*

##### POLLUTION FROM OTHER HUMAN ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, abate and combat pollution in the Sea Area resulting from land reclamation (and associated suction dredging and coastal dredging) or resulting from estuarine or river dredging or from other human activities.

#### *Article IX*

##### CO-OPERATION IN DEALING WITH POLLUTION EMERGENCIES

1. The Contracting Parties shall, individually or jointly, take all necessary measures, including those to ensure that adequate equipment and qualified personnel are readily available, to deal with pollution emergencies in the Sea Area, whatever the cause of such emergencies, and to reduce or eliminate damage resulting therefrom.

2. Any Contracting Party which becomes aware of any pollution emergency in the Sea Area shall, without delay, notify the Organization, and through the General Secretariat, any Contracting Party likely to be affected by such emergency.

3. The Contracting Parties shall co-ordinate their national plans for combating pollution in the marine environment by oil and other harmful substances in a manner that facilitates full co-operation in dealing with pollution emergencies.

#### *Article X*

##### SCIENTIFIC AND TECHNOLOGICAL CO-OPERATION

1. The Contracting Parties shall co-operate directly, or through competent international and regional organizations, in the fields of scientific research, monitoring, assessment and combating of pollution in the Sea Area, and shall exchange data as well as other scientific information for the purpose of the present Convention, its protocols and the action plan.

2. The Contracting Parties shall co-operate further to develop and co-ordinate national monitoring and research programmes concerning all types of pollution and pollution combating, as well as studies and research on the marine environment. They shall co-operate further to develop and co-ordinate necessary supporting programmes, such as marine-meteorology programmes, and to establish, in co-operation with competent regional or international organizations, a regional network of such programmes to ensure compatible results. For this purpose, each Contracting Party shall designate the National Authority responsible for environmental

research and monitoring and for marine meteorological monitoring within the areas under its national jurisdiction.

3. The Organization and ALECSO shall co-operate in matters of common interest for the purpose of mutual co-ordination and exchange of technical assistance, information and documents.

#### *Article XI*

##### ASSESSMENT AND MANAGEMENT OF THE ENVIRONMENT

1. Each Contracting Party shall give due consideration to marine environmental effects when planning or executing projects, including an assessment of potential environmental effects, particularly in the coastal areas.

2. The Contracting Parties may, in consultation with the General Secretariat, develop procedures for dissemination of information on the assessment of the activities referred to in paragraph 1 of this article.

3. The Contracting Parties undertake to develop, individually or jointly, environmental standards, technical and other guidelines in accordance with standard scientific practice to assist the planning and execution of their projects in such a way as to minimize their harmful impact on the marine environment. In this regard international standards may be used where appropriate.

#### *Article XII*

##### TECHNICAL AND OTHER ASSISTANCE

The Contracting Parties shall co-operate, directly or through competent regional or international organizations, in the development of programmes of technical and other assistance, in fields relating to the marine environment and its conservation in co-ordination with the Organization.

#### *Article XIII*

##### LIABILITY AND COMPENSATION

The Contracting Parties undertake to co-operate in the formulation and adoption of appropriate rules and procedures for the determination of:

1. Civil liability and compensation for damage resulting from pollution of the marine environment, bearing in mind applicable international rules and procedures relating to those matters; and

2. Liability and compensation for damage resulting from violation of obligations under the present Convention and its protocols.

#### *Article XIV*

##### SOVEREIGN IMMUNITY

1. Warships and other ships owned or operated by a State, and used only on government non-commercial

service, shall be exempted from the application of the provisions of the present Convention.

2. Subject to paragraph 1 above, each Contracting Party shall, as far as possible, ensure that its warships or other ships owned or operated by that Party, and used only on government non-commercial service, shall comply with the provisions of the present Convention.

#### *Article XV*

##### DISCLAIMER

Nothing in the present Convention shall prejudice or affect the rights or claims of any Contracting Party with regard to the nature or extent of its maritime jurisdiction which may be established in conformity with international law.

#### *Article XVI*

##### REGIONAL ORGANIZATION FOR THE CONSERVATION OF THE RED SEA AND GULF OF ADEN ENVIRONMENT

1. A Regional Organization for the Conservation of the Red Sea and Gulf of Aden Environment, the permanent headquarters of which shall be located in Jeddah, Saudi Arabia, is hereby established.

2. The Organization shall consist of the following organs:

(a) A Council comprised of a representative of each Contracting Party;

(b) A General Secretariat;

(c) A Committee for the Settlement of Disputes whose composition, terms of reference and rules of procedure shall be decided by the Council.

3. The Organization shall enjoy, in the territory of each Contracting Party, all legal qualifications necessary for the discharge of its duties and the performance of all activities concerned with the achievement of its aims.

#### *Article XVII*

##### THE COUNCIL

1. (a) Membership of the Council shall be made up of the Contracting Parties, each Contracting Party having one vote in the meetings of the Council.

(b) Meetings of the Council shall be attended by the Director General of ALECSO or his delegate.

2. The Council shall hold one ordinary meeting every year, and may hold extraordinary meetings in accordance with its rules of procedure. Meetings shall be convened at the headquarters of the Organization or at any place as prescribed by its internal regulations or by the Council. The Chairmanship of the Council shall be given to each Contracting Party, in turn, in the Arabic alphabetical order starting with the Depositary State. The term of office of the Chairman shall be one year.

3. Two thirds of the Council membership shall constitute a quorum for its meetings.

4. The voting procedure in the Council shall be as follows:

- (a) Decisions on important matters shall be taken by a unanimous vote of the Contracting Parties present and voting;
- (b) Decisions on procedural matters shall be taken by a two-thirds majority vote of the Contracting Parties present and voting.

#### Article XVIII

##### DUTIES AND FUNCTIONS OF THE COUNCIL

The Council shall have the duties and functions necessary to achieve the objectives of this Convention and its protocols, and in particular:

- (a) To adopt its internal regulations;
- (b) To keep under review the implementation of the Convention and its protocols, and the action plan adopted for the achievement of the purposes of this Convention and its protocols;
- (c) To make recommendations regarding the adoption of any additional protocols or any amendments to the Convention or to its protocols;
- (d) To adopt, review and amend, as required, the annexes to this Convention and to its protocols;
- (e) To adopt and conclude agreements with States or with organizations with similar purposes or interests within the aims of this Convention and for the achievement of its purposes and which the Council deems necessary for the discharge of its duties;
- (f) To review and evaluate the state of the marine environment and coastal areas on the basis of reports provided by the Contracting Parties, or by the international organizations concerned;
- (g) To establish subsidiary bodies and *ad hoc* working groups, as required, to consider any matters related to this Convention and its protocols or related to the annexes of this Convention and its protocols or related to the action plan;
- (h) To consider reports submitted by the Contracting Parties and reports prepared by the General Secretariat on questions relating to the Convention and to matters relevant to the administration of the Organization and to decide upon them;
- (i) To endeavour to settle any differences or disputes between the Contracting Parties as to the interpretation or implementation of this Convention or its protocols or annexes;
- (j) To appoint the Secretary General;
- (k) To adopt and issue its rules of procedure, administrative and financial regulations guided by the constitution and regulations of ALECSO. The Council may adopt or amend any other regulations necessary for the discharge of its duties;

(l) To adopt the financial rules which determine, in particular, the contributions of the Contracting Parties;

(m) To adopt the financial budget of the Organization;

(n) To adopt the projects and budgets for the Organization activities;

(o) To approve a report on the work and activities of the Organization to be submitted for information to the ALECSO General Conference;

(p) To define and develop relations between the Organization and Arab organizations or bodies;

(q) To perform any additional functions necessary for the achievement of the purposes of this Convention and its protocols or which the Council deems necessary for the discharge of its duties.

#### Article XIX

##### THE GENERAL SECRETARIAT

1. The Secretary General shall head the General Secretariat and perform the functions necessary for the management of the Convention and its protocols, annexes, the action plan and the work of the General Secretariat;

2. The General Secretariat shall have the duties and powers necessary to achieve the purposes of this Convention and its protocols and to execute the action plan, according to decisions of the Council, and in particular:

(a) To prepare for and convene the meetings of the Council and its subsidiary bodies and *ad hoc* working groups;

(b) To transmit to the Contracting Parties notifications, reports and other information received;

(c) To consider inquiries by, and information from, the Contracting Parties and to consult with them on questions relating to this Convention and its protocols, annexes and the action plan;

(d) To prepare and submit reports on matters relating to this Convention, its protocols, annexes and the action plan or relating to the administration of the Organization;

(e) To establish, maintain and disseminate an up-to-date collection of national laws concerning the conservation of the marine environment of all Contracting Parties;

(f) To provide technical assistance and advice for the drafting of appropriate national legislation for the effective implementation of this Convention and its protocols;

(g) To organize and co-ordinate training programmes in areas related to the implementation of this Convention, its protocols and the action plan;

(h) To perform such other functions as may be assigned to it by the Council for the implementation of this Convention, its protocols and the action plan.

*Article XX*

## BUDGET AND FINANCIAL RESOURCES OF THE ORGANIZATION

1. The Organization shall have its own budget.
2. The financial resources of the Organization shall consist of:
  - (a) Contributions by the Contracting Parties;
  - (b) ALECSO contribution;
  - (c) Other contributions accepted by the Council.
3. Reports on the budget of the Organization shall be transmitted to the ALECSO General Conference for information.

*Article XXI*

## ADOPTION AND AMENDMENTS OF THE CONVENTION AND ITS PROTOCOLS

The Council, or any Contracting Party may propose amendments to this Convention, its protocols or annexes. Amendments of importance shall be adopted by a unanimous vote of the Contracting Parties. Other amendments shall be adopted by a two-thirds majority. Any matter is considered important if so requested by one Contracting Party. Amendments shall enter into force when adopted by the Contracting Parties in accordance with articles XXVI and XXVII of this Convention.

*Article XXII*

## REPORTS

Each Contracting Party shall submit to the General Secretariat reports on measures taken for the implementation of this Convention and its protocols, in such form and at such intervals as may be determined by the Council.

*Article XXIII*

## COMPLIANCE CONTROL

The Contracting Parties shall co-operate in the development and implementation of procedures for the effective application of the Convention and its protocols, including detection of violations, using all appropriate and practicable measures of detection and environmental monitoring, including adequate procedures for reporting and accumulation of evidence.

*Article XXIV*

## SETTLEMENT OF DISPUTES

1. In case of a dispute as to the interpretation or application of this Convention, its protocols or its annexes, the Contracting Parties concerned shall seek a settlement of the dispute through amicable means.
2. If the Contracting Parties concerned cannot

settle the dispute, the matter shall be referred to the Council for its consideration.

3. If the Council does not reach a settlement of the dispute, it shall be submitted to the Committee for the Settlement of Disputes referred to in paragraph 2(c) of article XVI of this Convention.

*Article XXV*

## SIGNATURE

The present Convention together with the attached Protocol shall be open for signature in Jeddah by Governments of the States of the Red Sea and Gulf of Aden invited to the Jeddah Regional Conference of Plenipotentiaries on the Conservation of the Marine Environment and Coastal Areas in the Red Sea and Gulf of Aden convened from 19 to 21 Rabie Althani A.H. 1402, corresponding to 13 to 15 February 1982.

*Article XXVI*

## RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

1. The present Convention together with the attached Protocol shall be subject to ratification, acceptance, approval or accession by the States referred to in article XXV of this Convention. Any Contracting Party which has ratified, accepted, approved or acceded to the present Convention shall be considered as having ratified, accepted, approved or acceded to the attached Protocol.
2. Any State member of the Arab League has the right to accede to the present Convention and its protocols.

*Article XXVII*

## ENTRY INTO FORCE

1. The present Convention and the attached Protocol shall enter into force on the ninetieth day following the date of deposit of at least four instruments of ratification, acceptance or approval of, or accession to, the Convention.
2. Any other protocol to this Convention, except as otherwise provided in such protocol, shall enter into force on the thirtieth day following the date of deposit of at least four instruments of ratification, acceptance or approval of, or accession to such protocol.
3. This Convention or any such protocol shall enter into force with respect to any Contracting Party on the thirtieth day following the date of deposit by that Contracting Party of its instrument of ratification, acceptance, approval or accession.

*Article XXVIII*

## WITHDRAWAL

1. At any time after five years from the date of entry into force of this Convention, any Contracting Party

may withdraw from this Convention by giving written notification of withdrawal to the Depositary.

2. Except as may be otherwise provided in any other protocol to this Convention, any Contracting Party may, at any time after five years from the date of entry into force of such protocol, withdraw from such protocol by giving written notification of withdrawal to the Depositary.
3. Withdrawal shall take effect twelve months after the date on which notification of withdrawal is received by the Depositary.
4. Any Contracting Party which withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it was a party.
5. Any Contracting Party which withdraws from the Protocol concerning Regional Co-operation in Combating Pollution by Oil and other Harmful Substances in Cases of Emergency shall be considered as also having withdrawn from this Convention.

#### *Article XXIX*

##### RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall receive instruments of ratification of this Convention and its protocols.
2. The Depositary shall call the first meeting of the Council when this Convention enters into force after ratification by four Contracting Parties.
3. After the first meeting of the Council the General Secretariat shall assume all technical and administrative responsibilities and duties. The original of this Convention, of any protocol thereto, of any annex to the Convention or to a protocol, or of any amendment to this Convention, to a protocol or to an annex of the Convention or of a protocol shall be deposited with the Depositary, the Government of the Kingdom of Saudi Arabia, which shall send certified copies thereof to the Contracting Parties and shall also deposit certified copies of the Convention, its protocols and annexes with the General Secretariat of the League of Arab States in accordance with article 17 of the Arab League Charter and with the Secretary-General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

In witness whereof the undersigned Plenipotentiaries, being duly authorized by their respective Governments, have signed the present Convention.

Done at the City of Jeddah on Sunday the twentieth of the month Rabie Althani of the year A.H. 1402, corresponding to 14 Shabat (February) of the year A.D. 1982.

## **PROTOCOL CONCERNING REGIONAL CO-OPERATION IN COMBATING POLLUTION BY OIL AND OTHER HARMFUL SUBSTANCES IN CASES OF EMERGENCY [22]**

**Jeddah, 14 February 1982**

The Contracting Parties,

Being Parties to the Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment (hereinafter referred to as "the Convention"),

Conscious of the ever-present potentiality of emergencies which may result in substantial pollution by oil and other harmful substances, and of the need to provide co-operative and effective measures to deal with them,

Being aware that appropriate measures for responding to pollution emergencies need to be enhanced on a national and regional basis to deal with this problem in a comprehensive manner for the benefit of the Red Sea and Gulf of Aden environment,

Have agreed as follows:

#### *Article I*

For the purposes of this Protocol the following terms and expressions have the meanings indicated below, except when otherwise inferred from the text:

1. "Appropriate Authority": either the "National Authority" defined in article I of the Convention, or the authority or authorities within the Government of a Contracting Party, designated by the National Authority and responsible for:
  - (a) Combating or otherwise operationally responding to marine emergencies;
  - (b) Receiving and co-ordinating information on marine emergencies;
  - (c) Co-ordinating available national capabilities for dealing with marine emergencies in general within its own Government and with other Contracting Parties.
2. "Marine Emergency": any casualty, incident, occurrence or situation, however caused, resulting in substantial pollution or imminent threat of substantial pollution to the marine environment by oil or other harmful substances and includes collisions, strandings and other incidents involving ships, including tankers, blow-outs arising from petroleum drilling and production activities, and the presence of oil or other harmful substances arising from the failure of industrial installations.
3. "Marine Emergency Contingency Plan": a plan or plans, prepared on a national, bilateral or multilateral basis, designed to co-ordinate the deployment, allocation and use of personnel,

material, resources and equipment for the purpose of responding to marine emergencies.

4. "Marine Emergency Response": any activity intended to prevent, mitigate or eliminate pollution by oil or other harmful substances or threat of such pollution resulting from marine emergencies.

5. "Related Interests": the interests of a Contracting Party directly or indirectly affected or threatened by a marine emergency such as:

(a) Maritime, coastal, port or estuary activities, including fisheries activities;

(b) Historic and tourist attractions;

(c) The health of the coastal population and the conservation of living marine resources and of wildlife;

(d) Industrial activities which rely upon intake of water, including distillation plants, and industrial plants using circulating water.

6. "Convention": the Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment.

7. "Council": the organ of the Regional Organization for Conservation of the Red Sea and Gulf of Aden Environment established under article XVI of the Convention.

8. "Centre": the Marine Emergency Mutual Aid Centre established under article III, paragraph 1, of the present Protocol.

#### Article II

1. The Contracting Parties shall co-operate in taking the necessary and effective measures to protect the coastline and related interests of one or more of the Parties from the threat and effects of pollution due to the presence of oil or other harmful substances in the marine environment resulting from marine emergencies.

2. The Contracting Parties shall endeavour to maintain and promote, either individually or through bilateral or multilateral co-operation, their contingency plans and means for combating pollution in the Red Sea and Gulf of Aden by oil and other harmful substances. These means shall include, in particular, available equipment, ships, aircraft and manpower prepared for operation in cases of emergency.

#### Article III

1. The Contracting Parties hereby establish the Marine Emergency Mutual Aid Centre.

2. The objectives of the Centre shall be:

(a) To strengthen the capacities of the Contracting Parties and to facilitate co-operation among them in order to combat pollution by oil and other harmful substances in cases of marine emergencies;

(b) To assist Contracting Parties, which so request, in the development of their own national capabilities to combat pollution by oil and other harmful substances and to co-ordinate and facilitate information exchange, technological co-operation and training;

(c) A later objective, namely, the possibility of initiating operations to combat pollution by oil and other harmful substances at the regional level, may be considered. This possibility should be submitted to approval by the Council after evaluating the results achieved in the fulfilment of the previous objectives and in the light of financial resources which could be made available for this purpose.

3. The functions of the Centre shall be:

(a) To collect and disseminate to the Contracting Parties information concerning matters covered by this Protocol, including:

(i) Laws, regulations and information concerning appropriate authorities of the Contracting Parties and marine emergency contingency plans referred to in article V of this Protocol;

(ii) Information available to the Contracting Parties concerning methods, techniques and research relating to marine emergency responses referred to in article VI of this Protocol; and

(iii) List of experts, equipment and materials available for marine emergency responses by the Contracting Parties;

(b) To assist the Contracting Parties, as requested:

(i) In the preparation of laws and regulations concerning matters covered by this Protocol and in the establishment of appropriate authorities;

(ii) In the preparation of marine emergency contingency plans;

(iii) In the establishment of procedures under which personnel, equipment and materials involved in marine emergency responses may be expeditiously transported into, out of, and through the territories of the Contracting Parties;

(iv) In the transmission to the Contracting Parties of reports concerning marine emergencies; and

(v) In promoting and developing training programmes for combating pollution;

(c) To co-ordinate training programmes for combating pollution and prepare comprehensive anti-pollution manuals;

(d) To develop and maintain a communication/information system appropriate to the needs of the Contracting Parties and the Centre for the prompt exchange of information concerning marine emergencies required by this Protocol;

(e) To prepare inventories of the available personnel, materials, vessels, aircraft, and other specialized equipment for marine emergency responses;

(f) To establish and maintain liaison with competent regional and international organizations,

particularly the Inter-Governmental Maritime Consultative Organization, for the purposes of obtaining and exchanging scientific and technological information and data, particularly with regard to any new technology which may assist the Centre in the performance of its functions;

(g) To prepare periodic reports on marine emergencies for submission to the Council; and

(h) To perform any other functions assigned to it either by this Protocol or by the Council.

4. The Centre may fulfil additional functions necessary for initiating operations to combat pollution by oil and other harmful substances on a regional level, when authorized by the Council, in accordance with paragraph 2(c) above.

#### *Article IV*

1. The present Protocol shall apply to the Sea Area specified in paragraph 1 of article II of the Convention.

2. For the purposes of dealing with a marine emergency, internal waters, including ports, harbours, estuaries, bays and lagoons, may be treated as part of the Sea Area if the Contracting Party concerned so decides.

#### *Article V*

Each Contracting Party shall provide the Centre and the other Contracting Parties with information concerning:

(a) Its appropriate authority;

(b) Its laws, regulations, and other legal instruments relating generally to matters addressed in this Protocol, including those concerning the structure and operation of the authority referred to in paragraph (a) above;

(c) Its national marine emergency contingency plans.

#### *Article VI*

Each Contracting Party shall provide the other Contracting Parties and the Centre with information concerning:

(a) Existing and new methods, techniques, materials, and procedures relating to marine emergency responses;

(b) Existing and planned research, their results and development in the areas referred to in paragraph (a) above.

#### *Article VII*

1. Each Contracting Party shall direct its appropriate officials to require masters of ships, pilots of aircraft and persons in charge of offshore platforms and other similar structures operating in the marine environment and under its jurisdiction to

report the existence of any marine emergency in the Sea Area to the appropriate national authority and to the Centre.

2. Any Contracting Party receiving a report pursuant to paragraph 1 above shall promptly inform the following of the marine emergency:

(a) The Centre;

(b) All other Contracting Parties;

(c) The flag State of any foreignship involved in the marine emergency concerned.

3. The content of the reports, including supplementary reports where appropriate, referred to in paragraph 1 above should conform to the form to be adopted by the Centre.

4. Any Contracting Party which submits a report pursuant to paragraphs 2 (a) and 2 (b) above, shall be exempted from the obligations specified in paragraph 2 of article IX of the Convention.

#### *Article VIII*

The Centre shall promptly transmit information and reports which it receives from a Contracting Party pursuant to articles V, VI and paragraph 2 of article VII of this Protocol to all other Contracting Parties.

#### *Article IX*

Any Contracting Party which transmits information pursuant to this Protocol may specifically restrict its dissemination. In such a case, any Contracting Party to which this information has been transmitted, or the Centre, shall not divulge it to any other person, Government, or to any public or private organization without the specific authorization of the former Contracting Party.

#### *Article X*

Any Contracting Party faced with a marine emergency situation shall:

(a) Take every appropriate measure to combat pollution and/or to rectify the situation;

(b) Immediately inform all other Contracting Parties, either directly or through the Centre, of any action which it has taken or intends to take to combat the pollution. The Centre shall promptly transmit any such information to all other Contracting Parties;

(c) Make an assessment of the nature and extent of the marine emergency, either directly or with the assistance of the Centre;

(d) Determine the necessary and appropriate action to be taken with respect to the marine emergency, in consultation with other Contracting Parties, affected States and the Centre.

#### *Article XI*

1. Any Contracting Party requiring assistance in a marine emergency response may call for assistance

directly from any other Contracting Party or through the Centre. Where the services of the Centre are utilized, the Centre shall promptly transmit requests received to all other Contracting Parties. The Contracting Parties to whom a request is made pursuant to this paragraph shall use their best endeavours within their capabilities to render the assistance requested.

2. The assistance referred to in paragraph 1 above may include:

(a) Personnel, material, and equipment, including facilities or methods for the disposal of recovered pollutants;

(b) Surveillance and monitoring capacity;

(c) Facilitation of the transfer of personnel, material, and equipment into, out of and through the territories of the Contracting Parties.

3. The services of the Centre may be utilized by the Contracting Parties to co-ordinate any marine emergency response in which assistance is called for pursuant to paragraph 1 above.

4. Any Contracting Party calling for assistance pursuant to paragraph 1 above shall report the activities undertaken with this assistance and its results to the Centre. The Centre shall promptly transmit any such report to all other Contracting Parties.

5. In cases of special marine emergencies, the Centre may call for the mobilization of resources made available by the Contracting Parties to combat pollution by oil and other harmful substances.

#### *Article XII*

1. Having due regard to the functions assigned to the Centre under this Protocol, each Contracting Party shall establish and maintain an appropriate authority to carry out fully its obligations under this Protocol. With the assistance of the Centre, the appropriate authority of each Contracting Party shall co-operate and co-ordinate its activities with counterparts in the other Contracting Parties.

2. Among other matters with respect to which co-operation and co-ordination efforts shall be directed under paragraph 1 above are the following:

(a) Distribution and allocation of stocks of materials and equipment;

(b) Training of personnel for marine emergency responses;

(c) Marine pollution surveillance and monitoring activities;

(d) Methods of communication in respect of marine emergencies;

(e) Facilitation of the transfer of personnel, equipment and materials involved in marine emergency responses into, out of, and through the territories of the Contracting Parties;

(f) Other matters to which this Protocol applies.

#### *Article XIII*

The Council shall:

(a) Review periodically the activities of the Centre performed under this Protocol;

(b) Decide on the degree to which, and stages by which, the functions of the Centre set out in article III will be implemented;

(c) Determine the financial, administrative and other support to be provided by the Contracting Parties to the Centre for the performance of its functions.

This Protocol, considered an integral part of the Convention, shall be deposited with the Government of Saudi Arabia who shall act as Depositary pursuant to article XXIX of the Convention and who shall transmit certified copies of it to the Contracting Parties. Certified copies of this Protocol shall be deposited, together with the Convention, with the General Secretariat of the League of Arab States in accordance with article 17 of the Charter of the Arab League and registered with the Secretary-General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

In witness whereof the undersigned Plenipotentiaries, being duly authorized by their respective Governments, have signed this Protocol.

Done at the City of Jeddah on Sunday the twentieth of the month Rabie Althani of the year A.H. 1402, corresponding to 14 Shabat (February) of the year A.D. 1982.



## PROTOCOL CONCERNING MEDITERRANEAN SPECIALLY PROTECTED AREAS\* [23]

Geneva, 3 April 1982

The Contracting Parties to the present Protocol, Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976,

Conscious of the danger threatening the environment of the Mediterranean Sea Area as a whole, in view of the increasing human activities in the region,

Taking into account the special hydrographic and ecological characteristics of the Mediterranean Sea Area,

Stressing the importance of protecting and, as appropriate, improving the state of the natural resources and natural sites of the Mediterranean Sea, as well as of their cultural heritage in the region, among other means by the establishment of specially protected areas including marine areas and their environment,

Desirous of establishing close co-operation among themselves in order to achieve that objective,

Have agreed as follows:

### Article 1

1. The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures with a view to protecting those marine areas which are important for the safeguard of the natural resources and natural sites of the Mediterranean Sea Area, as well as for the safeguard of their cultural heritage in the region.

2. Nothing in this Protocol 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 2

For the purposes of the designation of specially protected areas (hereinafter referred to as "protected areas"), the area to which this Protocol applies shall be the Mediterranean Sea Area as defined in article 1 of the Convention for the Protection of the Mediterranean Sea against Pollution (hereinafter referred to as "the Convention"); it being understood that, for the purposes of the present Protocol, it shall be limited to the territorial waters of the Parties and may include

waters on the landward side of the baseline from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit. It may also include wetlands or coastal areas designated by each of the Parties.

### Article 3

1. The Parties shall, to the extent possible, establish protected areas and shall endeavour to undertake the action necessary in order to protect those areas and, as appropriate, restore them, as rapidly as possible.

2. Such areas shall be established in order to safeguard in particular:

- (a) — sites of biological and ecological value;
  - the genetic diversity, as well as satisfactory population levels, of species, and their breeding grounds and habitats;
  - representative types of ecosystems, as well as ecological processes;
- (b) sites of particular importance because of their scientific, aesthetic, historical, archaeological, cultural or educational interest.

### Article 4

The Parties to this Protocol shall, at their first meeting, formulate and adopt, if necessary in co-operation with the competent international organizations, common guidelines and, if needed, standards or criteria dealing in particular with:

- (a) the selection of protected areas;
- (b) the establishment of protected areas;
- (c) the management of protected areas;
- (d) the notification of information on protected areas.

### Article 5

The Parties may strengthen the protection of a protected area by establishing, within the area to which this Protocol applies, one or more buffer areas in which activities are less severely restricted while remaining compatible with the purposes of the protected area.

### Article 6

1. If a Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of another Party, the competent authorities of the two Parties shall endeavour to consult each other with a view to reaching agreement on the measures to be taken and shall, among other things, examine the possibility of the establishment by the other Party of a corresponding protected area or the adoption by it of any other appropriate measure.

\* Convention for the Protection of the Mediterranean Sea Against Pollution, Barcelona, 1976.

2. If a Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a State which is not a party to this Protocol, the Party shall endeavour to work together with the competent authorities of that State with a view to holding the consultations referred to in the preceding paragraph.

3. If contiguous protected areas are established by two Parties, or by one Party and by a State which is not a party to this Protocol, special agreements may provide for the means whereby the consultation or the collaboration contemplated in paragraphs 1 and 2 respectively may take place.

4. If a State which is not a party to this Protocol intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a Party to this Protocol, the latter shall endeavour to work together with that State with a view to holding consultations, and possibly concluding a special agreement as referred to in paragraph 3.

#### Article 7

The Parties, having regard to the objectives pursued and taking into account the characteristics of each protected area, shall, in conformity with the rules of the international law, progressively take the measures required, which may include:

- (a) the organization of a planning and management system;
- (b) the prohibition of the dumping or discharge of wastes or other matter which may impair the protected area;
- (c) the regulation of the passage of ships and any stopping or anchoring;
- (d) the regulation of fishing and hunting and of the capture of animals and harvesting of plants;
- (e) the prohibition of the destruction of plant life or animals and of the introduction of exotic species;
- (f) the regulation of any act likely to harm or disturb the fauna or flora, including the introduction of indigenous zoological or botanical species;
- (g) the regulation of any activity involving the exploration or exploitation of the sea-bed or its subsoil or a modification of the sea-bed profile;
- (h) the regulation of any activity involving a modification of the profile of the soil or the exploitation of the subsoil of the land part of a marine protected area;
- (i) the regulation of any archaeological activity and of the removal of any object which may be considered as an archaeological object;
- (j) the regulation of trade in and import and export of animals, parts of animals, plants, parts of plants and archaeological objects which originate in protected areas and are subject to measures of protection;

(k) any other measure aimed at safeguarding ecological and biological processes in protected areas.

#### Article 8

1. The Parties shall give appropriate publicity to the establishment of protected areas, as well as of the areas provided for in article 5, and to their markings and the regulations applying thereto.

2. The information referred to in the preceding paragraph shall be notified to the Organization designated in article 13 of the Convention (hereinafter referred to as "the Organization") which shall compile and keep up to date a directory of protected areas in the area to which this Protocol applies. The Parties shall supply the Organization with all the information necessary for that purpose.

#### Article 9

1. The Parties shall, in promulgating protective measures, take into account the traditional activities of their local populations. To the fullest extent possible, no exemption which is allowed for this reason shall be such as:

(a) to endanger either the maintenance of ecosystems protected under the terms of the present Protocol or the biological processes contributing to the maintenance of those ecosystems;

(b) to cause either the extinction of, or any substantial reduction in, the number of individuals making up the species or animal and plant populations within the protected ecosystems, or any ecologically connected species or populations, particularly migratory species and rare, endangered or endemic species.

2. Parties which allow exemptions with regard to protective measures or do not apply such measures strictly shall inform the Organization accordingly.

#### Article 10

The Parties shall encourage and develop scientific and technical research on their protected areas and on the ecosystems and archaeological heritage of those areas.

#### Article 11

The Parties shall endeavour to inform the public as widely as possible of the significance and interest of the protected areas and of the scientific knowledge which may be gained from them from the point of view of both nature conservation and archaeology. Such information should have an appropriate place in education programmes concerning the environment and history. The Parties should also endeavour to promote the participation of their public and their nature conservation organizations in appropriate measures which are necessary for the protection of the areas concerned.

*Article 12*

The Parties shall, to the extent possible, establish a co-operation programme to co-ordinate the establishment, planning, management and conservation of protected areas, with a view to creating a network of protected areas in the Mediterranean region, taking fully into account existing networks, especially that of biosphere reserves of UNESCO. There shall be regular exchanges of information concerning the characteristics of the protected areas, the experience acquired and the problems encountered.

*Article 13*

The Parties shall, in accordance with the procedures set forth in article 14, exchange scientific and technical information concerning current or planned research and the results expected. They shall, to the fullest extent possible, co-ordinate their research. They shall, moreover, endeavour to define jointly or to standardize the scientific methods to be applied in the selection, management and monitoring of protected areas.

*Article 14*

1. In applying the principles of co-operation set forth in articles 12 and 13, the Parties shall forward to the Organization:

(a) comparable information for monitoring the biological development of the Mediterranean environment;

(b) reports, publications and information of a scientific, administrative and legal nature, in particular:

- on the measures taken by the Parties in pursuance of this Protocol for the protection of the protected areas;
- on the species present in the protected areas;
- on any threats to those areas, especially those which may come from sources of pollution outside their control.

2. The Parties shall designate persons responsible for protected areas. Those persons shall meet at least once every two years to discuss matters of joint interest and especially to propose recommendations concerning scientific, administrative and legal information as well as the standardization and processing of data.

*Article 15*

1. The Parties shall, directly or with the assistance of competent regional or other international organizations or bilaterally, co-operate, on the entry into force of this Protocol, in formulating and implementing programmes of mutual assistance and of assistance to those developing countries which express a need for it in the selection, establishment and management of protected areas.

2. The programmes contemplated in the preceding paragraph should relate, in particular, to the training of scientific and technical personnel, scientific research, and the acquisition, utilization and production by those countries of appropriate equipment on advantageous terms to be agreed among the Parties concerned.

*Article 16*

Changes in the delimitation or legal status of a protected area or the suppression of all or part of such an area may not take place except under a similar procedure to that followed for its establishment.

*Article 17*

1. The ordinary meetings of the Parties to this Protocol shall be held in conjunction with the ordinary meetings of the Contracting Parties to the Convention held pursuant to article 14 of the Convention. The Parties may also hold extraordinary meetings in conformity with that article.

2. It shall be the function of the meetings of the Parties to this Protocol, in particular:

(a) to keep under review the implementation of this Protocol;

(b) to consider the efficacy of the measures adopted, having regard in particular to the area to which the Protocol applies, and to examine the need for other measures, in particular in the form of annexes, or for envisaging, if necessary, an alteration to that area, in conformity with the provisions of article 16 of the Convention;

(c) to adopt, review and amend as required any annex to this Protocol;

(d) to monitor the establishment and development of the network of protected areas provided by article 12, and to adopt guidelines to facilitate the establishment and development of that system and to increase co-operation among the Parties;

(e) to consider the recommendations made by the meetings of the persons responsible for the protected areas, as provided by article 14, paragraph 2;

(f) to consider reports transmitted by the Parties to the Organization under article 20 of the Convention and any other information which the Parties may transmit to the Organization or to the meeting of the Parties.

*Article 18*

1. The provisions of the Convention relating to any protocol shall apply with respect to the present Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 18, paragraph 2, of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

3. This Protocol shall be open for signature, at Geneva on 3 and 4 April 1982, and at Madrid from 5 April 1982 to 2 April 1983 by any Contracting Party to the Convention and any State invited to the Conference of Plenipotentiaries on the Protocol concerning Mediterranean Specially Protected Areas held at Geneva on 2 and 3 April 1982. It shall also be open for signature from 5 April 1982 to 2 April 1983 by any regional economic grouping of which at least one member is a coastal State of the Mediterranean Sea Area and which exercises competence in fields covered by this Protocol.

4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

5. As from 3 April 1983, this Protocol shall be open for accession by the Contracting Parties to the Convention and by any State or grouping referred to in paragraph 3.

6. This Protocol shall enter into force on the thirtieth day following the deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol.

In witness whereof the undersigned, being duly authorized, have signed this Protocol.

Done at Geneva on this third day of April one thousand nine hundred and eighty-two in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.

## CONVENTION FOR THE CONSERVATION OF SALMON IN THE NORTH ATLANTIC OCEAN [24]

Reykjavik, 2 March 1982

The Parties to this Convention,

Recognizing that salmon originating in the rivers of different States intermingle in certain parts of the North Atlantic Ocean,

Taking into account international law, the provisions on anadromous stocks of fish in the Draft Convention of the Third United Nations Conference on the Law of the Sea and other developments in international fora relating to anadromous stocks,

Desiring to promote the acquisition, analysis and dissemination of scientific information pertaining to salmon stocks in the North Atlantic Ocean,

Desiring to promote the conservation, restoration, enhancement and rational management of salmon stocks in the North Atlantic Ocean through international co-operation,

Have agreed as follows:

### Article 1

1. This Convention applies to the salmon stocks which migrate beyond areas of fisheries jurisdiction of coastal States of the Atlantic Ocean north of 36°N latitude throughout their migratory range.

2. Nothing in this Convention shall affect the rights, claims or views of any Party with regard to the limits or extent of jurisdiction over fisheries, nor shall it prejudice the views or positions of any Party with respect to the law of the sea.

### Article 2

1. Fishing of salmon is prohibited beyond areas of fisheries jurisdiction of coastal States.

2. Within areas of fisheries jurisdiction of coastal States, fishing of salmon is prohibited beyond 12 nautical miles from the baselines from which the breadth of the territorial sea is measured, except in the following areas:

(a) in the West Greenland Commission area, up to 40 nautical miles from the baselines; and

(b) in the North-East Atlantic Commission area, within the area of fisheries jurisdiction of the Faroe Islands.

3. The Parties shall invite the attention of any State not a Party to this Convention to any matter relating to the activities of the vessels of that State which appears to affect adversely the conservation, restoration, enhancement or rational management of salmon stocks subject to this Convention or the implementation of the Convention.

*Article 3*

1. There is hereby established an international organization that shall be known as the North Atlantic Salmon Conservation Organization, hereinafter referred to as the "Organization".

2. The objective of the Organization shall be to contribute through consultation and co-operation to the conservation, restoration, enhancement and rational management of salmon stocks subject to this Convention, taking into account the best scientific evidence available to it.

3. The Organization shall consist of:

- (a) a Council;
- (b) three regional Commissions:
  - a North American Commission,
  - a West Greenland Commission, and
  - a North-East Atlantic Commission;
- (c) a Secretary.

4. The areas of the Commissions shall be as follows:

- (a) North American Commission: maritime waters within areas of fisheries jurisdiction of coastal States off the east coast of North America;
- (b) West Greenland Commission: maritime waters within the area of fisheries jurisdiction off the coast of West Greenland west of a line drawn along 44° W longitude south to 59° N latitude, thence due east to 42° W longitude and thence due south; and
- (c) North-East Atlantic Commission: maritime waters east of the line referred to in subparagraph (b).

5. The Organization shall have legal personality and shall enjoy in the territories of the Parties and in its relations with other international organizations such legal capacity as may be necessary to perform its functions and achieve its ends. The immunities and privileges which the Organization, its officers and staff and representatives of the Parties shall enjoy in the territory of a State shall be subject to agreement between the Organization and the State concerned.

6. The official languages of the Organization shall be English and French.

7. The office of the Organization shall be at Edinburgh or at such other place as the Council may decide.

*Article 4*

1. The functions of the Council shall be:

- (a) to provide a forum for the study, analysis and exchange of information among the Parties on matters concerning the salmon stocks subject to this Convention, and on the achievement of the objective of the Convention;
- (b) to provide a forum for consultation and co-operation on matters concerning the salmon stocks in the North Atlantic Ocean beyond Commission areas;

(c) to facilitate the co-ordination of the activities of the Commissions and to co-ordinate the initiatives of the Parties under article 2, paragraph 3;

(d) to establish working arrangements with the International Council for the Exploration of the Sea and other appropriate fisheries and scientific organizations;

(e) to make recommendations to the Parties, the International Council for the Exploration of the Sea or other appropriate fisheries and scientific organizations concerning the undertaking of scientific research;

(f) to supervise and co-ordinate the administrative, financial and other internal affairs of the Organization, including the relations among its constituent bodies;

(g) to co-ordinate the external relations of the Organization; and

(h) to perform such other functions as are conferred on it by this Convention.

2. The Council shall have the authority to make recommendations to the Parties and the Commissions on matters concerning salmon stocks subject to this Convention, including the enforcement of laws and regulations, provided that no recommendation shall be made concerning the management of salmon harvests within the area of fisheries jurisdiction of a Party.

3. Notwithstanding paragraph 2, upon the specific request of a Commission, the Council shall have the authority to make recommendations to that Commission on regulatory measures which the Commission may propose pursuant to this Convention.

*Article 5*

1. Each Party shall be a member of the Council and may appoint to the Council not more than three representatives who may be accompanied at its meetings by experts and advisers.

2. The Council shall elect a President and Vice-President who shall serve for two years. They shall be eligible for re-election, provided that they do not serve for more than four years in succession in each office. The President and Vice-President shall not be representatives of the same Party.

3. The President of the Council shall be the principal representative of the Organization.

4. The President shall convene a regular annual meeting of the Council and the Commissions at a time and place determined by the Council.

5. Upon the request of a Party with the concurrence of another Party the President shall call meetings of the Council other than annual meetings at such time and place as the President may determine.

6. The Council shall submit to the Parties an annual report of the activities of the Organization.

#### Article 6

1. The Council shall adopt its rules of procedure.
2. Each member of the Council shall have one vote in its proceedings.
3. Except where otherwise provided, decisions of the Council shall be taken by a three-quarters majority of the votes of the members present and casting an affirmative or negative vote. No vote shall be taken unless two thirds of the members are present.

#### Article 7

1. The functions of the North American Commission with regard to its area shall be:
  - (a) to provide a forum for consultation and co-operation between the members:
    - (i) on matters related to minimizing catches in the area of fisheries jurisdiction of one member of salmon originating in the rivers of another Party,
    - (ii) in cases where activities undertaken or proposed by one member affect salmon originating in the rivers of the other member because, for example, of biological interactions;
  - (b) to propose regulatory measures for salmon fisheries under the jurisdiction of a member which harvest amounts of salmon significant to the other member in whose rivers that salmon originates, in order to minimize such harvests;
  - (c) to propose regulatory measures for salmon fisheries under the jurisdiction of a member which harvest amounts of salmon significant to another Party in whose rivers that salmon originates; and
  - (d) to make recommendations to the Council concerning the undertaking of scientific research.
2. Each member shall, with respect to its vessels and the area under its fisheries jurisdiction, take the measures necessary to minimize by-catches of salmon originating in the rivers of the other member.
3. Fishing patterns in salmon fisheries in the North American Commission area shall not be altered in a manner which results in the initiating of fishing or increase in catches of salmon originating in the rivers of another Party, except with the consent of the latter.

#### Article 8

The functions of the West Greenland Commission and the North-East Atlantic Commission with regard to their respective areas shall be:

- (a) to provide a forum for consultation and co-operation among the members concerning the conservation, restoration, enhancement and rational

management of salmon stocks subject to this Convention,

- (b) to propose regulatory measures for fishing in the area of fisheries jurisdiction of a member of salmon originating in the rivers of other Parties; and
- (c) to make recommendations to the Council concerning the undertaking of scientific research.

#### Article 9

In exercising the functions set out in articles 7 and 8, a Commission shall take into account:

- (a) the best available information, including advice from the International Council for the Exploration of the Sea and other appropriate scientific organizations;
- (b) measures taken and other factors, both inside and outside the Commission area, that affect the salmon stocks concerned;
- (c) the efforts of States of origin to implement and enforce measures for the conservation, restoration, enhancement and rational management of salmon stocks in their rivers and areas of fisheries jurisdiction, including measures referred to in article 15, paragraph 5 (b);
- (d) the extent to which the salmon stocks concerned feed in the areas of fisheries jurisdiction of the respective Parties;
- (e) the relative effects of harvesting salmon at different stages of their migration routes;
- (f) the contribution of Parties other than States of origin to the conservation of salmon stocks which migrate into their areas of fisheries jurisdiction by limiting their catches of such stocks or by other measures; and
- (g) the interests of communities which are particularly dependent on salmon fisheries.

#### Article 10

1. The Parties shall be members of the Commissions as follows:
  - (a) North American Commission: Canada and the United States of America;
  - (b) West Greenland Commission: Canada, the European Economic Community and the United States of America;
  - (c) North-East Atlantic Commission: Denmark in respect of the Faroe Islands, the European Economic Community, Iceland, Norway and Sweden.
2. At its first meeting the Council shall review and may by unanimous vote modify the membership of the West Greenland Commission.
3. A Party not mentioned in paragraph 1 (b) may, at the request and upon the unanimous decision of the Council, become a member of the West Greenland Commission or the North-East Atlantic Commission if it is a State of origin for significant

quantities of salmon occurring in the respective Commission area or if it exercises fisheries jurisdiction in that area.

4. Parties may participate as observers in the deliberations of a Commission of which they are not members.

5. Each member may appoint to a Commission not more than three representatives who may be accompanied at its meetings by experts and advisers.

6. Each Commission shall elect a Chairman and Vice-Chairman who shall serve for two years. They shall be eligible for re-election, provided that they not serve for more than four years in succession in each office. The Chairman and Vice-Chairman shall not be representatives of the same member.

7. Upon the request of a member of a Commission with the concurrence of another member the Chairman shall call meetings of the Commission other than annual meetings at such time and place as the Chairman may determine.

8. Each Commission shall, on a timely basis, make a report of its activities to the Council.

#### *Article 11*

1. Each Commission shall adopt its rules of procedure.

2. Each member of a Commission shall have one vote in its proceedings. In addition, in the case of the North American Commission, the European Economic Community shall have the right to submit and vote on proposals for regulatory measures concerning salmon stocks originating in the territories referred to in article 18. In the case of the North-East Atlantic Commission, Canada and the United States of America shall each have the right to submit and vote on proposals for regulatory measures concerning salmon stocks originating in the rivers of Canada or the United States of America, respectively, and occurring off East Greenland.

3. Decisions of a Commission shall be taken by the unanimous vote of those present and casting an affirmative or negative vote. No vote shall be taken unless two thirds of those entitled to vote on the matter concerned are present.

#### *Article 12*

1. The Council shall appoint a Secretary, who shall be the chief administrative officer of the Organization.

2. The functions of the Secretary shall be:

(a) to provide administrative services to the Organization;

(b) to compile and disseminate statistics and reports concerning the salmon stocks subject to this Convention; and

(c) to perform such functions as follow from other provisions of this Convention or as the Council may determine.

3. The Council shall determine the conditions of employment of the Secretary and staff.

4. The Secretary shall appoint the staff in accordance with staffing requirements approved by the Council. The staff shall be responsible to the Secretary, subject to the general supervision of the Council.

#### *Article 13*

1. The Secretary shall, without undue delay, notify the members of a Commission of any regulatory measure proposed by that Commission.

2. Subject to paragraph 3, a regulatory measure proposed by a Commission under article 7, paragraph 1 (b) or (c), or article 8, sub-paragraph (b), shall become binding on its members 60 days after the date specified in the Secretary's notification or, if a later date is determined by the Commission, on such date.

3. Any member in whose areas of fisheries jurisdiction a regulatory measure would apply may, within 60 days of the date specified in the Secretary's notification, lodge an objection to it. In this case the regulatory measure shall not become binding on any member. A member which has lodged an objection may at any time withdraw it. Thirty days after all objections are withdrawn the regulatory measure shall become binding, subject to paragraph 2.

4. After the expiration of one year from the date on which a regulatory measure becomes binding, any member in whose area of fisheries jurisdiction the regulatory measure applies may denounce it by written notice to the Secretary. The Secretary shall immediately inform the other members of such denunciation. The regulatory measure shall cease to be binding on all members 60 days after the date of receipt by the Secretary of the notice of denunciation or, if a later date is indicated by the member, on such date.

5. A Commission may propose an emergency regulatory measure having effect prior to the expiration of the 60-day period referred to in paragraph 2. The members shall make best efforts to implement the measure, unless there is an objection by a member within 30 days after the Commission has proposed it.

#### *Article 14*

1. Each Party shall ensure that such action is taken, including the imposition of adequate penalties for violation, as may be necessary to make effective the provisions of this Convention and to implement regulatory measures which become binding on it under article 13.

2. Each Party shall transmit to the Council an annual statement of the actions taken pursuant to paragraph 1. Such statement shall be sent to the Secretary not later than 60 days before the annual meeting of the Council.

#### Article 15

1. Each Party shall provide to the Council available catch statistics for salmon stocks subject to this Convention taken in its rivers and area of fisheries jurisdiction at such intervals as the Council may determine.

2. Each Party shall compile and provide to the Council such other statistics for salmon stocks subject to this Convention in its rivers and area of fisheries jurisdiction as required by the Council. The Council shall decide by unanimous vote the scope and form of such statistics and the intervals at which they shall be provided.

3. Each Party shall provide the Council with any other available scientific and statistical information which it requires for the purposes of this Convention.

4. Upon the request of the Council each Party shall provide to the Council copies of laws, regulations and programmes in force or, where appropriate, summaries thereof, relating to the conservation, restoration, enhancement and rational management of salmon stocks subject to this Convention in its rivers and area of fisheries jurisdiction.

5. Each year each Party shall notify the Council of:

(a) the adoption or repeal since its last notification of laws, regulations and programmes relating to the conservation, restoration, enhancement and rational management of salmon stocks subject to this Convention in its rivers and area of fisheries jurisdiction;

(b) any commitments by the responsible authorities concerning the adoption or maintenance in force for specified periods of time within its territory or area of fisheries jurisdiction of measures relating to the conservation, restoration, enhancement and rational management of salmon stocks subject to this Convention; and

(c) factors within its territory and area of fisheries jurisdiction which may significantly affect the abundance of salmon stocks subject to this Convention.

6. The notifications referred to in paragraph 5 (a) shall be sent to the Secretary not later than 60 days before the annual meeting of the Council. The notifications referred to in paragraph 5 (b) and (c) shall be sent to the Secretary as soon as practicable.

#### Article 16

1. The Council shall adopt an annual budget for the Organization. The Secretary shall transmit a draft budget to the Parties, together with a schedule of

contributions, not later than 60 days before the meeting of the Council at which the budget is to be considered.

2. The Council shall determine the annual contribution of each Party according to the following formula:

(a) 30% of the budget shall be divided equally among the Parties; and

(b) 70% of the budget shall be divided among the Parties in proportion to their nominal catches of salmon subject to this Convention in the calendar year ending not more than 18 months and not less than 6 months before the beginning of the financial year.

3. The Secretary shall notify each Party of its contribution. Contributions shall be paid not later than four months after the date of such notification.

4. Contributions shall be payable in the currency of the State in which the office of the Organization is located, unless the Council decides otherwise.

5. The contribution of a Party for which this Convention has entered into force during the course of a financial year shall for that year be a part of the annual contribution proportional to the number of complete months remaining in the year from the date of entry into force for that Party.

6. A Party which has not paid its contributions for two consecutive years shall not be entitled to vote under this Convention until it has fulfilled its obligations, unless the Council decides otherwise.

7. The financial affairs of the Organization shall be audited annually by external auditors to be selected by the Council.

#### Article 17

1. This Convention shall be open for signature at Reykjavik from 2 March to 31 August 1982 by Canada, Denmark in respect of the Faroe Islands, the European Economic Community, Iceland, Norway, Sweden and the United States of America.

2. This Convention shall be subject to ratification or approval.

3. This Convention shall be open for accession by the parties referred to in paragraph 1 and, subject to the approval of the Council, by any other State that exercises fisheries jurisdiction in the North Atlantic Ocean or is a State of origin for salmon stocks subject to this Convention.

4. Instruments of ratification, approval or accession shall be deposited with the Depositary.

5. This Convention shall enter into force on the first day of the month following the deposit of instruments of ratification, approval or accession by four Parties, provided that among the four Parties are two members of each Commission and that at least one of



the two members of each Commission exercises fisheries jurisdiction in the Commission area.

6. For each Party ratifying, approving or acceding to this Convention after the deposit of the requisite instruments of ratification, approval or accession under paragraph 5, it shall enter into force on the date of entry into force of the Convention or on the date of deposit of the instrument of ratification, approval or accession, whichever is the later.

7. The Depositary shall inform the signatories and acceding Parties of the deposit of all instruments of ratification, approval and accession and shall notify the signatories and acceding Parties of the date and the Parties in respect of which the Convention enters into force.

8. The Depositary shall call the first meeting of the Council and the Commissions as soon as practicable after the entry into force of this Convention.

#### *Article 18*

This Convention shall apply, insofar as the European Economic Community is concerned, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty.

#### *Article 19*

1. Any Party may propose amendments to this Convention to be considered by the Council. A proposed amendment shall be sent to the Secretary not later than 90 days before the meeting at which it is proposed to be considered. The Secretary shall immediately transmit the proposed amendment to the Parties.

2. The adoption of an amendment by the Council shall require the unanimous vote of the Parties present and casting an affirmative or negative vote. The text of an amendment so adopted shall be transmitted by the Secretary to the Depositary which shall immediately notify the Parties thereof.

3. An amendment shall enter into force for all Parties 30 days after the date specified in the notification by the Depositary of receipt from all Parties of instruments of ratification or approval.

4. A Party which becomes bound by this Convention after an amendment has entered into force in accordance with paragraph 3 shall be considered as a Party to the Convention as amended.

5. The Depositary shall immediately notify all Parties of the receipt of instruments of ratification or approval and the entry into force of amendments.

#### *Article 20*

1. Any Party may denounce this Convention with effect from 31 December of any year by giving notice to the Depositary on or before the preceding 30 June.

The Depositary shall immediately inform the other Parties of such denunciation.

2. Any other Party may denounce this Convention with effect from the same 31 December by giving notice to the Depositary within 30 days of the date on which the Depositary informed the Parties of a denunciation under paragraph 1.

#### *Article 21*

1. The original of this Convention shall be deposited with the Council of the European Communities, referred to in the Convention as the "Depositary", which shall transmit certified copies thereof to all signatories and acceding Parties.

2. The Depositary shall register this Convention in accordance with article 102 of the Charter of the United Nations.

## BENELUX CONVENTION ON NATURE CONSERVATION AND LANDSCAPE PROTECTION\* [25]

Brussels, 8 June 1982

The Government of the Kingdom of Belgium, the Government of the Grand Duchy of Luxembourg, the Government of the Kingdom of the Netherlands,

Considering that the Third Benelux Intergovernmental Conference, held in Brussels on 20 and 21 October 1975, decided that, within the framework of an active Benelux environmental policy, nature conservation, the preservation of natural areas and the protection of landscapes of value constitute a practical objective,

Having regard to the advice issued on 13 December 1980 by the Benelux Consultative Interparliamentary Council,

Have decided to conclude a Convention to this end and have agreed as follows:

### Article 1

1. The purpose of this Convention is to regulate concerted action and co-operation among the three Governments in the field of conservation, management and rehabilitation of the natural environment and landscapes.

2. For the purposes of this Convention, these terms shall have the following meaning:

- natural environment: the physical surroundings of man, including a-biotic (non-living) elements such as rocks, water and the atmosphere and biotic (living) elements embracing natural and semi-natural biocenoses including plants and animals in the wild states;
- natural area: an area in which the biocenoses are not, are no longer, or are only slightly influenced by human action, except where such action is intended to preserve or develop these biocenoses;
- landscape: a tangible part of the earth defined by the relation and interaction of various factors: soil, relief, water, climate, flora, fauna and man. Within a specified landscape unit, these phenomena give rise to a pattern resulting from the combination of natural, cultural, historical, functional and visual aspects. The landscape may be considered as a reflection of the attitude of the community to its natural environment and the way in which it acts on this environment;
- conservation, management and rehabilitation: passive or active measures intended to preserve or develop biological, cultural, historical and aesthetic values;

- transboundary park or area: a park or area lying across an intra-Benelux border.

### Article 2

To achieve the purposes referred to in article 1, the three Governments agree to co-operate in the following areas:

1. harmonization of relevant policy principles and instruments, to the extent that they deem necessary, and, in particular, the harmonization of laws and regulations governing the subject of this Convention;
2. information exchange and concerted action on new measures and new developments to align or co-ordinate the policies of each of the three countries with regard to transboundary natural areas and landscapes of value;
3. organization of co-ordinated information and education campaigns;
4. exchange of scientific data and, as appropriate, the conduct of joint research;
5. co-ordinated implementation of agreements concluded within a wider international framework.

### Article 3

To ensure effective protection of their transboundary natural areas and landscapes of value, the three Governments shall undertake or develop the following activities:

1. development of protection and management concepts for transboundary natural areas and landscapes of value, including transboundary parks, as well as areas of importance for migratory species; definition of criteria to be fulfilled by the aforesaid areas, their protection and management;
2. establishment of an inventory, demarcation and granting of protective status to the areas referred to in subparagraph 1, on which a decision has been taken in accordance with article 4 of the present Convention;
3. establishment of harmonious programmes for the management and protection of the areas referred to in subparagraph 1, on which a decision has been taken in accordance with article 4 of the present Convention;
4. regular concerted action with a view to implementing the programmes referred to in subparagraph 3 above;
5. reciprocal consultation on development projects involving the aforesaid transboundary areas and which might adversely affect them.

### Article 4

To achieve the objectives set forth in articles 2 and 3, the Committee of Ministers of the Benelux

\* Translation by UNEP Secretariat.

Economic Union shall take decisions, in conformity with article 18 of the Treaty for the Union and taking into account the particular circumstances of each country or part of a country. Such decisions shall be binding on the three Governments and shall be published in each of the three States in the form laid down for the publication of treaties.

#### *Article 5*

The three Governments shall take the measures required to implement the programmes referred to in article 3, subparagraph 3, apply them and, if necessary, adapt them.

#### *Article 6*

The Contracting Parties shall retain the right to adopt measures stricter than those provided for in this Convention.

#### *Article 7*

1. Each of the three Governments retains the right to authorize departures from the provisions of this Convention and to the decisions taken to implement it, subject to the prior approval of the Committee of Ministers recorded in a decision taken in conformity with article 4 of this Convention.

2. In the cases of emergency, however, and as long as there is no prejudice to the objectives of this Convention, each of the Governments may adopt and apply measures that depart from the provisions of this Convention, over a maximum period of three months, pending decision by the Committee of Ministers. The other Governments shall be informed of such provisional departure from this Convention through the Secretary-General of the Benelux Economic Union.

#### *Article 8*

In pursuance of article 1, paragraph 2, of the Treaty relating to the institution and statute of a Benelux Court of Justice, the provisions of this Convention shall be designated as common legal rules for the application of chapters III and IV of the aforesaid Treaty.

#### *Article 9*

In the case of the Kingdom of the Netherlands, the present Convention shall apply only to territory in Europe.

#### *Article 10*

1. This Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the Benelux Economic Union, who shall inform the Contracting Parties of the deposit of such instruments.

2. It shall enter into force on the first day of the second month following the date of deposit of the third instrument of ratification.

3. It shall remain in force for the same period as the Treaty instituting the Benelux Economic Union.

In witness whereof, the undersigned, duly authorized for the purpose, have signed this Convention.

Done at Brussels on 8 June 1982, in triplicate, in the Dutch and French languages, both texts being equally authentic.

## UNITED NATIONS CONVENTION ON THE LAW OF THE SEA [26]

Montego Bay, 10 December 1982

The States Parties to this Convention,

Prompted by the desire to settle, in a spirit of mutual understanding and co-operation, 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 sea-bed 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, co-operation 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 I: Introduction

#### Article 1

##### USE OF TERMS AND SCOPE

1. For the purposes of this Convention:

(1) "Area" means the sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction;

(2) "Authority" means the International Sea-Bed Authority;

(3) "activities in the Area" means all activities of exploration for, and exploitation of, the resources of the Area;

(4) "pollution of the marine environment" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

(5) (a) "dumping" means:

(i) any deliberate disposal of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

(ii) any deliberate disposal of vessels, aircraft, platforms or other man-made structures at sea;

(b) "dumping" does not include:

(i) The disposal 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 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.

2. (1) "States Parties" means States which have consented to be bound by this Convention and for which this Convention is in force.

(2) This Convention applies *mutatis mutandis* to the entities referred to in article 305, paragraph 1(b), (c), (d), (e) and (f), which become Parties to this Convention in accordance with the condition relevant to each, and to that extent "States Parties" refers to those entities.

**Part II: Territorial sea and contiguous zone****SECTION 1. GENERAL PROVISIONS***Article 2*

LEGAL STATUS OF THE TERRITORIAL SEA, OF THE AIR SPACE OVER THE TERRITORIAL SEA AND OF ITS BED AND SUBSOIL

1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.
2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.
3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law.

**SECTION 2. LIMITS OF THE TERRITORIAL SEA***Article 3*

BREADTH OF THE TERRITORIAL SEA

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention.

*Article 4*

OUTER LIMIT OF THE TERRITORIAL SEA

The outer limit of the territorial sea is the line every point of which is at a distance from the nearest point of the baseline equal to the breadth of the territorial sea.

*Article 5*

NORMAL BASELINE

Except where otherwise provided in this Convention, the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State.

*Article 6*

REEFS

In the case of islands situated on atolls or of islands having fringing reefs, the baseline for measuring the breadth of the territorial sea is the seaward low-water line of the reef, as shown by the appropriate symbol on charts officially recognized by the coastal State.

*Article 7*

STRAIGHT BASELINES

1. In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method

of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured.

2. Where because of the presence of a delta and other natural conditions the coastline is highly unstable, the appropriate points may be selected along the furthest seaward extent of the low-water line and, notwithstanding subsequent regression of the low-water line, the straight baselines shall remain effective until changed by the coastal State in accordance with this Convention.

3. The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the régime of internal waters.

4. Straight baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or except in instances where the drawing of baselines to and from such elevations has received general international recognition.

5. Where the method of straight baselines is applicable under paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.

6. The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone.

*Article 8*

INTERNAL WATERS

1. Except as provided in Part IV, waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State.

2. Where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters.

*Article 9*

MOUTHS OF RIVERS

If a river flows directly into the sea, the baseline shall be a straight line across the mouth of the river between points on the low-water line of its banks.

*Article 10*

BAYS

1. This article relates only to bays the coasts of which belong to a single State.

2. For the purposes of this Convention, a bay is a well-marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of the coast. An indentation shall not, however, be regarded as a bay unless its area is as large as, or larger than, that of the semi-circle whose diameter is a line drawn across the mouth of that indentation.

3. For the purpose of measurement, the area of an indentation is that lying between the low-water mark around the shore of the indentation and a line joining the low-water mark of its natural entrance points. Where, because of the presence of islands, an indentation has more than one mouth, the semi-circle shall be drawn on a line as long as the sum total of the lengths of the lines across the different mouths. Islands within an indentation shall be included as if they were part of the water area of the indentation.

4. If the distance between the low-water marks of the natural entrance points of a bay does not exceed 24 nautical miles, a closing line may be drawn between these two low-water marks, and the waters enclosed thereby shall be considered as internal waters.

5. Where the distance between the low-water marks of the natural entrance points of a bay exceeds 24 nautical miles, a straight baseline of 24 nautical miles shall be drawn within the bay in such a manner as to enclose the maximum area of water that is possible with a line of that length.

6. The foregoing provisions do not apply to so-called "historic" bays, or in any case where the system of straight baselines provided for in article 7 is applied.

#### *Article 11* PORTS

For the purpose of delimiting the territorial sea, the outermost permanent harbour works which form an integral part of the harbour system are regarded as forming part of the coast. Off-shore installations and artificial islands shall not be considered as permanent harbour works.

#### *Article 12* ROADSTEADS

Roadsteads which are normally used for the loading, unloading and anchoring of ships, and which would otherwise be situated wholly or partly outside the outer limit of the territorial sea, are included in the territorial sea.

#### *Article 13* LOW-TIDE ELEVATIONS

1. A low-tide elevation is a naturally formed area of land which is surrounded by and above water at low tide but submerged at high tide. Where a low-tide

elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the mainland or an island, the low-water line on that elevation may be used as the baseline for measuring the breadth of the territorial sea.

2. Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an island, it has no territorial sea of its own.

#### *Article 14* COMBINATION OF METHODS FOR DETERMINING BASELINES

The coastal State may determine baselines in turn by any of the methods provided for in the foregoing articles to suit different conditions.

#### *Article 15* DELIMITATION OF THE TERRITORIAL SEA BETWEEN STATES WITH OPPOSITE OR ADJACENT COASTS

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith.

#### *Article 16* CHARTS AND LISTS OF GEOGRAPHICAL CO-ORDINATES

1. The baselines for measuring the breadth of the territorial sea determined in accordance with articles 7, 9 and 10, or the limits derived therefrom, and the lines of delimitation drawn in accordance with articles 12 and 15 shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, a list of geographical co-ordinates of points, specifying the geodetic datum, may be substituted.

2. The coastal State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

### SECTION 3. INNOCENT PASSAGE IN THE TERRITORIAL SEA

#### SUBSECTION A. RULES APPLICABLE TO ALL SHIPS

##### Article 17

###### RIGHT OF INNOCENT PASSAGE

Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.

##### Article 18

###### MEANING OF PASSAGE

1. Passage means navigation through the territorial sea for the purpose of:

- (a) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or
- (b) proceeding to or from internal waters or a call at such roadstead or port facility.

2. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

##### Article 19

###### MEANING OF INNOCENT PASSAGE

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with this Convention and with other rules of international law.

2. Passage of a foreign ship shall be considered to be prejudicial to the peace, good order or security of the coastal State if in the territorial sea it engages in any of the following activities:

- (a) any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
- (b) any exercise or practice with weapons of any kind;
- (c) any act aimed at collecting information to the prejudice of the defence or security of the coastal State;
- (d) any act of propaganda aimed at affecting the defence or security of the coastal State;
- (e) the launching, landing or taking on board of any aircraft;
- (f) the launching, landing or taking on board of any military device;

(g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;

(h) any act of wilful and serious pollution contrary to this Convention;

(i) any fishing activities;

(j) the carrying out of research or survey activities;

(k) any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;

(l) any other activity not having a direct bearing on passage.

##### Article 20

###### SUBMARINES AND OTHER UNDERWATER VEHICLES

In the territorial sea, submarines and other underwater vehicles are required to navigate on the surface and to show their flag.

##### Article 21

###### LAWS AND REGULATIONS OF THE COASTAL STATE RELATING TO INNOCENT PASSAGE

1. The coastal State may adopt laws and regulations, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following:

- (a) the safety of navigation and the regulation of maritime traffic;
- (b) the protection of navigational aids and facilities and other facilities or installations;
- (c) the protection of cables and pipelines;
- (d) the conservation of the living resources of the sea;
- (e) the prevention of infringement of the fisheries laws and regulations of the coastal State;
- (f) the preservation of the environment of the coastal State and the prevention, reduction and control of pollution thereof;
- (g) marine scientific research and hydrographic surveys;
- (h) the prevention of infringement of the customs, fiscal, immigration or sanitary laws and regulations of the coastal State.

2. Such laws and regulations shall not apply to the design, construction, manning or equipment of foreign ships unless they are giving effect to generally accepted international rules or standards.

3. The coastal State shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of innocent passage through the territorial sea shall comply with all such laws and regulations and all generally

accepted international regulations relating to the prevention of collisions at sea.

#### Article 22

##### SEA LANES AND TRAFFIC SEPARATION SCHEMES IN THE TERRITORIAL SEA

1. The coastal State may, where necessary having regard to the safety of navigation, require foreign ships exercising the right of innocent passage through its territorial sea to use such sea lanes and traffic separation schemes as it may designate or prescribe for the regulation of the passage of ships.
2. In particular, tankers, nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances or materials may be required to confine their passage to such sea lanes.
3. In the designation of sea lanes and the prescription of traffic separation schemes under this article, the coastal State shall take into account:
  - (a) the recommendations of the competent international organization;
  - (b) any channels customarily used for international navigation;
  - (c) the special characteristics of particular ships and channels; and
  - (d) the density of traffic.
4. The coastal State shall clearly indicate such sea lanes and traffic separation schemes on charts to which due publicity shall be given.

#### Article 23

##### FOREIGN NUCLEAR-POWERED SHIPS AND SHIPS CARRYING NUCLEAR OR OTHER INHERENTLY DANGEROUS OR NOXIOUS SUBSTANCES

Foreign nuclear-powered ships and ships carrying nuclear or other inherently dangerous or noxious substances shall, when exercising the right of innocent passage through the territorial sea, carry documents and observe special precautionary measures established for such ships by international agreements.

#### Article 24

##### DUTIES OF THE COASTAL STATE

1. The coastal State shall not hamper the innocent passage of foreign ships through the territorial sea except in accordance with this Convention. In particular, in the application of this Convention or of any laws or regulations adopted in conformity with this Convention, the coastal State shall not:
  - (a) impose requirements on foreign ships which have the practical effect of denying or impairing the right of innocent passage; or
  - (b) discriminate in form or in fact against the ships of any State or against ships carrying cargoes to, from or on behalf of any State.

2. The coastal State shall give appropriate publicity to any danger to navigation, of which it has knowledge, within its territorial sea.

#### Article 25

##### RIGHTS OF PROTECTION OF THE COASTAL STATE

1. The coastal State may take the necessary steps in its territorial sea to prevent passage which is not innocent.
2. In the case of ships proceeding to internal waters or a call at a port facility outside internal waters, the coastal State also has the right to take the necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject.
3. The coastal State may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of its territorial sea the innocent passage of foreign ships if such suspension is essential for the protection of its security, including weapons exercises. Such suspension shall take effect only after having been duly published.

#### Article 26

##### CHARGES WHICH MAY BE LEVIED UPON FOREIGN SHIPS

1. No charge may be levied upon foreign ships by reason only of their passage through the territorial sea.
2. Charges may be levied upon a foreign ship passing through the territorial sea as payment only for specific services rendered to the ship. These charges shall be levied without discrimination.

##### SUBSECTION B. RULES APPLICABLE TO MERCHANT SHIPS AND GOVERNMENT SHIPS OPERATED FOR COMMERCIAL PURPOSES

#### Article 27

##### CRIMINAL JURISDICTION ON BOARD A FOREIGN SHIP

1. The criminal jurisdiction of the coastal State should not be exercised on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed on board the ship during its passage, save only in the following cases:
  - (a) if the consequences of the crime extend to the coastal State;
  - (b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea;
  - (c) if the assistance of the local authorities has been requested by the master of the ship or by a diplomatic agent or consular officer of the flag State; or



(d) if such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

2. The above provisions do not affect the right of the coastal State to take any steps authorized by its laws for the purpose of an arrest or investigation on board a foreign ship passing through the territorial sea after leaving internal waters.

3. In the cases provided for in paragraphs 1 and 2, the coastal State shall, if the master so requests, notify a diplomatic agent or consular officer of the flag State before taking any steps, and shall facilitate contact between such agent or officer and the ship's crew. In cases of emergency this notification may be communicated while the measures are being taken.

4. In considering whether or in what manner an arrest should be made, the local authorities shall have due regard to the interests of navigation.

5. Except as provided in part XII or with respect to violations of laws and regulations adopted in accordance with Part V, the coastal State may not take any steps on board a foreign ship passing through the territorial sea to arrest any person or to conduct any investigation in connection with any crime committed before the ship entered the territorial sea, if the ship, proceeding from a foreign port, is only passing through the territorial sea without entering internal waters.

#### Article 28

##### CIVIL JURISDICTION IN RELATION TO FOREIGN SHIPS

1. The coastal State should not stop or divert a foreign ship passing through the territorial sea for the purpose of exercising civil jurisdiction in relation to a person on board the ship.

2. The coastal State may not levy execution against or arrest the ship for the purpose of any civil proceedings, save only in respect of obligations or liabilities assumed or incurred by the ship itself in the course or for the purpose of its voyage through the waters of the coastal State.

3. Paragraph 2 is without prejudice to the right of the coastal State, in accordance with its laws, to levy execution against or to arrest, for the purpose of any civil proceedings, a foreign ship lying in the territorial sea, or passing through the territorial sea after leaving internal waters.

##### SUBSECTION C. RULES APPLICABLE TO WARSHIPS AND OTHER GOVERNMENT SHIPS OPERATED FOR NON-COMMERCIAL PURPOSES

#### Article 29

##### DEFINITION OF WARSHIPS

For the purposes of this Convention, "warship" means a ship belonging to the armed forces of a State

bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

#### Article 30

##### NON-COMPLIANCE BY WARSHIPS WITH THE LAWS AND REGULATIONS OF THE COASTAL STATE

If any warship does not comply with the laws and regulations of the coastal State concerning passage through the territorial sea and disregards any request for compliance therewith which is made to it, the coastal State may require it to leave the territorial sea immediately.

#### Article 31

##### RESPONSIBILITY OF THE FLAG STATE FOR DAMAGE CAUSED BY A WARSHIP OR OTHER GOVERNMENT SHIP OPERATED FOR NON-COMMERCIAL PURPOSES

The flag State shall bear international responsibility for any loss or damage to the coastal State resulting from the non-compliance by a warship or other government ship operated for non-commercial purposes with the laws and regulations of the coastal State concerning passage through the territorial sea or with the provisions of this Convention or other rules of international law.

#### Article 32

##### IMMUNITIES OF WARSHIPS AND OTHER GOVERNMENT SHIPS OPERATED FOR NON-COMMERCIAL PURPOSES

With such exceptions as are contained in subsection A and in articles 30 and 31, nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

#### SECTION 4. CONTIGUOUS ZONE

#### Article 33

##### CONTIGUOUS ZONE

1. In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to:

(a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea;

(b) punish infringement of the above laws and regulations committed within its territory or territorial sea.

2. The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breach of the territorial sea is measured.

### Part III: Straits used for international navigation

#### SECTION 1. GENERAL PROVISIONS

##### Article 34

###### LEGAL STATUS OF WATERS FORMING STRAITS USED FOR INTERNATIONAL NAVIGATION

1. The régime of passage through straits used for international navigation established in this Part shall not in other respects affect the legal status of the waters forming such straits or the exercise by the States bordering the straits of their sovereignty or jurisdiction over such waters and their air space, bed and subsoil.

2. The sovereignty or jurisdiction of the States bordering the straits is exercised subject to this Part and to other rules of international law.

##### Article 35

###### SCOPE OF THIS PART

Nothing in this Part affects:

(a) any areas of internal waters within a strait, except where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such;

(b) the legal status of the waters beyond the territorial seas of States bordering straits as exclusive economic zones or high seas; or

(c) the legal régime in straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits.

##### Article 36

###### HIGH SEAS ROUTES OR ROUTES THROUGH EXCLUSIVE ECONOMIC ZONES THROUGH STRAITS USED FOR INTERNATIONAL NAVIGATION

This Part does not apply to a strait used for international navigation if there exists through the strait a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics; in such routes, the other relevant Parts of this Convention, including the provisions regarding the freedoms of navigation and overflight, apply.

#### SECTION 2. TRANSIT PASSAGE

##### Article 37

###### SCOPE OF THIS SECTION

This section applies to straits which are used for international navigation between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

##### Article 38

###### RIGHT OF TRANSIT PASSAGE

1. In straits referred to in article 37, all ships and aircraft enjoy the right of transit passage, which shall not be impeded; except that, if the strait is formed by an island of a State bordering the strait and its mainland, transit passage shall not apply if there exists seaward of the island a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics.

2. Transit passage means the exercise in accordance with this Part of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. However, the requirement of continuous and expeditious transit does not preclude passage through the strait for the purpose of entering, leaving or returning from a State bordering the strait, subject to the conditions of entry to that State.

3. Any activity which is not an exercise of the right of transit passage through a strait remains subject to the other applicable provisions of this Convention.

##### Article 39

###### DUTIES OF SHIPS AND AIRCRAFT DURING TRANSIT PASSAGE

1. Ships and aircraft, while exercising the right of transit passage, shall:

(a) proceed without delay through or over the strait;

(b) refrain from any threat or use of force against the sovereignty, territorial integrity or political independence of States bordering the strait, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;

(c) refrain from any activities other than those incident to their normal modes of continuous and expeditious transit unless rendered necessary by *force majeure* or by distress;

(d) comply with other relevant provisions of this Part.

2. Ships in transit passage shall:

(a) comply with generally accepted international regulations, procedures and practices for safety at sea, including the International Regulations for Preventing Collisions at Sea;

(b) comply with generally accepted international regulations, procedures and practices for the prevention, reduction and control of pollution from ships.

3. Aircraft in transit passage shall:

(a) observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft; state aircraft will normally comply with such safety measures and will at all times operate with due regard for the safety of navigation;

(b) at all times monitor the radio frequency assigned by the competent internationally designated air traffic control authority or the appropriate international distress radio frequency.

#### Article 40

##### RESEARCH AND SURVEY ACTIVITIES

During transit passage, foreign ships, including marine scientific research and hydrographic survey ships, may not carry out any research or survey activities without the prior authorization of the States bordering straits.

#### Article 41

##### SEA LANES AND TRAFFIC SEPARATION SCHEMES IN STRAITS USED FOR INTERNATIONAL NAVIGATION

1. In conformity with this Part, States bordering straits may designate sea lanes and prescribe traffic separation schemes for navigation in straits where necessary to promote the safe passage of ships.
2. Such States may, when circumstances require, and after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by them.
3. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.
4. Before designating or substituting sea lanes or prescribing or substituting traffic separation schemes, States bordering straits shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the States bordering the straits, after which the States may designate, prescribe or substitute them.
5. In respect of a strait where sea lanes or traffic separation schemes through the waters of two or more States bordering the strait are being proposed, the States concerned shall co-operate in formulating proposals in consultation with the competent international organization.
6. States bordering straits shall clearly indicate all sea lanes and traffic separation schemes designated or prescribed by them on charts to which due publicity shall be given.
7. Ships in transit passage shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

#### Article 42

##### LAWS AND REGULATIONS OF STATES BORDERING STRAITS RELATING TO TRANSIT PASSAGE

1. Subject to the provisions of this section, States bordering straits may adopt laws and regulations relating to transit passage through straits, in respect of all or any of the following:

- (a) the safety of navigation and the regulation of maritime traffic, as provided in article 41;
- (b) the prevention, reduction and control of pollution, by giving effect to applicable international regulations regarding the discharge of oil, oily wastes and other noxious substances in the strait;
- (c) with respect to fishing vessels, the prevention of fishing, including the stowage of fishing gear;
- (d) the loading or unloading of any commodity, currency or person in contravention of the customs, fiscal, immigration or sanitary laws and regulations of States bordering straits.

2. Such laws and regulations shall not discriminate in form or in fact among foreign ships or in their application have the practical effect of denying, hampering or impairing the right of transit passage as defined in this section.

3. States bordering straits shall give due publicity to all such laws and regulations.

4. Foreign ships exercising the right of transit passage shall comply with such laws and regulations.

5. The flag State of a ship or the State of registry of an aircraft entitled to sovereign immunity which acts in a manner contrary to such laws and regulations or other provisions of this Part shall bear international responsibility for any loss or damage which results to States bordering straits.

#### Article 43

##### NAVIGATIONAL AND SAFETY AIDS AND OTHER IMPROVEMENTS AND THE PREVENTION, REDUCTION AND CONTROL OF POLLUTION

User States and States bordering a strait should by agreement co-operate;

- (a) in the establishment and maintenance in a strait of necessary navigational and safety aids or other improvements in aid of international navigation; and
- (b) for the prevention, reduction and control of pollution from ships.

#### Article 44

##### DUTIES OF STATES BORDERING STRAITS

States bordering straits shall not hamper transit passage and shall give appropriate publicity to any danger to navigation or overflight within or over the strait of which they have knowledge. There shall be no suspension of transit passage.

## SECTION 3. INNOCENT PASSAGE

*Article 45*

## INNOCENT PASSAGE

1. The régime of innocent passage, in accordance with Part II, section 3, shall apply in straits used for international navigation:

- (a) excluded from the application of the régime of transit passage under article 38, paragraph 1; or
- (b) between a part of the high seas or an exclusive economic zone and the territorial sea of a foreign State.

2. There shall be no suspension of innocent passage through such straits.

**Part IV: Archipelagic States***Article 46*

## USE OF TERMS

For the purposes of this Convention:

- (a) "archipelagic State" means a State constituted wholly by one or more archipelagos and may include other islands;
- (b) "archipelago" means a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

*Article 47*

## ARCHIPELAGIC BASELINES

1. An archipelagic State may draw straight archipelagic baselines joining the outermost points of the outermost islands and drying reefs of the archipelago provided that within such baselines are included the main islands and an area in which the ratio of the area of the water to the area of the land, including atolls, is between 1 to 1 and 9 to 1.

2. The length of such baselines shall not exceed 100 nautical miles, except that up to 3 per cent of the total number of baselines enclosing any archipelago may exceed that length, up to a maximum length of 125 nautical miles.

3. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

4. Such baselines shall not be drawn to and from low-tide elevations, unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

5. The system of such baselines shall not be applied by an archipelagic State in such a manner as to cut off from the high seas or the exclusive economic zone the territorial sea of another State.

6. If a part of the archipelagic waters of an archipelagic State lies between two parts of an immediately adjacent neighbouring State, existing rights and all other legitimate interests which the latter State has traditionally exercised in such waters and all rights stipulated by agreement between those States shall continue and be respected.

7. For the purpose of computing the ratio of water to land under paragraph 1, land areas may include waters lying within the fringing reefs of islands and atolls, including that part of a steep-sided oceanic plateau which is enclosed or nearly enclosed by a chain of limestone islands and drying reefs lying on the perimeter of the plateau.

8. The baselines drawn in accordance with this article shall be shown on charts of a scale or scales adequate for ascertaining their position. Alternatively, lists of geographical co-ordinates of points, specifying the geodetic datum, may be substituted.

9. The archipelagic State shall give due publicity to such charts or lists of geographical co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

*Article 48*

## MEASUREMENT OF THE BREADTH OF THE TERRITORIAL SEA, THE CONTIGUOUS ZONE, THE EXCLUSIVE ECONOMIC ZONE AND THE CONTINENTAL SHELF

The breadth of the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall be measured from archipelagic baselines drawn in accordance with article 47.

*Article 49*

## LEGAL STATUS OF ARCHIPELAGIC WATERS, OF THE AIR SPACE OVER ARCHIPELAGIC WATERS AND OF THEIR BED AND SUBSOIL

1. The sovereignty of an archipelagic State extends to the waters enclosed by the archipelagic baselines drawn in accordance with article 47, described as archipelagic waters, regardless of their depth or distance from the coast.

2. This sovereignty extends to the air space over the archipelagic waters, as well as to their bed and subsoil, and the resources contained therein.

3. This sovereignty is exercised subject to this Part.

4. The régime of archipelagic sea lanes passage established in this Part shall not in other respects affect the status of the archipelagic waters, including the sea lanes, or the exercise by the archipelagic State

of its sovereignty over such waters and their air space, bed and subsoil, and the resources contained therein.

#### Article 50

##### DELIMITATION OF INTERNAL WATERS

Within its archipelagic waters, the archipelagic State may draw closing lines for the delimitation of internal waters, in accordance with articles 9, 10 and 11.

#### Article 51

##### EXISTING AGREEMENTS, TRADITIONAL FISHING RIGHTS AND EXISTING SUBMARINE CABLES

1. Without prejudice to article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighbouring States in certain areas falling within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third States or their nationals.

2. An archipelagic State shall respect existing submarine cables laid by other States and passing through its waters without making a landfall. An archipelagic State shall permit the maintenance and replacement of such cables upon receiving due notice of their location and the intention to repair or replace them.

#### Article 52

##### RIGHT OF INNOCENT PASSAGE

1. Subject to article 53 and without prejudice to article 50, ships of all States enjoy the right of innocent passage through archipelagic waters, in accordance with Part II, section 3.

2. The archipelagic State may, without discrimination in form or in fact among foreign ships, suspend temporarily in specified areas of its archipelagic waters the innocent passage of foreign ships if such suspension is essential for the protection of its security. Such suspension shall take effect only after having been duly published.

#### Article 53

##### RIGHT OF ARCHIPELAGIC SEA LANES PASSAGE

1. An archipelagic State may designate sea lanes and air routes thereabove, suitable for the continuous and expeditious passage of foreign ships and aircraft through or over its archipelagic waters and the adjacent territorial sea.

2. All ships and aircraft enjoy the right of archipelagic sea lanes passage in such sea lanes and air routes.

3. Archipelagic sea lanes passage means the exercise in accordance with this Convention of the rights of navigation and overflight in the normal mode solely for the purpose of continuous, expeditious and unobstructed transit between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone.

4. Such sea lanes and air routes shall traverse the archipelagic waters and the adjacent territorial sea and shall include all normal passage routes used as routes for international navigation or overflight through or over archipelagic waters and, within such routes, so far as ships are concerned, all normal navigational channels, provided that duplication of routes of similar convenience between the same entry and exit points shall not be necessary.

5. Such sea lanes and air routes shall be defined by a series of continuous axis lines from the entry points of passage routes to the exit points. Ships and aircraft in archipelagic sea lanes passage shall not deviate more than 25 nautical miles to either side of such axis lines during passage, provided that such ships and aircraft shall not navigate closer to the coasts than 10 per cent of the distance between the nearest points on islands bordering the sea lane.

6. An archipelagic State which designates sea lanes under this article may also prescribe traffic separation schemes for the safe passage of ships through narrow channels in such sea lanes.

7. An archipelagic State may, when circumstances require, after giving due publicity thereto, substitute other sea lanes or traffic separation schemes for any sea lanes or traffic separation schemes previously designated or prescribed by it.

8. Such sea lanes and traffic separation schemes shall conform to generally accepted international regulations.

9. In designating or substituting sea lanes or prescribing or substituting traffic separation schemes, an archipelagic State shall refer proposals to the competent international organization with a view to their adoption. The organization may adopt only such sea lanes and traffic separation schemes as may be agreed with the archipelagic State, after which the archipelagic State may designate, prescribe or substitute them.

10. The archipelagic State shall clearly indicate the axis of the sea lanes and the traffic separation schemes designated or prescribed by it on charts to which due publicity shall be given.

11. Ships in archipelagic sea lanes passage shall respect applicable sea lanes and traffic separation schemes established in accordance with this article.

12. If an archipelagic State does not designate sea lanes or air routes, the right of archipelagic sea lanes

passage may be exercised through the routes normally used for international navigation.

#### Article 54

DUTIES OF SHIPS AND AIRCRAFT DURING THEIR PASSAGE, RESEARCH AND SURVEY ACTIVITIES, DUTIES OF THE ARCHIPELAGIC STATE AND LAWS AND REGULATIONS OF THE ARCHIPELAGIC STATE RELATING TO ARCHIPELAGIC SEA LANES PASSAGE

Articles 39, 40, 42 and 44 apply *mutatis mutandis* to archipelagic sea lanes passage.

### Part V: Exclusive economic zone

#### Article 55

SPECIFIC LEGAL RÉGIME OF THE EXCLUSIVE ECONOMIC ZONE

The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal régime 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 sea-bed and of the sea-bed 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 sea-bed 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 co-operate 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 co-operative 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 co-ordinate 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 co-operate 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 co-operate 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 co-operate 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 co-operate 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 co-operate 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 States;

(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 co-operate 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 States;

(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 co-operate 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 co-operation, 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 CO-ORDINATES

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 co-ordinates 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 co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations.

**Part VI: Continental shelf***Article 76*

## DEFINITION OF THE CONTINENTAL SHELF

1. The continental shelf of a coastal State comprises the sea-bed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

2. The continental shelf of a coastal State shall not extend beyond the limits provided for in paragraphs 4 to 6.

3. The continental margin comprises the submerged prolongation of the land mass of the coastal State, and consists of the sea-bed and subsoil of the shelf, the slope and the rise. It does not include the deep ocean floor with its oceanic ridges or the subsoil thereof.

4. (a) For the purposes of this Convention, the coastal State shall establish the outer edge of the continental margin wherever the margin extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by either:

(i) a line delineated in accordance with paragraph 7 by reference to the outermost fixed points at each of which the thickness of sedimentary rocks is at least 1 per cent of the shortest distance

from such point to the foot of the continental slope;  
or

(ii) a line delineated in accordance with paragraph 7 by reference to fixed points not more than 60 nautical miles from the foot of the continental slope.

(b) In the absence of evidence to the contrary, the foot of the continental slope shall be determined as the point of maximum change in the gradient at its base.

5. The fixed points comprising the line of the outer limits of the continental shelf on the sea-bed, drawn in accordance with paragraph 4 (a)(i) and (ii), either shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured or shall not exceed 100 nautical miles from the 2,500 metre isobath, which is a line connecting the depth of 2,500 metres.

6. Notwithstanding the provisions of paragraph 5, on submarine ridges, the outer limit of the continental shelf shall not exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured. This paragraph does not apply to submarine elevations that are natural components of the continental margin, such as its plateaux, rises, caps, banks and spurs.

7. The coastal State shall delineate the outer limits of its continental shelf, where that shelf extends beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, by straight lines not exceeding 60 nautical miles in length, connecting fixed points, defined by co-ordinates of latitude and longitude.

8. Information on the limits of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured shall be submitted by the coastal State to the Commission on the Limits of the Continental Shelf set up under Annex II on the basis of equitable geographical representation. The Commission shall make recommendations to coastal States on matters related to the establishment of the outer limits of their continental shelf. The limits of the shelf established by a coastal State on the basis of these recommendations shall be final and binding.

9. The coastal State shall deposit with the Secretary-General of the United Nations charts and relevant information, including geodetic data, permanently describing the outer limits of its continental shelf. The Secretary-General shall give due publicity thereto.

10. The provisions of this article are without prejudice to the question of delimitation of the continental shelf between States with opposite or adjacent coasts.

#### Article 77

##### RIGHTS OF THE COASTAL STATE OVER THE CONTINENTAL SHELF

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal State.

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in this Part consist of the mineral and other non-living resources of the sea-bed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the subsoil.

#### Article 78

##### LEGAL STATUS OF THE SUPERJACENT WATERS AND AIR SPACE AND THE RIGHTS AND FREEDOMS OF OTHER STATES

1. The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters.

2. The exercise of the rights of the coastal State over the continental shelf must not infringe or result in any unjustifiable interference with navigation and other rights and freedoms of other States as provided for in this Convention.

#### Article 79

##### SUBMARINE CABLES AND PIPELINES ON THE CONTINENTAL SHELF

1. All States are entitled to lay submarine cables and pipelines on the continental shelf, in accordance with the provisions of this article.

2. Subject to its right to take reasonable measures for the exploration of the continental shelf, the exploitation of its natural resources and the prevention, reduction and control of pollution from pipelines, the coastal State may not impede the laying or maintenance of such cables or pipelines.

3. The delineation of the course for the laying of such pipelines on the continental shelf is subject to the consent of the coastal State.

4. Nothing in this Part affects the right of the coastal State to establish conditions for cables or pipelines entering its territory or territorial sea, or its

jurisdiction over cables and pipelines constructed or used in connection with the exploration of its continental shelf or exploitation of its resources or the operations of artificial islands, installations and structures under its jurisdiction.

5. When laying submarine cables or pipelines, States shall have due regard to cables or pipelines already in position. In particular, possibilities of repairing existing cables or pipelines shall not be prejudiced.

#### Article 80

##### ARTIFICIAL ISLANDS, INSTALLATIONS AND STRUCTURES ON THE CONTINENTAL SHELF

Article 60 applies *mutatis mutandis* to artificial islands, installations and structures on the continental shelf.

#### Article 81

##### DRILLING ON THE CONTINENTAL SHELF

The coastal State shall have the exclusive right to authorize and regulate drilling on the continental shelf for all purposes.

#### Article 82

##### PAYMENTS AND CONTRIBUTIONS WITH RESPECT TO THE EXPLOITATION OF THE CONTINENTAL SHELF BEYOND 200 NAUTICAL MILES

1. The coastal State shall make payments or contributions in kind in respect of the exploitation of the non-living resources of the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

2. The payments and contributions shall be made annually with respect to all production at a site after the first five years of production at that site. For the sixth year, the rate of payment or contribution shall be 1 per cent of the value or volume of production at the site. The rate shall increase by 1 per cent for each subsequent year until the twelfth year and shall remain at 7 per cent thereafter. Production does not include resources used in connection with exploitation.

3. A developing State which is a net importer of a mineral resource produced from its continental shelf is exempt from making such payments or contributions in respect of that mineral resource.

4. The payments or contributions shall be made through the Authority, which shall distribute them to States Parties to this Convention, on the basis of equitable sharing criteria, taking into account the interests and needs of the developing States, particularly the least developed and the land-locked among them.

#### Article 83

##### DELIMITATION OF THE CONTINENTAL SHELF BETWEEN STATES WITH OPPOSITE OR ADJACENT COASTS

1. The delimitation of the continental shelf 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 co-operation, 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 continental shelf shall be determined in accordance with the provisions of that agreement.

#### Article 84

##### CHARTS AND LISTS OF GEOGRAPHICAL CO-ORDINATES

1. Subject to this Part, the outer limit lines of the continental shelf and the lines of delimitation drawn in accordance with article 83 shall be shown on charts of a scale or scales adequate for ascertaining their position. Where appropriate, lists of geographical co-ordinates 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 co-ordinates and shall deposit a copy of each such chart or list with the Secretary-General of the United Nations and, in the case of those showing the outer limit lines of the continental shelf, with the Secretary-General of the Authority.

#### Article 85

##### TUNNELLING

This Part does not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling, irrespective of the depth of water above the subsoil.

## 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 appropriate intervals, 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 co-operate 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 co-operate 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 CO-OPERATE IN THE REPRESSION OF PIRACY

All States shall co-operate 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 co-operate 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 co-operation of other States to suppress such traffic.

*Article 109*

## UNAUTHORIZED BROADCASTING FROM THE HIGH SEAS

1. All States shall co-operate 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 States 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 alia*, 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 co-operate 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

##### CO-OPERATION OF STATES IN THE CONSERVATION AND MANAGEMENT OF LIVING RESOURCES

States shall co-operate 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, co-operate 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 VIII: Régime of islands

#### Article 121

##### RÉGIME OF ISLANDS

1. An island is a naturally formed area of land, surrounded by water, which is above water at high tide.

2. Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.

3. Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.

### Part IX: Enclosed or semi-enclosed seas

#### Article 122

##### DEFINITION

For the purposes of this Convention, "enclosed or semi-enclosed sea" means a gulf, basin, or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.

#### Article 123

##### CO-OPERATION OF STATES BORDERING ENCLOSED OR SEMI-ENCLOSED SEAS

States bordering an enclosed or semi-enclosed sea should co-operate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization:

(a) to co-ordinate the management, conservation, exploration and exploitation of the living resources of the sea;

(b) to co-ordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment;

(c) to co-ordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;

(d) to invite, as appropriate, other interested States or international organizations to co-operate with them in furtherance of the provisions of this article.

### Part X: Right of access of land-locked States to and from the sea and freedom of transit

#### Article 124

##### USE OF TERMS

1. For the purposes of this Convention:

(a) "land-locked State" means a State which has no sea-coast;

(b) "transit State" means a State, with or without a sea-coast, situated between a land-locked State and the sea, through whose territory traffic in transit passes;

(c) "traffic in transit" means transit of persons, baggage, goods and means of transport across the territory of one or more transit States, when the passage across such territory, with or without transshipment, warehousing, breaking bulk or change in the mode of transport, is only a portion of a complete journey which begins or terminates within the territory of the land-locked State;

(d) "means of transport" means:

(i) railway rolling stock, sea, lake and river craft and road vehicles;

(ii) where local conditions so require, porters and pack animals.

2. Land-locked States and transit States may, by agreement between them, include as means of transport pipelines and gas lines and means of transport other than those included in paragraph 1.

#### Article 125

##### RIGHT OF ACCESS TO AND FROM THE SEA AND FREEDOM OF TRANSIT

1. Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in this Convention including those relating to the freedom of the high seas and the common heritage of mankind. To this end, land-locked States shall enjoy freedom of transit through the territory of transit States by all means of transport.

2. The terms and modalities for exercising freedom of transit shall be agreed between the land-locked States and transit States concerned through bilateral, subregional or regional agreements.

3. Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all measures necessary to ensure that the rights and facilities provided for in this Part for land-locked States shall in no way infringe their legitimate interests.

**Article 126**

## EXCLUSION OF APPLICATION OF THE MOST-FAVOURLED-NATION CLAUSE

The provisions of this Convention, as well as special agreements relating to the exercise of the right of access to and from the sea, establishing rights and facilities on account of the special geographical position of land-locked States, are excluded from the application of the most-favoured-nation clause.

**Article 127**

## CUSTOMS DUTIES, TAXES AND OTHER CHARGES

1. Traffic in transit shall not be subject to any customs duties, taxes or other charges except charges levied for specific services rendered in connection with such traffic.

2. Means of transport in transit and other facilities provided for and used by land-locked States shall not be subject to taxes or charges higher than those levied for the use of means of transport of the transit State.

**Article 128**

## FREE ZONES AND OTHER CUSTOMS FACILITIES

For the convenience of traffic in transit, free zones or other customs facilities may be provided at the ports of entry and exit in the transit States, by agreement between those States and the land-locked States.

**Article 129**

## CO-OPERATION IN THE CONSTRUCTION AND IMPROVEMENT OF MEANS OF TRANSPORT

Where there are no means of transport in transit States to give effect to the freedom of transit or where the existing means, including the port installations and equipment, are inadequate in any respect, the transit States and land-locked States concerned may co-operate in constructing or improving them.

**Article 130**

## MEASURES TO AVOID OR ELIMINATE DELAYS OR OTHER DIFFICULTIES OF A TECHNICAL NATURE IN TRAFFIC IN TRANSIT

1. Transit States shall take all appropriate measures to avoid delays or other difficulties of a technical nature in traffic in transit.

2. Should such delays or difficulties occur, the competent authorities of the transit States and land-locked States concerned shall co-operate towards their expeditious elimination.

**Article 131**

## EQUAL TREATMENT IN MARITIME PORTS

Ships flying the flag of land-locked States shall enjoy treatment equal to that accorded to other foreign ships in maritime ports.

**Article 132**

## GRANT OF GREATER TRANSIT FACILITIES

This Convention does not entail in any way the withdrawal of transit facilities which are greater than those provided for in this Convention and which are agreed between States Parties to this Convention or granted by a State Party. This Convention also does not preclude such grant of greater facilities in the future.

**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, 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 thereto 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 thereto 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 co-operate 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 land-locked 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 co-operation 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 cooperate 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 of those 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 case of 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 thereunder 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 régime 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 thereto which will lead to the improvement of the operation of the régime.

*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 régime 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 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;

(d) 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;

(e) 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); (l); (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;
- (o) (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 be taken 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 functions of supervision and inspection.



## 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;
- (e) voluntary contributions made by members or other entities; and
- (f) 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(l).

##### 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 auditor 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 sea-bed 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, operations 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 CO-OPERATION

#### Article 197

##### CO-OPERATION ON A GLOBAL OR REGIONAL BASIS

States shall co-operate 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 co-operate, 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 co-operate, 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 co-operate, 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 SEA-BED 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 sea-bed 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 1. 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 routing 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 co-operative 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 co-operative 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 co-operative 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 SEA-BED 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 sea-bed 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 co-operation 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, 6 and 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 co-operate 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 obligations 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 régime 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 co-operate 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 XIII: Marine scientific research

### SECTION 1. GENERAL PROVISIONS

#### Article 238

##### RIGHT TO CONDUCT MARINE SCIENTIFIC RESEARCH

All States, irrespective of their geographical location, and competent international organizations have the right to conduct marine scientific research subject to the rights and duties of other States as provided for in this Convention.

#### Article 239

##### PROMOTION OF MARINE SCIENTIFIC RESEARCH

States and competent international organizations shall promote and facilitate the development and conduct of marine scientific research in accordance with this Convention.

*Article 240*

## GENERAL PRINCIPLES FOR THE CONDUCT OF MARINE SCIENTIFIC RESEARCH

In the conduct of marine scientific research the following principles shall apply:

- (a) marine scientific research shall be conducted exclusively for peaceful purposes;
- (b) marine scientific research shall be conducted with appropriate scientific methods and means compatible with this Convention;
- (c) marine scientific research shall not unjustifiably interfere with other legitimate uses of the sea compatible with this Convention and shall be duly respected in the course of such uses;
- (d) marine scientific research shall be conducted in compliance with all relevant regulations adopted in conformity with this Convention including those for the protection and preservation of the marine environment.

*Article 241*

## NON-RECOGNITION OF MARINE SCIENTIFIC RESEARCH ACTIVITIES AS THE LEGAL BASIS FOR CLAIMS

Marine scientific research activities shall not constitute the legal basis for any claim to any part of the marine environment or its resources.

## SECTION 2. INTERNATIONAL CO-OPERATION

*Article 242*

## PROMOTION OF INTERNATIONAL CO-OPERATION

1. States and competent international organizations shall, in accordance with the principle of respect for sovereignty and jurisdiction and on the basis of mutual benefit, promote international co-operation in marine scientific research for peaceful purposes.
2. In this context, without prejudice to the rights and duties of States under this Convention, a State, in the application of this Part, shall provide, as appropriate, other States with a reasonable opportunity to obtain from it, or with its co-operation, information necessary to prevent and control damage to the health and safety of persons and to the marine environment.

*Article 243*

## CREATION OF FAVOURABLE CONDITIONS

States and competent international organizations shall co-operate, through the conclusion of bilateral and multilateral agreements, to create favourable conditions for the conduct of marine scientific research in the marine environment and to integrate the efforts of scientists in studying the essence of phenomena and processes occurring in the marine environment and the interrelations between them.

*Article 244*

## PUBLICATION AND DISSEMINATION OF INFORMATION AND KNOWLEDGE

1. States and competent international organizations shall, in accordance with this Convention, make available by publication and dissemination through appropriate channels information on proposed major programmes and their objectives as well as knowledge resulting from marine scientific research.
2. For this purpose, States, both individually and in co-operation with other States and with competent international organizations, shall actively promote the flow of scientific data and information and the transfer of knowledge resulting from marine scientific research, especially to developing States, as well as the strengthening of the autonomous marine scientific research capabilities of developing States through, *inter alia*, programmes to provide adequate education and training of their technical and scientific personnel.

## SECTION 3. CONDUCT AND PROMOTION OF MARINE SCIENTIFIC RESEARCH

*Article 245*

## MARINE SCIENTIFIC RESEARCH IN THE TERRITORIAL SEA

Coastal States, in the exercise of their sovereignty, have the exclusive right to regulate, authorize and conduct marine scientific research in their territorial sea. Marine scientific research therein shall be conducted only with the express consent of and under the conditions set forth by the coastal State.

*Article 246*

## MARINE SCIENTIFIC RESEARCH IN THE EXCLUSIVE ECONOMIC ZONE AND ON THE CONTINENTAL SHELF

1. Coastal States, in the exercise of their jurisdiction, have the right to regulate, authorize and conduct marine scientific research in their exclusive economic zone and on their continental shelf in accordance with the relevant provisions of this Convention.
2. Marine scientific research in the exclusive economic zone and on the continental shelf shall be conducted with the consent of the coastal State.
3. Coastal States shall, in normal circumstances, grant their consent for marine scientific research projects by other States or competent international organizations in their exclusive economic zone or on their continental shelf to be carried out in accordance with this Convention exclusively for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all mankind. To this end, coastal States shall establish rules and procedures ensuring that such consent will not be delayed or denied unreasonably.

4. For the purposes of applying paragraph 3, normal circumstances may exist in spite of the absence of diplomatic relations between the coastal State and the researching State.

5. Coastal States may however in their discretion withhold their consent to the conduct of a marine scientific research project of another State or competent international organization in the exclusive economic zone or on the continental shelf of the coastal State if that project:

(a) is of direct significance for the exploration and exploitation of natural resources, whether living or non-living;

(b) involves drilling into the continental shelf, the use of explosives or the introduction of harmful substances into the marine environment;

(c) involves the construction, operation or use of artificial islands, installations and structures referred to in articles 60 and 80;

(d) contains information communicated pursuant to article 248 regarding the nature and objectives of the project which is inaccurate or if the researching State or competent international organization has outstanding obligations to the coastal State from a prior research project.

6. Notwithstanding the provisions of paragraph 5, coastal States may not exercise their discretion to withhold consent under subparagraph (a) of that paragraph in respect of marine scientific research projects to be undertaken in accordance with the provisions of this Part on the continental shelf, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, outside those specific areas which coastal States may at any time publicly designate as areas in which exploitation or detailed exploratory operations focused on those areas are occurring or will occur within a reasonable period of time. Coastal States shall give reasonable notice of the designation of such areas, as well as any modifications thereto, but shall not be obliged to give details of the operations therein.

7. The provisions of paragraph 6 are without prejudice to the rights of coastal States over the continental shelf as established in article 77.

8. Marine scientific research activities referred to in this article shall not unjustifiably interfere with activities undertaken by coastal States in the exercise of their sovereign rights and jurisdiction provided for in this Convention.

#### Article 247

##### MARINE SCIENTIFIC RESEARCH PROJECTS UNDERTAKEN BY OR UNDER THE AUSPICES OF INTERNATIONAL ORGANIZATIONS

A coastal State which is a member of or has a bilateral agreement with an international organization, and in whose exclusive economic zone or on whose continental shelf that organization wants

to carry out a marine scientific research project, directly or under its auspices, shall be deemed to have authorized the project to be carried out in conformity with the agreed specifications if that State approved the detailed project when the decision was made by the organization for the undertaking of the project, or is willing to participate in it, and has not expressed any objection within four months of notification of the project by the organization to the coastal State.

#### Article 248

##### DUTY TO PROVIDE INFORMATION TO THE COASTAL STATE

States and competent international organizations which intend to undertake marine scientific research in the exclusive economic zone or on the continental shelf of a coastal State shall, not less than six months in advance of the expected starting date of the marine scientific research project, provide that State with a full description of:

(a) the nature and objectives of the project;

(b) the method and means to be used, including name, tonnage, type and class of vessels and a description of scientific equipment;

(c) the precise geographical areas in which the project is to be conducted;

(d) the expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate;

(e) the name of the sponsoring institution, its director, and the person in charge of the project; and

(f) the extent to which it is considered that the coastal State should be able to participate or to be represented in the project.

#### Article 249

##### DUTY TO COMPLY WITH CERTAIN CONDITIONS

1. States and competent international organizations when undertaking marine scientific research in the exclusive economic zone or on the continental shelf of a coastal State shall comply with the following conditions:

(a) ensure the right of the coastal State, if it so desires, to participate or be represented in the marine scientific research project, especially on board research vessels and other craft or scientific research installations, when practicable, without payment of any remuneration to the scientists of the coastal State and without obligation to contribute towards the costs of the project;

(b) provide the coastal State, at its request, with preliminary reports, as soon as practicable, and with the final results and conclusions after the completion of the research;

(c) undertake to provide access for the coastal State, at its request, to all data and samples derived from the marine scientific research project and likewise to furnish it with data which may be copied



and samples which may be divided without detriment to their scientific value;

(d) if requested, provide the coastal State with an assessment of such data, samples and research results or provide assistance in their assessment or interpretation;

(e) ensure, subject to paragraph 2, that the research results are made internationally available through appropriate national or international channels, as soon as practicable;

(f) inform the coastal State immediately of any major change in the research programme;

(g) unless otherwise agreed, remove the scientific research installations or equipment once the research is completed.

2. This article is without prejudice to the conditions established by the laws and regulations of the coastal State for the exercise of its discretion to grant or withhold consent pursuant to article 246, paragraph 5, including requiring prior agreement for making internationally available the research results of a project of direct significance for the exploration and exploitation of natural resources.

#### Article 250

##### COMMUNICATIONS CONCERNING MARINE SCIENTIFIC RESEARCH PROJECTS

Communications concerning the marine scientific research projects shall be made through appropriate official channels, unless otherwise agreed.

#### Article 251

##### GENERAL CRITERIA AND GUIDELINES

States shall seek to promote through competent international organizations the establishment of general criteria and guidelines to assist States in ascertaining the nature and implications of marine scientific research.

#### Article 252

##### IMPLIED CONSENT

States or competent international organizations may proceed with a marine scientific research project six months after the date upon which the information required pursuant to article 248 was provided to the coastal State unless within four months of the receipt of the communication containing such information the coastal State has informed the State or organization conducting the research that:

(a) it has withheld its consent under the provisions of article 246; or

(b) the information given by that State or competent international organization regarding the nature or objectives of the project does not conform to the manifestly evident facts; or

(c) it requires supplementary information relevant to conditions and the information provided for under articles 248 and 249; or

(d) outstanding obligations exist with respect to a previous marine scientific research project carried out by that State or organizations, with regard to conditions established in article 249.

#### Article 253

##### SUSPENSION OR CESSATION OF MARINE SCIENTIFIC RESEARCH ACTIVITIES

1. A coastal State shall have the right to require the suspension of any marine scientific research activities in progress within its exclusive economic zone or on its continental shelf if:

(a) the research activities are not being conducted in accordance with the information communicated as provided under article 248 upon which the consent of the coastal State was based; or

(b) the State or competent international organization conducting the research activities fails to comply with the provisions of article 249 concerning the rights of the coastal State with respect to the marine scientific research project.

2. A coastal State shall have the right to require the cessation of any marine scientific research activities in case of any non-compliance with the provisions of article 248 which amounts to a major change in the research project or the research activities.

3. A coastal State may also require cessation of marine scientific research activities if any of the situations contemplated in paragraph 1 are not rectified within a reasonable period of time.

4. Following notification by the coastal State of its decision to order suspension or cessation, States or competent international organizations authorized to conduct marine scientific research activities shall terminate the research activities that are the subject of such a notification.

5. An order of suspension under paragraph 1 shall be lifted by the coastal State and the marine scientific research activities allowed to continue once the researching State or competent international organization has complied with the conditions required under articles 248 and 249.

#### Article 254

##### RIGHTS OF NEIGHBOURING LAND-LOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES

1. States and competent international organizations which have submitted to a coastal State a project to undertake marine scientific research referred to in article 246, paragraph 3, shall give notice to the neighbouring land-locked and geographically disadvantaged States of the proposed research project, and shall notify the coastal State thereof.

2. After the consent has been given for the proposed marine scientific research project by the coastal State concerned, in accordance with article 246 and other relevant provisions of this

Convention, States and competent international organizations undertaking such a project shall provide to the neighbouring land-locked and geographically disadvantaged States, at their request and when appropriate, relevant information as specified in article 248 and article 249, paragraph 1(f).

3. The neighbouring land-locked and geographically disadvantaged States referred to above shall, at their request, be given the opportunity to participate, whenever feasible, in the proposed marine scientific research project through qualified experts appointed by them and not objected to by the coastal State, in accordance with the conditions agreed for the project, in conformity with the provisions of this Convention, between the coastal State concerned and the State or competent international organizations conducting the marine scientific research.

4. States and competent international organizations referred to in paragraph 1 shall provide to the above-mentioned land-locked and geographically disadvantaged States, at their request, the information and assistance specified in article 249, paragraph 1(d), subject to the provisions of article 249, paragraph 2.

#### *Article 255*

##### MEASURES TO FACILITATE MARINE SCIENTIFIC RESEARCH AND ASSIST RESEARCH VESSELS

States shall endeavour to adopt reasonable rules, regulations and procedures to promote and facilitate marine scientific research conducted in accordance with this Convention beyond their territorial sea and, as appropriate, to facilitate, subject to the provisions of their laws and regulations, access to their harbours and promote assistance for marine scientific research vessels which comply with the relevant provisions of this Part.

#### *Article 256*

##### MARINE SCIENTIFIC RESEARCH IN THE AREA

All States, irrespective of their geographical location, and competent international organizations have the right, in conformity with the provisions of Part XI, to conduct marine scientific research in the Area.

#### *Article 257*

##### MARINE SCIENTIFIC RESEARCH IN THE WATER COLUMN BEYOND THE EXCLUSIVE ECONOMIC ZONE

All States, irrespective of their geographical location, and competent international organizations have the right, in conformity with this Convention, to conduct marine scientific research in the water column beyond the limits of the exclusive economic zone.

## SECTION 4. SCIENTIFIC RESEARCH INSTALLATIONS OR EQUIPMENT IN THE MARINE ENVIRONMENT

### *Article 258*

#### DEPLOYMENT AND USE

The deployment and use of any type of scientific research installations or equipment in any area of the marine environment shall be subject to the same conditions as are prescribed in this Convention for the conduct of marine scientific research in any such area.

### *Article 259*

#### LEGAL STATUS

The installations or equipment referred to in this section 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 260*

#### SAFETY ZONES

Safety zones of a reasonable breadth not exceeding a distance of 500 metres may be created around scientific research installations in accordance with the relevant provisions of this Convention. All States shall ensure that such safety zones are respected by their vessels.

### *Article 261*

#### NON-INTERFERENCE WITH SHIPPING ROUTES

The deployment and use of any type of scientific research installations or equipment shall not constitute an obstacle to established international shipping routes.

### *Article 262*

#### IDENTIFICATION MARKINGS AND WARNING SIGNALS

Installations or equipment referred to in this section shall bear identification markings indicating the State of registry or the international organization to which they belong and shall have adequate internationally agreed warning signals to ensure safety at sea and the safety of air navigation, taking into account rules and standards established by competent international organizations.

## SECTION 5. RESPONSIBILITY AND LIABILITY

### *Article 263*

#### RESPONSIBILITY AND LIABILITY

1. States and competent international organizations shall be responsible for ensuring that marine scientific research, whether undertaken by them or on their behalf, is conducted in accordance with this Convention.

2. States and competent international organizations shall be responsible and liable for the measures they take in contravention of this Convention in respect of marine scientific research conducted by other States, their natural or juridical persons or by competent international organizations, and shall provide compensation for damage resulting from such measures.

3. States and competent international organizations shall be responsible and liable pursuant to article 235 for damage caused by pollution of the marine environment arising out of marine scientific research undertaken by them or on their behalf.

#### SECTION 6. SETTLEMENT OF DISPUTES AND INTERIM MEASURES

##### Article 264

###### SETTLEMENT OF DISPUTES

Disputes concerning the interpretation or application of the provisions of this Convention with regard to marine scientific research shall be settled in accordance with Part XV, sections 2 and 3.

##### Article 265

###### INTERIM MEASURES

Pending settlement of a dispute in accordance with Part XV, sections 2 and 3, the State or competent international organization authorized to conduct a marine scientific research project shall not allow research activities to commence or continue without the express consent of the coastal State concerned.

#### Part XIV: Development and transfer of marine technology

##### SECTION 1. GENERAL PROVISIONS

##### Article 266

###### PROMOTION OF THE DEVELOPMENT AND TRANSFER OF MARINE TECHNOLOGY

1. States, directly or through competent international organizations, shall co-operate in accordance with their capabilities to promote actively the development and transfer of marine science and marine technology on fair and reasonable terms and conditions.

2. States shall promote the development of the marine scientific and technological capacity of States which may need and request technical assistance in this field, particularly developing States, including land-locked and geographically disadvantaged States, with regard to the exploration, exploitation, conservation and management of marine resources, the protection and preservation of the marine environment, marine scientific research and other activities in the marine environment compatible with this Convention, with a view to accelerating the social and economic development of the developing States.

3. States shall endeavour to foster favourable economic and legal conditions for the transfer of marine technology for the benefit of all parties concerned on an equitable basis.

##### Article 267

###### PROTECTION OF LEGITIMATE INTERESTS

States, in promoting co-operation pursuant to article 266, shall have due regard for all legitimate interests including, *inter alia*, the rights and duties of holders, suppliers and recipients of marine technology.

##### Article 268

###### BASIC OBJECTIVES

States, directly or through competent international organizations, shall promote:

- (a) the acquisition, evaluation and dissemination of marine technological knowledge and facilitate access to such information and data;
- (b) the development of appropriate marine technology;
- (c) the development of the necessary technological infrastructure to facilitate the transfer of marine technology;
- (d) the development of human resources through training and education of nationals of developing States and countries and especially the nationals of the least developed among them;
- (e) international co-operation at all levels, particularly at the regional, subregional and bilateral levels.

##### Article 269

###### MEASURES TO ACHIEVE THE BASIC OBJECTIVES

In order to achieve the objectives referred to in article 268, States, directly or through competent international organizations, shall endeavour, *inter alia*, to:

- (a) establish programmes of technical co-operation for the effective transfer of all kinds of marine technology to States which may need and request technical assistance in this field, particularly the developing land-locked and geographically disadvantaged States, as well as other developing States which have not been able either to establish or develop their own technological capacity in marine science and in the exploration and exploitation of marine resources or to develop the infrastructure of such technology;
- (b) promote favourable conditions for the conclusion of agreements, contracts and other similar arrangements, under equitable and reasonable conditions;
- (c) hold conferences, seminars and symposia on scientific and technological subjects, in particular on policies and methods for the transfer of marine technology;
- (d) promote the exchange of scientists and of technological and other experts;

(e) undertake projects and promote joint ventures and other forms of bilateral and multilateral co-operation.

## SECTION 2. INTERNATIONAL CO-OPERATION

### Article 270

#### WAYS AND MEANS OF INTERNATIONAL CO-OPERATION

International co-operation for the development and transfer of marine technology shall be carried out, where feasible and appropriate, through existing bilateral, regional or multilateral programmes, and also through expanded and new programmes in order to facilitate marine scientific research, the transfer of marine technology, particularly in new fields, and appropriate international funding for ocean research and development.

### Article 271

#### GUIDELINES, CRITERIA AND STANDARDS

States, directly or through competent international organizations, shall promote the establishment of generally accepted guidelines, criteria and standards for the transfer of marine technology on a bilateral basis or within the framework of international organizations and other fora, taking into account, in particular, the interests and needs of developing States.

### Article 272

#### CO-ORDINATION OF INTERNATIONAL PROGRAMMES

In the field of transfer of marine technology, States shall endeavour to ensure that competent international organizations co-ordinate their activities, including any regional or global programmes, taking into account the interests and needs of developing States, particularly land-locked and geographically disadvantaged States.

### Article 273

#### CO-OPERATION WITH INTERNATIONAL ORGANIZATIONS AND THE AUTHORITY

States shall co-operate actively with competent international organizations and the Authority to encourage and facilitate the transfer to developing States, their nationals and the Enterprise of skills and marine technology with regard to activities in the Area.

### Article 274

#### OBJECTIVES OF THE AUTHORITY

Subject to all legitimate interests including, *inter alia*, the rights and duties of holders, suppliers and recipients of technology, the Authority, with regard to activities in the Area, shall ensure that:

(a) on the basis of the principle of equitable geographical distribution, nationals of developing

States, whether coastal, land-locked or geographically disadvantaged, shall be taken on for the purposes of training as members of the managerial, research and technical staff constituted for its undertakings;

(b) the technical documentation on the relevant equipment, machinery, devices and processes is made available to all States, in particular developing States which may need and request technical assistance in this field;

(c) adequate provision is made by the Authority to facilitate the acquisition of technical assistance in the field of marine technology by States which may need and request it, in particular developing States, and The acquisition by their nationals of the necessary skills and know-how, including professional training;

(d) States which may need and request technical assistance in this field, in particular developing States, are assisted in the acquisition of necessary equipment, processes, plant and other technical know-how through any financial arrangements provided for in this Convention.

## SECTION 3. NATIONAL AND REGIONAL MARINE SCIENTIFIC AND TECHNOLOGICAL CENTRES

### Article 275

#### ESTABLISHMENT OF NATIONAL CENTRES

1. States, directly or through competent international organizations and the Authority, shall promote the establishment, particularly in developing coastal States, of national marine scientific and technological research centres and the strengthening of existing national centres, in order to stimulate and advance the conduct of marine scientific research by developing coastal States and to enhance their national capabilities to utilize and preserve their marine resources for their economic benefit.

2. States, through competent international organizations and the Authority, shall give adequate support to facilitate the establishment and strengthening of such national centres so as to provide for advanced training facilities and necessary equipment, skills and know-how as well as technical experts to such States which may need and request such assistance.

### Article 276

#### ESTABLISHMENT OF REGIONAL CENTRES

1. States, in co-ordination with the competent international organizations, the Authority and national marine scientific and technological research institutions, shall promote the establishment of regional marine scientific and technological research centres, particularly in developing States, in order to stimulate and advance the conduct of marine scientific research by developing States and foster the transfer of marine technology.

2. All States of a region shall co-operate with the regional centres therein to ensure the more effective achievement of their objectives.

**Article 277****FUNCTIONS OF REGIONAL CENTRES**

The functions of such regional centres shall include, *inter alia*:

- (a) training and educational programmes at all levels on various aspects of marine scientific and technological research, particularly marine biology, including conservation and management of living resources, oceanography, hydrography, engineering, geological exploration of the sea-bed, mining and desalination technologies;
- (b) management studies;
- (c) study programmes related to the protection and preservation of the marine environment and the prevention, reduction and control of pollution;
- (d) organization of regional conferences, seminars and symposia;
- (e) acquisition and processing of marine scientific and technological data and information;
- (f) prompt dissemination of results of marine scientific and technological research in readily available publications;
- (g) publicizing national policies with regard to the transfer of marine technology and systematic comparative study of those policies;
- (h) compilation and systematization of information on the marketing of technology and on contracts and other arrangements concerning patents;
- (i) technical co-operation with other States of the region.

**SECTION 4. CO-OPERATION AMONG  
INTERNATIONAL ORGANIZATIONS**

**Article 278****CO-OPERATION AMONG INTERNATIONAL ORGANIZATIONS**

The competent international organizations referred to in this Part and in Part XIII shall take all appropriate measures to ensure, either directly or in close co-operation among themselves, the effective discharge of their functions and responsibilities under this Part.

**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 in accordance 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 Sea-Bed 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 Sea-Bed 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 Sea-Bed 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 1 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 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.

#### **Part XVI: General provisions**

#### *Article 300*

##### GOOD FAITH AND ABUSE OF RIGHTS

States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right.

#### *Article 301*

##### PEACEFUL USES OF THE SEAS

In exercising their rights and performing their duties under this Convention, States Parties shall refrain from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the Charter of the United Nations.

#### *Article 302*

##### DISCLOSURE OF INFORMATION

Without prejudice to the right of a State Party to resort to the procedures for the settlement of disputes provided for in this Convention, nothing in this Convention shall be deemed to require a State Party, in the fulfilment of its obligations under this Convention, to supply information the disclosure of which is contrary to the essential interests of its security.

#### *Article 303*

##### ARCHAEOLOGICAL AND HISTORICAL OBJECTS FOUND AT SEA

1. States have the duty to protect objects of an archaeological and historical nature found at sea and shall co-operate for this purpose.

2. In order to control traffic in such objects, the coastal State may, in applying article 33, presume that their removal from the sea-bed in the zone referred to in that article without its approval would result in an infringement within its territory or territorial sea of the laws and regulations referred to in that article.

3. Nothing in this article affects the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges.

4. This article is without prejudice to other international agreements and rules of international law regarding the protection of objects of an archaeological and historical nature.

#### *Article 304*

##### RESPONSIBILITY AND LIABILITY FOR DAMAGE

The provisions of this Convention regarding responsibility and liability for damage are without prejudice to the application of existing rules and the development of further rules regarding responsibility and liability under international law.

### **Part XVII: Final provisions**

#### *Article 305*

##### SIGNATURE

1. This Convention shall be open for signature by:

- (a) all States;
- (b) Namibia, represented by the United Nations Council for Namibia;
- (c) all self-governing associated States which have chosen that status in an act of self-determination supervised and approved by the United Nations in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
- (d) all self-governing associated States which, in accordance with their respective instruments of association, have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
- (e) all territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;
- (f) international organizations, in accordance with Annex IX.

2. This Convention shall remain open for signature until 9 December 1984 at the Ministry of Foreign

Affairs of Jamaica and also, from 1 July 1983 until 9 December 1984, at United Nations Headquarters in New York.

#### *Article 306*

##### RATIFICATION AND FORMAL CONFIRMATION

This Convention is subject to ratification by States and the other entities referred to in article 305, paragraph 1(b), (c), (d) and (e), and to formal confirmation, in accordance with Annex IX, by the entities referred to in article 305, paragraph 1(f). The instruments of ratification and of formal confirmation shall be deposited with the Secretary-General of the United Nations.

#### *Article 307*

##### ACCESSION

This Convention shall remain open for accession by States and the other entities referred to in article 305. Accession by the entities referred to in article 305, paragraph 1(f), shall be in accordance with Annex IX. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### *Article 308*

##### ENTRY INTO FORCE

1. This Convention shall enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession.

2. For each State ratifying or acceding to this Convention after the deposit of the sixtieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession, subject to paragraph 1.

3. The Assembly of the Authority shall meet on the date of entry into force of this Convention and shall elect the Council of the Authority. The first Council shall be constituted in a manner consistent with the purpose of article 161 if the provisions of that article cannot be strictly applied.

4. The rules, regulations and procedures drafted by the Preparatory Commission shall apply provisionally pending their formal adoption by the Authority in accordance with Part XI.

5. The Authority and its organs shall act in accordance with resolution II of the Third United Nations Conference on the Law of the Sea relating to preparatory investment and with decisions of the Preparatory Commission taken pursuant to that resolution.

#### *Article 309*

##### RESERVATIONS AND EXCEPTIONS

No reservations or exceptions may be made to this Convention unless expressly permitted by other articles of this Convention.

*Article 310*

## DECLARATIONS AND STATEMENTS

Article 309 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 effect of the provisions of this Convention in their application to that State.

*Article 311*

## RELATION TO OTHER CONVENTIONS AND INTERNATIONAL AGREEMENTS

1. This Convention shall prevail, as between States Parties, over the Geneva Conventions on the Law of the Sea of 29 April 1958.

2. This Convention shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Convention and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

3. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Convention, 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 Convention, 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 Convention.

4. States Parties intending to conclude an agreement referred to in paragraph 3 shall notify the other States Parties through the depositary of this Convention of their intention to conclude the agreement and of the modification or suspension for which it provides.

5. This article does not affect international agreements expressly permitted or preserved by other articles of this Convention.

6. States Parties agree that there shall be no amendments to the basic principle relating to the common heritage of mankind set forth in article 136 and that they shall not be party to any agreement in derogation thereof.

*Article 312*

## AMENDMENT

1. After the expiry of a period of 10 years from the date of entry into force of this Convention, a State Party may, by written communication addressed to

the Secretary-General of the United Nations, propose specific amendments to this Convention, other than those relating to activities in the Area, 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 12 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 shall be the same as that applicable at the Third United Nations Conference on the Law of the Sea 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.

*Article 313*

## AMENDMENT BY SIMPLIFIED PROCEDURE

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose an amendment to this Convention, other than an amendment relating to activities in the Area, to be adopted by the simplified procedure set forth in this article without convening a conference. The Secretary-General shall circulate the communication to all States Parties.

2. If, within a period of 12 months from the date of the circulation of the communication, a State Party objects to the proposed amendment or to the proposal for its adoption by the simplified procedure, the amendment shall be considered rejected. The Secretary-General shall immediately notify all States Parties accordingly.

3. If, 12 months from the date of the circulation of the communication, no State Party has objected to the proposed amendment or to the proposal for its adoption by the simplified procedure, the proposed amendment shall be considered adopted. The Secretary-General shall notify all States Parties that the proposed amendment has been adopted.

*Article 314*

## AMENDMENTS TO THE PROVISIONS OF THIS CONVENTION RELATING EXCLUSIVELY TO ACTIVITIES IN THE AREA

1. A State Party may, by written communication addressed to the Secretary-General of the Authority, propose an amendment to the provisions of this Convention relating exclusively to activities in the Area, including Annex VI, section 4. The Secretary-General shall circulate such communication to all States Parties. The proposed amendment shall be subject to approval by the Assembly following its approval by the Council. Representatives of States Parties in those organs shall have full powers to

consider and approve the proposed amendment. The proposed amendment as approved by the Council and the Assembly shall be considered adopted.

2. Before approving any amendment under paragraph 1, the Council and the Assembly shall ensure that it does not prejudice the system of exploration for and exploitation of the resources of the Area, pending the Review Conference in accordance with article 155.

#### Article 315

##### SIGNATURE, RATIFICATION OF, ACCESSION TO AND AUTHENTIC TEXTS OF AMENDMENTS

1. Once adopted, amendments to this Convention shall be open for signature by States Parties for 12 months from the date of adoption, at United Nations Headquarters in New York, unless otherwise provided in the amendment itself.

2. Articles 306, 307 and 320 apply to all amendments to this Convention.

#### Article 316

##### ENTRY INTO FORCE OF AMENDMENTS

1. Amendments to this Convention, other than those referred to in paragraph 5, 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 or by 60 States Parties, whichever is greater. Such amendments shall not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Convention.

2. An amendment may provide that a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

3. For each State Party ratifying or acceding to an amendment referred to in paragraph 1 after the deposit of the required number of instruments of ratification or accession, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

4. A State which becomes a Party to this Convention after the entry into force of an amendment in accordance with paragraph 1 shall, failing an expression of a different intention by that State:

(a) be considered as a Party to this Convention as so amended; and

(b) be considered as a Party to the unamended Convention in relation to any State Party not bound by the amendment.

5. Any amendment relating exclusively to activities in the Area and any amendment to Annex VI shall enter into force for all States Parties one year following the deposit of instruments of ratification or accession by three fourths of the States Parties.

6. A State which becomes a Party to this Convention after the entry into force of amendments in accordance with paragraph 5 shall be considered as a Party to this Convention as so amended.

#### Article 317

##### DENUNCIATION

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Convention 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. A State shall not be discharged by reason of the denunciation from the financial and contractual obligations which accrued while it was a Party to this Convention, nor shall the denunciation affect any right, obligation or legal situation of that State created through the execution of this Convention prior to its termination for that State.

3. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

#### Article 318

##### STATUS OF ANNEXES

The Annexes form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention or to one of its Parts includes a reference to the Annexes relating thereto.

#### Article 319

##### DEPOSITARY

1. The Secretary-General of the United Nations shall be the depositary of this Convention and amendments thereto.

2. In addition to his functions as depositary, the Secretary-General shall:

(a) report to all States Parties, the Authority and competent international organizations on issues of a general nature that have arisen with respect to this Convention;

(b) notify the Authority of ratifications and formal confirmations of and accessions to this Convention and amendments thereto, as well as of denunciations of this Convention;

(c) notify States Parties of agreements in accordance with article 311, paragraph 4;

(d) circulate amendments adopted in accordance with this Convention to States Parties for ratification or accession;

(e) convene necessary meetings of States Parties in accordance with this Convention.

3. (a) The Secretary-General shall also transmit to the observers referred to in article 156:

- (i) reports referred to in paragraph 2(a);
- (ii) notifications referred to in paragraph 2(b) and (c); and
- (iii) texts of amendments referred to in paragraph 2(d), for their information.

(b) The Secretary-General shall also invite those observers to participate as observers at meetings of States Parties referred to in paragraph 2(e).

#### Article 320

##### AUTHENTIC TEXTS

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall, subject to article 305, paragraph 2, be deposited with the Secretary-General of the United Nations.

In witness whereof, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Convention.

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 pfluegeri*; *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: *Scorpaenopsis saurus*; *Cololabis saira*; *Cololabis adocetus*; *Scorpaenopsis saurus scorpaenoides*.

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*.

#### Annex II

##### COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

#### Article 1

In accordance with the provisions of article 76, a Commission on the Limits of the Continental Shelf beyond 200 nautical miles shall be established in conformity with the following articles.

#### Article 2

1. The Commission shall consist of 21 members who shall be experts in the field of geology, geophysics or hydrography, elected by States Parties to this Convention from among their nationals, having due regard to the need to ensure equitable geographical representation, who shall serve in their personal capacities.
2. The initial election shall be held as soon as possible but in any case within 18 months after the date of entry into force of this Convention. At least three months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties, inviting the submission of nominations, after appropriate regional consultations, within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated and shall submit it to all the States Parties.
3. Elections of the members of the Commission shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Commission shall be those nominees who obtain a two-thirds majority of the votes of the representatives of States Parties present and voting. Not less than three members shall be elected from each geographical region.
4. The members of the Commission shall be elected for a term of five years. They shall be eligible for re-election.
5. The State Party which submitted the nomination of a member of the Commission shall defray the

expenses of that member while in performance of Commission duties. The coastal State concerned shall defray the expenses incurred in respect of the advice referred to in article 3, paragraph 1(b), of this Annex. The secretariat of the Commission shall be provided by the Secretary-General of the United Nations.

#### Article 3

1. The functions of the Commission shall be:

(a) to consider the data and other material submitted by coastal States concerning the outer limits of the continental shelf in areas where those limits extend beyond 200 nautical miles, and to make recommendations in accordance with article 76 and the Statement of Understanding adopted on 29 August 1980 by the Third United Nations Conference on the Law of the Sea;

(b) to provide scientific and technical advice, if requested by the coastal State concerned during the preparation of the data referred to in subparagraph (a).

2. The Commission may co-operate, to the extent considered necessary and useful, with the Intergovernmental Oceanographic Commission of UNESCO, the International Hydrographic Organization and other competent international organizations with a view to exchanging scientific and technical information which might be of assistance in discharging the Commission's responsibilities.

#### Article 4

Where a coastal State intends to establish, in accordance with article 76, the outer limits of its continental shelf beyond 200 nautical miles, it shall submit particulars of such limits to the Commission along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of this Convention for that State. The coastal State shall at the same time give the names of any Commission members who have provided it with scientific and technical advice.

#### Article 5

Unless the Commission decides otherwise, the Commission shall function by way of sub-commissions composed of seven members, appointed in a balanced manner taking into account the specific elements of each submission by a coastal State. Nationals of the coastal State making the submission who are members of the Commission and any Commission member who has assisted a coastal State by providing scientific and technical advice with respect to the delineation shall not be a member of the sub-commission dealing with that submission but has the right to participate as a member in the proceedings of the Commission concerning the said submission. The coastal State which has made a submission to the Commission may send its representatives to participate in the relevant proceedings without the right to vote.

#### Article 6

1. The sub-commission shall submit its recommendations to the Commission.

2. Approval by the Commission of the recommendations of the sub-commission shall be by a majority of two thirds of Commission members present and voting.

3. The recommendations of the Commission shall be submitted in writing to the coastal State which made the submission and to the Secretary-General of the United Nations.

#### Article 7

Coastal States shall establish the outer limits of the continental shelf in conformity with the provisions of article 76, paragraph 8, and in accordance with the appropriate national procedures.

#### Article 8

In the case of disagreement by the coastal State with the recommendations of the Commission, the coastal State shall, within a reasonable time, make a revised or new submission to the Commission.

#### Article 9

The action of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts.

### Annex III

#### BASIC CONDITIONS OF PROSPECTING, EXPLORATION AND EXPLOITATION

##### Article 1

###### TITLE TO MINERALS

Title to minerals shall pass upon recovery in accordance with this Convention.

##### Article 2

###### PROSPECTING

1. (a) The Authority shall encourage prospecting in the Area.

(b) Prospecting shall be conducted only after the Authority has received a satisfactory written undertaking that the proposed prospector will comply with this Convention and the relevant rules, regulations and procedures of the Authority concerning co-operation in the training programmes referred to in articles 143 and 144 and the protection of the marine environment, and will accept verification by the Authority of compliance therewith. The proposed prospector shall, at the same time, notify the Authority of the approximate area or areas in which prospecting is to be conducted.

(c) Prospecting may be conducted simultaneously by more than one prospector in the same area or areas.

2. Prospecting shall not confer on the prospector any rights with respect to resources. A prospector may, however, recover a reasonable quantity of minerals to be used for testing.

### Article 3

#### EXPLORATION AND EXPLOITATION

1. The Enterprise, States Parties, and the other entities referred to in article 153, paragraph 2(b), may apply to the Authority for approval of plans of work for activities in the Area.

2. The Enterprise may apply with respect to any part of the Area, but applications by others with respect to reserved areas are subject to the additional requirements of article 9 of this Annex.

3. Exploration and exploitation shall be carried out only in areas specified in plans of work referred to in article 153, paragraph 3, and approved by the Authority in accordance with this Convention and the relevant rules, regulations and procedures of the Authority.

4. Every approved plan of work shall:

(a) be in conformity with this Convention and the rules, regulations and procedures of the Authority;

(b) provide for control by the Authority of activities in the Area in accordance with article 153, paragraph 4;

(c) confer on the operator, in accordance with the rules, regulations and procedures of the Authority, the exclusive right to explore for and exploit the specified categories of resources in the area covered by the plan of work. If, however, the applicant presents for approval a plan of work covering only the stage of exploration or the stage of exploitation, the approved plan of work shall confer such exclusive right with respect to that stage only.

5. Upon its approval by the Authority, every plan of work, except those presented by the Enterprise, shall be in the form of a contract concluded between the Authority and the applicant or applicants.

### Article 4

#### QUALIFICATIONS OF APPLICANTS

1. Applicants, other than the Enterprise, shall be qualified if they have the nationality or control and sponsorship required by article 153, paragraph 2(b), and if they follow the procedures and meet the qualification standards set forth in the rules, regulations and procedures of the Authority.

2. Except as provided in paragraph 6, such qualification standards shall relate to the financial and technical capabilities of the applicant and his performance under any previous contracts with the Authority.

3. Each applicant shall be sponsored by the State Party of which it is a national unless the applicant has more than one nationality, as in the case of a

partnership or consortium of entities from several States, in which event all States Parties involved shall sponsor the application, or unless the applicant is effectively controlled by another State Party or its nationals, in which event both States Parties shall sponsor the application. The criteria and procedures for implementation of the sponsorship requirements shall be set forth in the rules, regulations and procedures of the Authority.

4. The sponsoring State or States shall, pursuant to article 139, have the responsibility to ensure, within their legal systems, that a contractor so sponsored shall carry out activities in the Area in conformity with the terms of its contract and its obligations under this Convention. A sponsoring State shall not, however, be liable for damage caused by any failure of a contractor sponsored by it to comply with its obligations if that State Party has adopted laws and regulations and taken administrative measures which are, within the framework of its legal system, reasonably appropriate for securing compliance by persons under its jurisdiction.

5. The procedures for assessing the qualifications of States Parties which are applicants shall take into account their character as States.

6. The qualification standards shall require that every applicant, without exception, shall as part of his application undertake:

(a) to accept as enforceable and comply with the applicable obligations created by the provisions of Part XI, the rules, regulations and procedures of the Authority, the decisions of the organs of the Authority and terms of his contracts with the Authority;

(b) to accept control by the Authority of activities in the Area, as authorized by this Convention;

(c) to provide the Authority with a written assurance that his obligations under the contract will be fulfilled in good faith;

(d) to comply with the provisions on the transfer of technology set forth in article 5 of this Annex.

### Article 5

#### TRANSFER OF TECHNOLOGY

1. When submitting a plan of work, every applicant shall make available to the Authority a general description of the equipment and methods to be used in carrying out activities in the Area, and other relevant non-proprietary information about the characteristics of such technology and information as to where such technology is available.

2. Every operator shall inform the Authority of revisions in the description and information made available pursuant to paragraph 1 whenever a substantial technological change or innovation is introduced.

3. Every contract for carrying out activities in the Area shall contain the following undertakings by the contractor:

(a) to make available to the Enterprise on fair and reasonable commercial terms and conditions, whenever the Authority so requests, the technology which he uses in carrying out activities in the Area under the contract, which the contractor is legally entitled to transfer. This shall be done by means of licences or other appropriate arrangements which the contractor shall negotiate with the Enterprise and which shall be set forth in a specific agreement supplementary to the contract. This undertaking may be invoked only if the Enterprise finds that it is unable to obtain the same or equally efficient and useful technology on the open market on fair and reasonable commercial terms and conditions;

(b) to obtain a written assurance from the owner of any technology used in carrying out activities in the Area under the contract, which is not generally available on the open market and which is not covered by subparagraph (a), that the owner will, whenever the Authority so requests, make that technology available to the Enterprise under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions, to the same extent as made available to the contractor. If this assurance is not obtained, the technology in question shall not be used by the contractor in carrying out activities in the Area;

(c) to acquire from the owner by means of an enforceable contract, upon the request of the Enterprise and if it is possible to do so without substantial cost to the contractor, the legal right to transfer to the Enterprise any technology used by the contractor, in carrying out activities in the Area under the contract, which the contractor is otherwise not legally entitled to transfer and which is not generally available on the open market. In cases where there is a substantial corporate relationship between the contractor and the owner of the technology, the closeness of this relationship and the degree of control or influence shall be relevant to the determination whether all feasible measures have been taken to acquire such a right. In cases where the contractor exercises effective control over the owner, failure to acquire from the owner the legal right shall be considered relevant to the contractor's qualification for any subsequent application for approval of a plan of work;

(d) to facilitate, upon the request of the Enterprise, the acquisition by the Enterprise of any technology covered by subparagraph (b), under licence or other appropriate arrangements and on fair and reasonable commercial terms and conditions, if the Enterprise decides to negotiate directly with the owner of the technology;

(e) to take the same measures as are prescribed in subparagraphs (a), (b), (c) and (d) for the benefit of a developing State or group of developing States which has applied for a contract under article 9 of this Annex, provided that these measures shall be limited to the exploitation of the part of the area proposed by the contractor which has been reserved pursuant to article 8 of this Annex and provided that activities under the contract sought by the developing State or

group of developing States would not involve transfer of technology to a third State or the nationals of a third State. The obligation under this provision shall only apply with respect to any given contractor where technology has not been requested by the Enterprise or transferred by that contractor to the Enterprise.

4. Disputes concerning undertakings required by paragraph 3, like other provisions of the contracts, shall be subject to compulsory settlement in accordance with Part XI and, in cases of violation of these undertakings, suspension or termination of the contract or monetary penalties may be ordered in accordance with article 18 of this Annex. Disputes as to whether offers made by the contractor are within the range of fair and reasonable commercial terms and conditions may be submitted by either party to binding commercial arbitration 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. If the finding is that the offer made by the contractor is not within the range of fair and reasonable commercial terms and conditions, the contractor shall be given 45 days to revise his offer to bring it within that range before the Authority takes any action in accordance with article 18 of this Annex.

5. If the Enterprise is unable to obtain on fair and reasonable commercial terms and conditions appropriate technology to enable it to commence in a timely manner the recovery and processing of minerals from the Area, either the Council or the Assembly may convene a group of States Parties composed of those which are engaged in activities in the Area, those which have sponsored entities which are engaged in activities in the Area and other States Parties having access to such technology. This group shall consult together and shall take effective measures to ensure that such technology is made available to the Enterprise on fair and reasonable commercial terms and conditions. Each such State Party shall take all feasible measures to this end within its own legal system.

6. In the case of joint ventures with the Enterprise, transfer of technology will be in accordance with the terms of the joint venture agreement.

7. The undertakings required by paragraph 3 shall be included in each contract for the carrying out of activities in the Area until 10 years after the commencement of commercial production by the Enterprise, and may be invoked during that period.

8. For the purposes of this article, "technology" means the specialized equipment and technical know-how, including manuals, designs, operating instructions, training and technical advice and assistance, necessary to assemble, maintain and operate a viable system and the legal right to use these items for that purpose on a non-exclusive basis.



*Article 6*

## APPROVAL OF PLANS OF WORK

1. Six months after the entry into force of this Convention, and thereafter each fourth month, the Authority shall take up for consideration proposed plans of work.

2. When considering an application for approval of a plan of work in the form of a contract, the Authority shall first ascertain whether:

(a) the applicant has complied with the procedures established for applications in accordance with article 4 of this Annex and has given the Authority the undertakings and assurances required by that article. In cases of non-compliance with these procedures or in the absence of any of these undertakings and assurances, the applicant shall be given 45 days to remedy these defects;

(b) the applicant possesses the requisite qualifications provided for in article 4 of this Annex.

3. All proposed plans of work shall be taken up in the order in which they are received. The proposed plans of work shall comply with and be governed by the relevant provisions of this Convention and the rules, regulations and procedures of the Authority, including those on operational requirements, financial contributions and the undertakings concerning the transfer of technology. If the proposed plans of work conform to these requirements, the Authority shall approve them provided that they are in accordance with the uniform and non-discriminatory requirements set forth in the rules, regulations and procedures of the Authority, unless:

(a) part or all of the area covered by the proposed plan of work is included in an approved plan of work or a previously submitted proposed plan of work which has not yet been finally acted on by the Authority;

(b) part or all of the area covered by the proposed plan of work is disapproved by the Authority pursuant to article 162, paragraph 2(x); or

(c) the proposed plan of work has been submitted or sponsored by a State Party which already holds:

(i) plans of work for exploration and exploitation of polymetallic nodules in non-reserved areas that, together with either part of the area covered by the application for a plan of work, exceed in size 30 per cent of a circular area of 400,000 square kilometres surrounding the centre of either part of the area covered by the proposed plan of work;

(ii) plans of work for the exploration and exploitation of polymetallic nodules in non-reserved areas which, taken together, constitute 2 per cent of the total sea-bed area which is not reserved or disapproved for exploitation pursuant to article 162, paragraph 2(x).

4. For the purpose of the standard set forth in paragraph 3(c), a plan of work submitted by a partnership or consortium shall be counted on a *pro*

*rata* basis among the sponsoring States Parties involved in accordance with article 4, paragraph 3, of this Annex. The Authority may approve plans of work covered by paragraph 3(c) if it determines that such approval would not permit a State Party or entities sponsored by it to monopolize the conduct of activities in the Area or to preclude other States Parties from activities in the Area.

5. Notwithstanding paragraph 3(a), after the end of the interim period specified in article 151, paragraph 3, the Authority may adopt by means of rules, regulations and procedures other procedures and criteria consistent with this Convention for deciding which applicants shall have plans of work approved in cases of selection among applicants for a proposed area. These procedures and criteria shall ensure approval of plans of work on an equitable and non-discriminatory basis.

*Article 7*

## SELECTION AMONG APPLICANTS FOR PRODUCTION AUTHORIZATIONS

1. Six months after the entry into force of this Convention, and thereafter each fourth month, the Authority shall take up for consideration applications for production authorizations submitted during the immediately preceding period. The Authority shall issue the authorizations applied for if all such applications can be approved without exceeding the production limitation or contravening the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided in article 151.

2. When a selection must be made among applicants for production authorizations because of the production limitation set forth in article 151, paragraphs 2 to 7, or because of the obligations of the Authority under a commodity agreement or arrangement to which it has become a party, as provided for in article 151, paragraph 1, the Authority shall make the selection on the basis of objective and non-discriminatory standards set forth in its rules, regulations and procedures.

3. In the application of paragraph 2, the Authority shall give priority to those applicants which:

(a) give better assurance of performance, taking into account their financial and technical qualifications and their performance, if any, under previously approved plans of work;

(b) provide earlier prospective financial benefits to the Authority, taking into account when commercial production is scheduled to begin;

(c) have already invested the most resources and effort in prospecting or exploration.

4. Applicants which are not selected in any period shall have priority in subsequent periods until they receive a production authorization.

5. Selection shall be made taking into account the need to enhance opportunities for all States Parties,

irrespective of their social and economic systems or geographical locations so as to avoid discrimination against any State or system, to participate in activities in the Area and to prevent monopolization of those activities.

6. Whenever fewer reserved areas than non-reserved areas are under exploitation, applications for production authorizations with respect to reserved areas shall have priority.

7. The decisions referred to in this article shall be taken as soon as possible after the close of each period.

#### *Article 8*

##### RESERVATION OF AREAS

Each application, other than those submitted by the Enterprise or by any other entities for reserved areas, shall cover a total area, which need not be a single continuous area, sufficiently large and of sufficient estimated commercial value to allow two mining operations. The applicant shall indicate the co-ordinates dividing the area into two parts of equal estimated commercial value and submit all the data obtained by him with respect to both parts. Without prejudice to the powers of the Authority pursuant to article 17 of this Annex, the data to be submitted concerning polymetallic nodules shall relate to mapping, sampling, the abundance of nodules, and their metal content. Within 45 days of receiving such data, the Authority shall designate which part is to be reserved solely for the conduct of activities by the Authority through the Enterprise or in association with developing States. This designation may be deferred for a further period of 45 days if the Authority requests an independent expert to assess whether all data required by this article has been submitted. The area designated shall become a reserved area as soon as the plan of work for the non-reserved area is approved and the contract is signed.

#### *Article 9*

##### ACTIVITIES IN RESERVED AREAS

1. The Enterprise shall be given an opportunity to decide whether it intends to carry out activities in each reserved area. This decision may be taken at any time, unless a notification pursuant to paragraph 4 is received by the Authority, in which event the Enterprise shall take its decision within a reasonable time. The Enterprise may decide to exploit such areas in joint ventures with the interested State or entity.

2. The Enterprise may conclude contracts for the execution of part of its activities in accordance with Annex IV, article 12. It may also enter into joint ventures for the conduct of such activities with any entities which are eligible to carry out activities in the Area pursuant to article 153, paragraph 2(b). When considering such joint ventures, the Enterprise shall offer to States Parties which are developing States and their nationals the opportunity of effective participation.

3. The Authority may prescribe, in its rules, regulations and procedures substantive and procedural requirements and conditions with respect to such contracts and joint ventures.

4. Any State Party which is a developing State or any natural or juridical person sponsored by it and effectively controlled by it or by other developing State which is a qualified applicant, or any group of the foregoing, may notify the Authority that it wishes to submit a plan of work pursuant to article 6 of this Annex with respect to a reserved area. The plan of work shall be considered if the Enterprise decides, pursuant to paragraph 1, that it does not intend to carry out activities in that area.

#### *Article 10*

##### PREFERENCE AND PRIORITY AMONG APPLICANTS

An operator who has an approved plan of work for exploration only, as provided in article 3, paragraph 4(c), of this Annex shall have a preference and a priority among applicants for a plan of work covering exploitation of the same area and resources. However, such preference or priority may be withdrawn if the operator's performance has not been satisfactory.

#### *Article 11*

##### JOINT ARRANGEMENTS

1. Contracts may provide for joint arrangements between the contractor and the Authority through the Enterprise, in the form of joint ventures or production sharing, as well as any other form of joint arrangement, which shall have the same protection against revision, suspension or termination as contracts with the Authority.

2. Contractors entering into such joint arrangements with the Enterprise may receive financial incentives as provided for in article 13 of this Annex.

3. Partners in joint ventures with the Enterprise shall be liable for the payments required by article 13 of this Annex to the extent of their share in the joint ventures, subject to financial incentives as provided for in that article.

#### *Article 12*

##### ACTIVITIES CARRIED OUT BY THE ENTERPRISE

1. Activities in the Area carried out by the Enterprise pursuant to article 153, paragraph 2(a), shall be governed by Part XI, the rules, regulations and procedures of the Authority and its relevant decisions.

2. Any plan of work submitted by the Enterprise shall be accompanied by evidence supporting its financial and technical capabilities.

#### *Article 13*

##### FINANCIAL TERMS OF CONTRACTS

1. In adopting rules, regulations and procedures concerning the financial terms of a contract between

the Authority and the entities referred to in article 153, paragraph 2(b), and in negotiating those financial terms in accordance with Part XI and those rules, regulations and procedures, the Authority shall be guided by the following objectives:

- (a) to ensure optimum revenues for the Authority from the proceeds of commercial production;
- (b) to attract investments and technology to the exploration and exploitation of the Area;
- (c) to ensure equality of financial treatment and comparable financial obligations for contractors;
- (d) to provide incentives on a uniform and non-discriminatory basis for contractors to undertake joint arrangements with the Enterprise and developing States or their nationals, to stimulate the transfer of technology thereto, and to train the personnel of the Authority and of developing States;
- (e) to enable the Enterprise to engage in sea-bed mining effectively at the same time as the entities referred to in article 153, paragraph 2(b); and
- (f) to ensure that, as a result of the financial incentives provided to contractors under paragraph 14, under the terms of contracts reviewed in accordance with article 19 of this Annex or under the provisions of article 11 of this Annex with respect to joint ventures, contractors are not subsidized so as to be given an artificial competitive advantage with respect to land-based miners.

2. A fee shall be levied for the administrative cost of processing an application for approval of a plan of work in the form of a contract and shall be fixed at an amount of US \$500,000 per application. The amount of the fee shall be reviewed from time to time by the Council in order to ensure that it covers the administrative cost incurred. If such administrative cost incurred by the Authority in processing an application is less than the fixed amount, the Authority shall refund the difference to the applicant.

3. A contractor shall pay an annual fixed fee of US \$1 million from the date of entry into force of the contract. If the approved date of commencement of commercial production is postponed because of a delay in issuing the production authorization, in accordance with article 151, the annual fixed fee shall be waived for the period of postponement. From the date of commencement of commercial production, the contractor shall pay either the production charge or the annual fixed fee, whichever is greater.

4. Within a year of the date of commencement of commercial production, in conformity with paragraph 3, a contractor shall choose to make his financial contribution to the Authority by either:

- (a) paying a production charge only; or
- (b) paying a combination of a production charge and a share of net proceeds.

5. (a) If a contractor chooses to make his financial contribution to the Authority by paying a production charge only, it shall be fixed at a percentage of the

market value of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract. This percentage shall be fixed as follows:

- (i) years 1–10 of commercial production 5 per cent
- (ii) years 11 to the end of commercial production 12 per cent.

(b) The said market value shall be the product of the quantity of the processed metals produced from the polymetallic nodules extracted from the area covered by the contract and the average price for those metals during the relevant accounting year, as defined in paragraphs 7 and 8.

6. If a contractor chooses to make his financial contribution to the Authority by paying a combination of a production charge and a share of net proceeds, such payments shall be determined as follows:

(a) The production charge shall be fixed at a percentage of the market value, determined in accordance with subparagraph (b), of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract. This percentage shall be fixed as follows:

- (i) first period of commercial production 2 per cent
- (ii) second period of commercial production 4 per cent.

If, in the second period of commercial production, as defined in subparagraph (d), the return on investment in any accounting year as defined in subparagraph (m) falls below 15 per cent as a result of the payment of the production charge at 4 per cent, the production charge shall be 2 per cent instead of 4 per cent in that accounting year.

(b) The said market value shall be the product of the quantity of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract and the average price for those metals during the relevant accounting year as defined in paragraphs 7 and 8.

(c) (i) The Authority's share of net proceeds shall be taken out of that portion of the contractor's net proceeds which is attributable to the mining of the resources of the area covered by the contract, referred to hereinafter as attributable net proceeds.

(ii) The Authority's share of attributable net proceeds shall be determined in accordance with the following incremental schedule:

Portion of attributable net proceeds	Share of the Authority	
	First period of commercial production	Second period of commercial production
That portion representing a return on investment which is greater than 0 per cent, but less than 10 per cent	35 per cent	40 per cent
That portion representing a return on investment which is 10 per cent or greater, but less than 20 per cent	42.5 per cent	50 per cent
That portion representing a return on investment which is 20 per cent or greater	50 per cent	70 per cent

(d) (i) The first period of commercial production referred to in subparagraphs (a) and (c) shall commence in the first accounting year of commercial production and terminate in the accounting year in which the contractor's development costs with interest on the unrecovered portion thereof are fully recovered by his cash surplus, as follows:

In the first accounting year during which development costs are incurred, unrecovered development costs shall equal the development costs less cash surplus in that year. In each subsequent accounting year, unrecovered development costs shall equal the unrecovered development costs at the end of the preceding accounting year, plus interest thereon at the rate of 10 per cent per annum, plus development costs incurred in the current accounting year and less contractor's cash surplus in the current accounting year. The accounting year in which unrecovered development costs become zero for the first time shall be the accounting year in which the contractor's development costs with interest on the unrecovered portion thereof are fully recovered by his cash surplus. The contractor's cash surplus in any accounting year shall be his gross proceeds less his operating costs and less his payments to the Authority under subparagraph (c).

(ii) The second period of commercial production shall commence in the accounting year following the termination of the first period of commercial production and shall continue until the end of the contract.

(e) "Attributable net proceeds" means the product of the contractor's net proceeds and the ratio of the development costs in the mining sector to the contractor's development costs. If the contractor engages in mining, transporting polymetallic nodules and production primarily of three processed metals, namely, cobalt, copper and nickel, the amount of attributable net proceeds shall not be less than 25 per cent of the contractor's net proceeds. Subject to subparagraph (n), in all other cases, including those where the contractor engages in mining, transporting polymetallic nodules, and production primarily of four processed metals, namely, cobalt, copper, manganese and nickel, the Authority may, in its rules, regulations and procedures, prescribe appropriate floors which shall bear the same relationship to each case as the 25 per cent floor does to the three-metal case.

(f) "Contractor's net proceeds" means the contractor's gross proceeds less his operating costs and less the recovery of his development costs as set out in subparagraph (j).

(g) (i) If the contractor engages in mining, transporting polymetallic nodules and production of processed metals, "contractor's gross proceeds" means the gross revenues from the sale of the processed metals and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority.

(ii) In all cases other than those specified in subparagraphs (g)(i) and (n)(iii), "contractor's gross proceeds" means the gross revenues from the sale of the semi-processed metals from the polymetallic nodules recovered from the area covered by the contract, and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority.

(h) "Contractor's development costs" means:

(i) all expenditures incurred prior to the commencement of commercial production which are directly related to the development of the productive capacity of the area covered by the contract and the activities related thereto for operations under the contract in all cases other than that specified in subparagraph (n), in conformity with generally recognized accounting principles, including, *inter alia*, costs of machinery, equipment, ships, processing plant, construction, buildings, land, roads, prospecting and exploration of the area covered by the contract, research and development, interest, required leases, licences and fees; and

(ii) expenditures similar to those set forth in (i) above incurred subsequent to the commencement of commercial production and necessary to carry out the plan of work, except those chargeable to operating costs.

(i) The proceeds from the disposal of capital assets and the market value of those capital assets which are no longer required for operations under the contract and which are not sold shall be deducted from the

contractors development costs during the relevant accounting year. When these deductions exceed the contractor's development costs the excess shall be added to the contractor's gross proceeds.

(j) The contractor's development costs incurred prior to the commencement of commercial production referred to in subparagraphs (h)(i) and (n)(iv) shall be recovered in 10 equal annual instalments from the date of commencement of commercial production. The contractor's development costs incurred subsequent to the commencement of commercial production referred to in subparagraphs (h)(ii) and (n)(iv) shall be recovered in 10 or fewer equal annual instalments so as to ensure their complete recovery by the end of the contract.

(k) "Contractor's operating costs" means all expenditures incurred after the commencement of commercial production in the operation of the productive capacity of the area covered by the contract and the activities related thereto for operations under the contract, in conformity with generally recognized accounting principles, including, *inter alia*, the annual fixed fee or the production charge, whichever is greater, expenditures for wages, salaries, employee benefits, materials, services, transporting, processing and marketing costs, interest, utilities, preservation of the marine environment, overhead and administrative costs specifically related to operations under the contract, and any net operating losses carried forward or backward as specified herein. Net operating losses may be carried forward for two consecutive years except in the last two years of the contract in which case they may be carried backward to the two preceding years.

(l) If the contractor engages in mining, transporting of polymetallic nodules, and production of processed and semi-processed metals, "development costs of the mining sector" means the portion of the contractor's development costs which is directly related to the mining of the resources of the area covered by the contract, in conformity with generally recognized accounting principles, and the financial rules, regulations and procedures of the Authority, including, *inter alia*, application fee, annual fixed fee and, where applicable, costs of prospecting and exploration of the area covered by the contract, and a portion of research and development costs.

(m) "Return on investment" in any accounting year means the ratio of attributable net proceeds in that year to the development costs of the mining sector. For the purpose of computing this ratio the development costs of the mining sector shall include expenditures on new or replacement equipment in the mining sector less the original cost of the equipment replaced.

(n) If the contractor engages in mining only:

(i) "attributable net proceeds" means the whole of the contractor's net proceeds;

(ii) "contractor's net proceeds" shall be as defined in subparagraph (f);

(iii) "contractor's gross proceeds" means the gross revenues from the sale of the polymetallic nodules, and any other monies deemed reasonably attributable to operations under the contract in accordance with the financial rules, regulations and procedures of the Authority;

(iv) "contractor's development costs" means all expenditures incurred prior to the commencement of commercial production as set forth in subparagraph (h)(i), and all expenditures incurred subsequent to the commencement of commercial production as set forth in subparagraph (h)(ii), which are directly related to the mining of the resources of the area covered by the contract, in conformity with generally recognized accounting principles;

(v) "contractor's operating costs" means the contractor's operating costs as in subparagraph (k) which are directly related to the mining of the resources of the area covered by the contract in conformity with generally recognized accounting principles;

(vi) "return on investment" in any accounting year means the ratio of the contractor's net proceeds in that year to the contractor's development costs. For the purpose of computing this ratio, the contractor's development costs shall include expenditures on new or replacement equipment less the original cost of the equipment replaced.

(o) The costs referred to in subparagraphs (h), (k), (l) and (n) in respect of interest paid by the contractor shall be allowed to the extent that, in all the circumstances, the Authority approves, pursuant to article 4, paragraph 1, of this Annex, the debt-equity ratio and the rates of interest as reasonable, having regard to existing commercial practice.

(p) The costs referred to in this paragraph shall not be interpreted as including payments of corporate income taxes or similar charges levied by States in respect of the operations of the contractor.

7. (a) "Processed metals", referred to in paragraphs 5 and 6, means the metals in the most basic form in which they are customarily traded on international terminal markets. For this purpose, the Authority shall specify, in its financial rules, regulations and procedures, the relevant international terminal market. For the metals which are not traded on such markets, "processed metals" means the metals in the most basic form in which they are customarily traded in representative arm's length transactions.

(b) If the Authority cannot otherwise determine the quantity of the processed metals produced from the polymetallic nodules recovered from the area covered by the contract referred to in paragraphs 5(b) and 6(b), the quantity shall be determined on the basis of the metal content of the nodules, processing recovery efficiency and other relevant factors, in accordance with the rules, regulations and procedures of the Authority and in conformity with generally recognized accounting principles.

8. If an international terminal market provides a representative pricing mechanism for processed

metals, polymetallic nodules and semi-processed metals from the nodules, the average price on that market shall be used. In all other cases, the Authority shall, after consulting the contractor, determine a fair price for the said products in accordance with paragraph 9.

9. (a) All costs, expenditures, proceeds and revenues and all determinations of price and value referred to in this article shall be the result of free market or arm's length transactions. In the absence thereof, they shall be determined by the Authority, after consulting the contractor, as though they were the result of free market or arm's length transactions, taking into account relevant transactions in other markets.

(b) In order to ensure compliance with and enforcement of the provisions of this paragraph, the Authority shall be guided by the principles adopted for, and the interpretation given to, arm's length transactions by the Commission on Transnational Corporations of the United Nations, the Group of Experts on Tax Treaties between Developing and Developed Countries and other international organizations, and shall, in its rules, regulations and procedures, specify uniform and internationally acceptable accounting rules and procedures, and the means of selection by the contractor or certified independent accountants acceptable to the Authority for the purpose of carrying out auditing in compliance with those rules, regulations and procedures.

10. The contractor shall make available to the accountants, in accordance with the financial rules, regulations and procedures of the Authority, such financial data as are required to determine compliance with this article.

11. All costs, expenditures, proceeds and revenues, and all prices and values referred to in this article, shall be determined in accordance with generally recognized accounting principles and the financial rules, regulations and procedures of the Authority.

12. Payments to the Authority under paragraphs 5 and 6 shall be made in freely usable currencies or currencies which are freely available and effectively usable on the major foreign exchange markets or, at the contractor's option, in the equivalents of processed metals at market value. The market value shall be determined in accordance with paragraph 5(b). The freely usable currencies and currencies which are freely available and effectively usable on the major foreign exchange markets shall be defined in the rules, regulations and procedures of the Authority in accordance with prevailing international monetary practice.

13. All financial obligations of the contractor to the Authority, as well as all his fees, costs, expenditures, proceeds and revenues referred to in this article, shall be adjusted by expressing them in constant terms relative to a base year.

14. The Authority may, taking into account any recommendations of the Economic Planning Commission and the Legal and Technical Commission, adopt rules, regulations and procedures that provide for incentives, on a uniform and non-discriminatory basis, to contractors to further the objectives set out in paragraph 1.

15. In the event of a dispute between the Authority and a contractor over the interpretation or application of the financial terms of a contract, either party may submit the dispute to binding commercial arbitration, unless both parties agree to settle the dispute by other means, in accordance with article 188, paragraph 2.

#### *Article 14*

##### TRANSFER OF DATA

1. The operator shall transfer to the Authority, in accordance with its rules, regulations and procedures and the terms and conditions of the plan of work, at time intervals determined by the Authority all data which are both necessary for and relevant to the effective exercise of the powers and functions of the principal organs of the Authority in respect of the area covered by the plan of work.

2. Transferred data in respect of the area covered by the plan of work, deemed proprietary, may only be used for the purposes set forth in this article. Data necessary for the formulation by the Authority of rules, regulations and procedures concerning protection of the marine environment and safety, other than equipment design data, shall not be deemed proprietary.

3. Data transferred to the Authority by prospectors, applicants for contracts or contractors, deemed proprietary, shall not be disclosed by the Authority to the Enterprise or to anyone external to the Authority, but data on the reserved areas may be disclosed to the Enterprise. Such data transferred by such persons to the Enterprise shall not be disclosed by the Enterprise to the Authority or to anyone external to the Authority.

#### *Article 15*

##### TRAINING PROGRAMMES

The contractor shall draw up practical programmes for the training of personnel of the Authority and developing States, including the participation of such personnel in all activities in the Area which are covered by the contract, in accordance with article 144, paragraph 2.

#### *Article 16*

##### EXCLUSIVE RIGHT TO EXPLORE AND EXPLOIT

The Authority shall, pursuant to Part XI and its rules, regulations and procedures, accord the operator the exclusive right to explore and exploit the area covered by the plan of work in respect of a specified category of resources and shall ensure that

no other entity operates in the same area for a different category of resources in a manner which might interfere with the operations of the operator. The operator shall have security of tenure in accordance with article 153, paragraph 6.

#### Article 17

##### RULES, REGULATIONS AND PROCEDURES OF THE AUTHORITY

1. The Authority shall adopt and uniformly apply rules, regulations and procedures in accordance with article 160, paragraph 2(f)(ii), and article 162, paragraph 2(o)(ii), for the exercise of its functions as set forth in Part XI on, *inter alia*, the following matters:

(a) administrative procedures relating to prospecting, exploration and exploitation in the Area;

(b) operations:

(i) size of area;

(ii) duration of operations;

(iii) performance requirements including assurances pursuant to article 4, paragraph 6(c), of this Annex;

(iv) categories of resources;

(v) renunciation of areas;

(vi) progress reports;

(vii) submission of data;

(viii) inspection and supervision of operations;

(ix) prevention of interference with other activities in the marine environment;

(x) transfer of rights and obligations by a contractor;

(xi) procedures for transfer of technology to developing States in accordance with article 144 and for their direct participation;

(xii) mining standards and practices, including those relating to operational safety, conservation of the resources and the protection of the marine environment;

(xiii) definition of commercial production;

(xiv) qualification standards for applicants;

(c) financial matters:

(i) establishment of uniform and non-discriminatory costing and accounting rules and the method of selection of auditors;

(ii) apportionment of proceeds of operations;

(iii) the incentives referred to in article 13 of this Annex;

(d) implementation of decisions taken pursuant to article 151, paragraph 10, and article 164, paragraph 2(d).

2. Rules, regulations and procedures on the following items shall fully reflect the objective criteria set out below:

(a) Size of areas:

The Authority shall determine the appropriate size of areas for exploration which may be up to twice as large as those for exploitation in order to permit intensive exploration operations. The size of area shall be calculated to satisfy the requirements of

article 8 of this Annex on reservation of areas as well as stated production requirements consistent with article 151 in accordance with the terms of the contract taking into account the state of the art of technology then available for sea-bed mining and the relevant physical characteristics of the areas. Areas shall be neither smaller nor larger than are necessary to satisfy this objective.

(b) Duration of operations:

(i) Prospecting shall be without time-limit;

(ii) Exploration should be of sufficient duration to permit a thorough survey of the specific area, the design and construction of mining equipment for the area and the design and construction of small and medium-size processing plants for the purpose of testing mining and processing systems;

(iii) The duration of exploitation should be related to the economic life of the mining project, taking into consideration such factors as the depletion of the ore, the useful life of mining equipment and processing facilities and commercial viability. Exploitation should be of sufficient duration to permit commercial extraction of minerals of the area and should include a reasonable time period for construction of commercial-scale mining and processing systems, during which period commercial production should not be required. The total duration of exploitation, however, should also be short enough to give the Authority an opportunity to amend the terms and conditions of the plan of work at the time it considers renewal in accordance with rules, regulations and procedures which it has adopted subsequent to approving the plan of work.

(c) Performance requirements:

The Authority shall require that during the exploration stage periodic expenditures be made by the operator which are reasonably related to the size of the area covered by the plan of work and the expenditures which would be expected of a *bona fide* operator who intended to bring the area into commercial production within the time-limits established by the Authority. The required expenditures should not be established at a level which would discourage prospective operators with less costly technology than is prevalently in use. The Authority shall establish a maximum time interval, after the exploration stage is completed and the exploitation stage begins, to achieve commercial production. To determine this interval, the Authority should take into consideration that construction of large-scale mining and processing systems cannot be initiated until after the termination of the exploration stage and the commencement of the exploitation stage. Accordingly, the interval to bring an area into commercial production should take into account the time necessary for this construction after the completion of the exploration stage and reasonable allowance should be made for unavoidable delays in the construction schedule. Once commercial production is achieved, the Authority shall within reasonable limits and taking into consideration all

relevant factors require the operator to maintain commercial production throughout the period of the plan of work.

(d) Categories of resources:

In determining the category of resources in respect of which a plan of work may be approved, the Authority shall give emphasis *inter alia* to the following characteristics:

(i) that certain resources require the use of similar mining methods; and

(ii) that some resources can be developed simultaneously without undue interference between operators developing different resources in the same area.

Nothing in this subparagraph shall preclude the Authority from approving a plan of work with respect to more than one category of resources in the same area to the same applicant.

(e) Renunciation of areas:

The operator shall have the right at any time to renounce without penalty the whole or part of his rights in the area covered by a plan of work.

(f) Protection of the marine environment:

Rules, regulations and procedures shall be drawn up in order to secure effective protection of the marine environment from harmful effects directly resulting from activities in the Area or from shipboard processing immediately above a mine site of minerals derived from that mine site, taking into account the extent to which such harmful effects may directly result from drilling, dredging, coring and excavation and from disposal, dumping and discharge into the marine environment of sediment, wastes or other effluents.

(g) Commercial production:

Commercial production shall be deemed to have begun if an operator engages in sustained large-scale recovery operations which yield a quantity of materials sufficient to indicate clearly that the principal purpose is large-scale production rather than production intended for information gathering, analysis or the testing of equipment or plant.

### Article 18

#### PENALTIES

1. A contractor's rights under the contract may be suspended or terminated only in the following cases:

(a) if, in spite of warnings by the Authority, the contractor has conducted his activities in such a way as to result in serious, persistent and wilful violations of the fundamental terms of the contract, Part XI and the rules, regulations and procedures of the Authority; or

(b) if the contractor has failed to comply with a final binding decision of the dispute settlement body applicable to him.

2. In the case of any violation of the contract not covered by paragraph 1(a), or in lieu of suspension or termination under paragraph 1(a), the Authority

may impose upon the contractor monetary penalties proportionate to the seriousness of the violation.

3. Except for emergency orders under article 162, paragraph 2(w), the Authority may not execute a decision involving monetary penalties, suspension or termination until the contractor has been accorded a reasonable opportunity to exhaust the judicial remedies available to him pursuant to Part XI, section 5.

### Article 19

#### REVISION OF CONTRACT

1. When circumstances have arisen or are likely to arise which, in the opinion of either party, would render the contract inequitable or make it impracticable or impossible to achieve the objectives set out in the contract or in Part XI, the parties shall enter into negotiations to revise it accordingly.

2. Any contract entered into in accordance with article 153, paragraph 3, may be revised only with the consent of the parties.

### Article 20

#### TRANSFER OF RIGHTS AND OBLIGATIONS

The rights and obligations arising under a contract may be transferred only with the consent of the Authority, and in accordance with its rules, regulations and procedures. The Authority shall not unreasonably withhold consent to the transfer if the proposed transferee is in all respects a qualified applicant and assumes all of the obligations of the transferor and if the transfer does not confer to the transferee a plan of work, the approval of which would be forbidden by article 6, paragraph 3(c), of this Annex.

### Article 21

#### APPLICABLE LAW

1. The contract shall be governed by the terms of the contract, the rules, regulations and procedures of the Authority, Part XI and other rules of international law not incompatible with this Convention.

2. Any final decision rendered by a court or tribunal having jurisdiction under this Convention relating to the rights and obligations of the Authority and of the contractor shall be enforceable in the territory of each State Party.

3. No State Party may impose conditions on a contractor that are inconsistent with Part XI. However, the application by a State Party to contractors sponsored by it, or to ships flying its flag, of environmental or other laws and regulations more stringent than those in the rules, regulations and procedures of the Authority adopted pursuant to article 17, paragraph 2(f), of this Annex shall not be deemed inconsistent with Part XI.



*Article 22*

## RESPONSIBILITY

The contractor shall have responsibility or liability for any damage arising out of wrongful acts in the conduct of its operations, account being taken of contributory acts or omissions by the Authority. Similarly, the Authority shall have responsibility or liability for any damage arising out of wrongful acts in the exercise of its powers and functions, including violations under article 168, paragraph 2, account being taken of contributory acts or omissions by the contractor. Liability in every case shall be for the actual amount of damage.

**Annex IV**

## STATUTE OF THE ENTERPRISE

*Article 1*

## PURPOSES

1. The Enterprise is 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. In carrying out its purposes and in the exercise of its functions, the Enterprise shall act in accordance with this Convention and the rules, regulations and procedures of the Authority.
3. In developing the resources of the Area pursuant to paragraph 1, the Enterprise shall, subject to this Convention, operate in accordance with sound commercial principles.

*Article 2*

## RELATIONSHIP TO THE AUTHORITY

1. Pursuant to article 170, the Enterprise shall act in accordance with the general policies of the Assembly and the directives of the Council.
2. Subject to paragraph 1, the Enterprise shall enjoy autonomy in the conduct of its operations.
3. Nothing in this Convention shall make the Enterprise liable for the acts or obligations of the Authority, or make the Authority liable for the acts or obligations of the Enterprise.

*Article 3*

## LIMITATION OF LIABILITY

Without prejudice to article 11, paragraph 3, of this Annex, no member of the Authority shall be liable by reason only of its membership for the acts or obligations of the Enterprise.

*Article 4*

## STRUCTURE

The Enterprise shall have a Governing Board, a Director-General and the Staff necessary for the exercise of its functions.

*Article 5*

## GOVERNING BOARD

1. The Governing Board shall be composed of 15 members elected by the Assembly in accordance with article 160, paragraph 2(c). In the election of the members of the Board, due regard shall be paid to the principle of equitable geographical distribution. In submitting nominations of candidates for election to the Board, members of the Authority shall bear in mind the need to nominate candidates of the highest standard of competence, with qualifications in relevant fields, so as to ensure the viability and success of the Enterprise.

2. Members of the Board shall be elected for four years and may be re-elected; and due regard shall be paid to the principle of rotation of membership.

3. Members of the Board shall continue in office until their successors are elected. If the office of a member of the Board becomes vacant, the Assembly shall, in accordance with article 160, paragraph 2(c), elect a new member for the remainder of his predecessor's term.

4. Members of the Board shall act in their personal capacity. In the performance of their duties they shall not seek or receive instructions from any government or from any other source. Each member of the Authority shall respect the independent character of the members of the Board and shall refrain from all attempts to influence any of them in the discharge of their duties.

5. Each member of the Board shall receive remuneration to be paid out of the funds of the Enterprise. The amount of remuneration shall be fixed by the Assembly, upon the recommendation of the Council.

6. The Board shall normally function at the principal office of the Enterprise and shall meet as often as the business of the Enterprise may require.

7. Two thirds of the members of the Board shall constitute a quorum.

8. Each member of the Board shall have one vote. All matters before the Board shall be decided by a majority of its members. If a member has a conflict of interest on a matter before the Board he shall refrain from voting on that matter.

9. Any member of the Authority may ask the Board for information in respect of its operations which particularly affect that member. The Board shall endeavour to provide such information.

*Article 6*

## POWERS AND FUNCTIONS OF THE GOVERNING BOARD

The Governing Board shall direct the operations of the Enterprise. Subject to this Convention, the Governing Board shall exercise the powers necessary to fulfil the purposes of the Enterprise, including powers;

- (a) to elect a Chairman from among its members;
- (b) to adopt its rules of procedure;
- (c) to draw up and submit formal written plans of work to the Council in accordance with article 153, paragraph 3, and article 162, paragraph 2(f);
- (d) to develop plans of work and programmes for carrying out the activities specified in article 170;
- (e) to prepare and submit to the Council applications for production authorizations in accordance with article 151, paragraphs 2 to 7;
- (f) to authorize negotiations concerning the acquisition of technology, including those provided for in Annex III, article 5, paragraph 3(a), (c) and (d), and to approve the results of those negotiations;
- (g) to establish terms and conditions, and to authorize negotiations, concerning joint ventures and other forms of joint arrangements referred to in Annex III, articles 9 and 11, and to approve the results of such negotiations;
- (h) to recommend to the Assembly what portion of the net income of the Enterprise should be retained as its reserves in accordance with article 160, paragraph 2(f), and article 10 of this Annex;
- (i) to approve the annual budget of the Enterprise;
- (j) to authorize the procurement of goods and services in accordance with article 12, paragraph 3, of this Annex;
- (k) to submit an annual report to the Council in accordance with article 9 of this Annex;
- (l) to submit to the Council for the approval of the Assembly draft rules in respect of the organization, management, appointment and dismissal of the staff of the Enterprise and to adopt regulations to give effect to such rules;
- (m) to borrow funds and to furnish such collateral or other security as it may determine in accordance with article 11, paragraph 2, of this Annex;
- (n) to enter into any legal proceedings, agreements and transactions and to take any other actions in accordance with article 13 of this Annex;
- (o) to delegate, subject to the approval of the Council, any non-discretionary powers to the Director-General and to its committees.

#### Article 7

##### DIRECTOR-GENERAL AND STAFF OF THE ENTERPRISE

1. The Assembly shall, upon the recommendation of the Council and the nomination of the Governing Board, elect the Director-General of the Enterprise who shall not be a member of the Board. The Director-General shall hold office for a fixed term, not exceeding five years, and may be re-elected for further terms.
2. The Director-General shall be the legal representative and chief executive of the Enterprise and shall be directly responsible to the Board for the conduct of the operations of the Enterprise. He shall

be responsible for the organization, management, appointment and dismissal of the staff of the Enterprise in accordance with the rules and regulations referred to in article 6, subparagraph (1), of this Annex. He shall participate, without the right to vote, in the meetings of the Board and may participate, without the right to vote, in the meetings of the Assembly and the Council when these organs are dealing with matters concerning the Enterprise.

3. 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 and of technical competence. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on an equitable geographical basis.

4. In the performance of their duties the Director-General and the staff shall not seek or receive instructions from any government or from any other source external to the Enterprise. They shall refrain from any action which might reflect on their position as international officials of the Enterprise responsible only to the Enterprise. Each State Party undertakes to respect the exclusively international character of the responsibilities of the Director-General and the staff and not to seek to influence them in the discharge of their responsibilities.

5. The responsibilities set forth in article 168, paragraph 2, are equally applicable to the staff of the Enterprise.

#### Article 8

##### LOCATION

The Enterprise shall have its principal office at the seat of the Authority. The Enterprise may establish other offices and facilities in the territory of any State Party with the consent of that State Party.

#### Article 9

##### REPORTS AND FINANCIAL STATEMENTS

1. The Enterprise shall, not later than three months after the end of each financial year, submit to the Council for its consideration an annual report containing an audited statement of its accounts and shall transmit to the Council at appropriate intervals a summary statement of its financial position and a profit and loss statement showing the results of its operations.

2. The Enterprise shall publish its annual report and such other reports as it finds appropriate.

3. All reports and financial statements referred to in this article shall be distributed to the members of the Authority.

#### Article 10

##### ALLOCATION OF NET INCOME

1. Subject to paragraph 3, the Enterprise shall make payments to the Authority under Annex III, article 13, or their equivalent.

2. The Assembly shall, upon the recommendation of the Governing Board, determine what portion of the net income of the Enterprise shall be retained as reserves of the Enterprise. The remainder shall be transferred to the Authority.

3. During an initial period required for the Enterprise to become self-supporting, which shall not exceed 10 years from the commencement of commercial production by it, the Assembly shall exempt the Enterprise from the payments referred to in paragraph 1, and shall leave all of the net income of the Enterprise in its reserves.

#### Article 11

##### FINANCES

1. The funds of the Enterprise shall include:

(a) amounts received from the Authority in accordance with article 173, paragraph 2(b);

(b) voluntary contributions made by States Parties for the purpose of financing activities of the Enterprise;

(c) amounts borrowed by the Enterprise in accordance with paragraphs 2 and 3;

(d) income of the Enterprise from its operations;

(e) other funds made available to the Enterprise to enable it to commence operations as soon as possible and to carry out its functions.

2. (a) The Enterprise shall have the power to borrow funds and to furnish such collateral or other security as it may determine. Before making a public sale of its obligations in the financial markets or currency of a State Party, the Enterprise shall obtain the approval of that State Party. The total amount of borrowings shall be approved by the Council upon the recommendation of the Governing Board.

(b) States Parties shall make every reasonable effort to support applications by the Enterprise for loans on capital markets and from international financial institutions.

3. (a) The Enterprise shall be provided with the funds necessary to explore and exploit one mine site, and to transport, process and market the minerals recovered therefrom and the nickel, copper, cobalt and manganese obtained, and to meet its initial administrative expenses. The amount of the said funds, and the criteria and factors for its adjustment, shall be included by the Preparatory Commission in the draft rules, regulations and procedures of the Authority.

(b) All States Parties shall make available to the Enterprise an amount equivalent to one half of the funds referred to in subparagraph (a) by way of long-term interest-free loans in accordance with the scale of assessments for the United Nations regular budget in force at the time when the assessments are made, adjusted to take into account the States which are not members of the United Nations. Debts incurred by the Enterprise in raising the other half of the funds shall be guaranteed by all States Parties in accordance with the same scale.

(c) If the sum of the financial contributions of States Parties is less than the funds to be provided to the Enterprise under subparagraph (a), the Assembly shall, at its first session, consider the extent of the shortfall and adopt by consensus measures for dealing with this shortfall, taking into account the obligation of States Parties under subparagraphs (a) and (b) and any recommendations of the Preparatory Commission.

(d) (i) Each State Party shall, within 60 days after the entry into force of this Convention, or within 30 days after the deposit of its instrument of ratification or accession, whichever is later, deposit with the Enterprise irrevocable, non-negotiable, non-interest-bearing promissory notes in the amount of the share of such State Party of interest-free loans pursuant to subparagraph (b).

(ii) The Board shall prepare, at the earliest practicable date after this Convention enters into force, and thereafter at annual or other appropriate intervals, a schedule of the magnitude and timing of its requirements for the funding of its administrative expenses and for activities carried out by the Enterprise in accordance with article 170 and article 12 of this Annex.

(iii) The States Parties shall, thereupon, be notified by the Enterprise, through the Authority, of their respective shares of the funds in accordance with subparagraph (b), required for such expenses. The Enterprise shall encash such amounts of the promissory notes as may be required to meet the expenditure referred to in the schedule with respect to interest-free loans.

(iv) States Parties shall, upon receipt of the notification, make available their respective shares of debt guarantees for the Enterprise in accordance with subparagraph (b).

(e) (i) If the Enterprise so requests, States Parties may provide debt guarantees in addition to those provided in accordance with the scale referred to in subparagraph (b).

(ii) In lieu of debt guarantees, a State Party may make a voluntary contribution to the Enterprise in an amount equivalent to that portion of the debts which it would otherwise be liable to guarantee.

(f) Repayment of the interest-bearing loans shall have priority over the repayment of the interest-free loans. Repayment of interest-free loans shall be in accordance with a schedule adopted by the Assembly, upon the recommendation of the Council and the advice of the Board. In the exercise of this function the Board shall be guided by the relevant provisions of the rules, regulations and procedures of the Authority, which shall take into account the paramount importance of ensuring the effective functioning of the Enterprise and, in particular, ensuring its financial independence.

(g) Funds made available to the Enterprise shall be in freely usable currencies or currencies which are freely available and effectively usable in the major foreign exchange markets. These currencies shall be defined in the rules, regulations and procedures of the Authority in accordance with prevailing

international monetary practice. Except as provided in paragraph 2, no State Party shall maintain or impose restrictions on the holding, use or exchange by the Enterprise of these funds.

(h) "Debt guarantee" means a promise of a State Party to creditors of the Enterprise to pay, *pro rata* in accordance with the appropriate scale, the financial obligations of the Enterprise covered by the guarantee following notice by the creditors to the State Party of a default by the Enterprise. Procedures for the payment of those obligations shall be in conformity with the rules, regulations and procedures of the Authority.

4. The funds, assets and expenses of the Enterprise shall be kept separate from those of the Authority. This article shall not prevent the Enterprise from making arrangements with the Authority regarding facilities, personnel and services and arrangements for reimbursement of administrative expenses paid by either on behalf of the other.

5. The records, books and accounts of the Enterprise, including its annual financial statements, shall be audited annually by an independent auditor appointed by the Council.

#### Article 12

##### OPERATIONS

1. The Enterprise shall propose to the Council projects for carrying out activities in accordance with article 170. Such proposals shall include a formal written plan of work for activities in the Area in accordance with article 153, paragraph 3, and all such other information and data as may be required from time to time for its appraisal by the Legal and Technical Commission and approval by the Council.

2. Upon approval by the Council, the Enterprise shall execute the project on the basis of the formal written plan of work referred to in paragraph 1.

3. (a) If the Enterprise does not possess the goods and services required for its operations it may procure them. For that purpose, it shall issue invitations to tender and award contracts to bidders offering the best combination of quality, price and delivery time.

(b) If there is more than one bid offering such a combination, the contract shall be awarded in accordance with:

(i) the principle of non-discrimination on the basis of political or other considerations not relevant to the carrying out of operations with due diligence and efficiency; and

(ii) guidelines approved by the Council with regard to the preferences to be accorded to goods and services originating in developing States, including the land-locked and geographically disadvantaged among them.

(c) The Governing Board may adopt rules determining the special circumstances in which the requirement of invitations to bid may, in the best interests of the Enterprise, be dispensed with.

4. The Enterprise shall have title to all minerals and processed substances produced by it.

5. The Enterprise shall sell its products on a non-discriminatory basis. It shall not give non-commercial discounts.

6. Without prejudice to any general or special power conferred on the Enterprise under any other provision of this Convention, the Enterprise shall exercise such powers incidental to its business as shall be necessary.

7. The Enterprise shall not interfere in the political affairs of any State Party; nor shall it be influenced in its decisions by the political character of the State Party concerned. Only commercial considerations shall be relevant to its decisions, and these considerations shall be weighed impartially in order to carry out the purposes specified in article 1 of this Annex.

#### Article 13

##### LEGAL STATUS, PRIVILEGES AND IMMUNITIES

1. To enable the Enterprise to exercise its functions, the status, privileges and immunities set forth in this article shall be accorded to the Enterprise in the territories of States Parties. To give effect to this principle the Enterprise and States Parties may, where necessary, enter into special agreements.

2. The Enterprise shall have such legal capacity as is necessary for the exercise of its functions and the fulfilment of its purposes and, in particular, the capacity:

(a) to enter into contracts, joint arrangements or other arrangements, including agreements with States and international organizations;

(b) to acquire, lease, hold and dispose of immovable and movable property;

(c) to be a party to legal proceedings.

3. (a) Actions may be brought against the Enterprise only in a court of competent jurisdiction in the territory of a State Party in which the Enterprise:

(i) has an office or facility;

(ii) has appointed an agent for the purpose of accepting service or notice of process;

(iii) has entered into a contract for goods or services;

(iv) has issued securities; or

(v) is otherwise engaged in commercial activity.

(b) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Enterprise.

4. (a) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

(b) The property and assets of the Enterprise, wherever located and by whomsoever held, shall be free from discriminatory restrictions, regulations, controls and moratoria of any nature.

(c) The Enterprise and its employees shall respect local laws and regulations in any State or territory in which the Enterprise or its employees may do business or otherwise act.

(d) States Parties shall ensure that the Enterprise enjoys all rights, privileges and immunities accorded by them to entities conducting commercial activities in their territories. These rights, privileges and immunities shall be accorded to the Enterprise on no less favourable a basis than that on which they are accorded to entities engaged in similar commercial activities. If special privileges are provided by States Parties for developing States or their commercial entities, the Enterprise shall enjoy those privileges on a similarly preferential basis.

(e) States Parties may provide special incentives, rights, privileges and immunities to the Enterprise without the obligation to provide such incentives, rights, privileges and immunities to other commercial entities.

5. The Enterprise shall negotiate with the host countries in which its offices and facilities are located for exemption from direct and indirect taxation.

6. Each State Party shall take such action as is necessary for giving effect in terms of its own law to the principles set forth in this Annex and shall inform the Enterprise of the specific action which it has taken.

7. The Enterprise may waive any of the privileges and immunities conferred under this article or in the special agreements referred to in paragraph 1 to such extent and upon such conditions as it may determine.

## Annex V

### CONCILIATION

#### SECTION 1. CONCILIATION PROCEDURE PURSUANT TO SECTION 1 OF PART XV

##### Article 1

###### INSTITUTION OF PROCEEDINGS

If the parties to a dispute have agreed, in accordance with article 284, to submit it to conciliation under this section, any such party may institute the proceedings by written notification addressed to the other party or parties to the dispute.

##### Article 2

###### LIST OF CONCILIATORS

A list of conciliators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four conciliators, each of whom shall be a person enjoying the highest reputation for fairness,

competence and integrity. The names of the persons so nominated shall constitute the list. If at any time the conciliators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary. The name of a conciliator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such conciliator shall continue to serve on any conciliation commission to which that conciliator has been appointed until the completion of the proceedings before that commission.

### Article 3

#### CONSTITUTION OF CONCILIATION COMMISSION

The conciliation commission shall, unless the parties otherwise agree, be constituted as follows:

(a) Subject to subparagraph (g), the conciliation commission shall consist of five members.

(b) The party instituting the proceedings shall appoint two conciliators to be chosen preferably from the list referred to in article 2 of this Annex, one of whom may be its national, unless the parties otherwise agree. Such appointments shall be included in the notification referred to in article 1 of this Annex.

(c) The other party to the dispute shall appoint two conciliators in the manner set forth in subparagraph (b) within 21 days of receipt of the notification referred to in article 1 of this Annex. If the appointments are not made within that period, the party instituting the proceedings may, within one week of the expiration of that period, either terminate the proceedings by notification addressed to the other party or request the Secretary-General of the United Nations to make the appointments in accordance with subparagraph (e).

(d) Within 30 days after all four conciliators have been appointed, they shall appoint a fifth conciliator chosen from the list referred to in article 2 of this Annex, who shall be chairman. If the appointment is not made within that period, either party may, within one week of the expiration of that period, request the Secretary-General of the United Nations to make the appointment in accordance with subparagraph (e).

(e) Within 30 days of the receipt of a request under subparagraph (c) or (d), the Secretary-General of the United Nations shall make the necessary appointments from the list referred to in article 2 of this Annex in consultation with the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Two or more parties which determine by agreement that they are in the same interest shall appoint two conciliators jointly. 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 conciliators separately.

(h) In disputes involving more than two parties having separate interests, or where there is

disagreement as to whether they are of the same interest, the parties shall apply subparagraphs (a) to (f) in so far as possible.

*Article 4*  
PROCEDURE

The conciliation commission shall, unless the parties otherwise agree, determine its own procedure. The commission may, with the consent of the parties to the dispute, invite any State Party to submit to it its views orally or in writing. Decisions of the commission regarding procedural matters, the report and recommendations shall be made by a majority vote of its members.

*Article 5*  
AMICABLE SETTLEMENT

The commission may draw the attention of the parties to any measures which might facilitate an amicable settlement of the dispute.

*Article 6*  
FUNCTIONS OF THE COMMISSION

The commission shall hear the parties, examine their claims and objections, and make proposals to the parties with a view to reaching an amicable settlement.

*Article 7*  
REPORT

1. The commission shall report within 12 months of its constitution. Its report shall record any agreements reached and, failing agreement, its conclusions on all questions of fact or law relevant to the matter in dispute and such recommendations as the commission may deem appropriate for an amicable settlement. The report shall be deposited with the Secretary-General of the United Nations and shall immediately be transmitted by him to the parties to the dispute.

2. The report of the commission, including its conclusions or recommendations, shall not be binding upon the parties.

*Article 8*  
TERMINATION

The conciliation proceedings are terminated when a settlement has been reached, when the parties have accepted or one party has rejected the recommendations of the report by written notification addressed to the Secretary-General of the United Nations, or when a period of three months has expired from the date of transmission of the report to the parties.

*Article 9*  
FEES AND EXPENSES

The fees and expenses of the commission shall be borne by the parties to the dispute.

*Article 10*  
RIGHT OF PARTIES TO MODIFY PROCEDURE

The parties to the dispute may by agreement applicable solely to that dispute modify any provision of this Annex.

SECTION 2. COMPULSORY SUBMISSION TO  
CONCILIATION PROCEDURE PURSUANT TO  
SECTION 3 OF PART XV

*Article 11*  
INSTITUTION OF PROCEEDINGS

1. Any party to a dispute which, in accordance with Part XV, section 3, may be submitted to conciliation under this section, may institute the proceedings by written notification addressed to the other party or parties to the dispute.

2. Any party to the dispute, notified under paragraph 1, shall be obliged to submit to such proceedings.

*Article 12*  
FAILURE TO REPLY OR TO SUBMIT TO  
CONCILIATION

The failure of a party or parties to the dispute to reply to notification of institution of proceedings or to submit to such proceedings shall not constitute a bar to the proceedings.

*Article 13*  
COMPETENCE

A disagreement as to whether a conciliation commission acting under this section has competence shall be decided by the commission.

*Article 14*  
APPLICATION OF SECTION 1

Articles 2 to 10 of section 1 of this Annex apply subject to this section.

**Annex VI**

STATUTE OF THE INTERNATIONAL TRIBUNAL  
FOR THE LAW OF THE SEA

*Article 1*  
GENERAL PROVISIONS

1. The International Tribunal for the Law of the Sea is constituted and shall function in accordance with the provisions of this Convention and this Statute.

2. The seat of the Tribunal shall be in the Free and Hanseatic City of Hamburg in the Federal Republic of Germany.

3. The Tribunal may sit and exercise its functions elsewhere whenever it considers this desirable.

4. A reference of a dispute to the Tribunal shall be governed by the provisions of Parts XI and XV.

## SECTION 1. ORGANIZATION OF THE TRIBUNAL

### Article 2

#### COMPOSITION

1. The Tribunal shall be composed of a body of 21 independent members, elected from among persons enjoying the highest reputation for fairness and integrity and of recognized competence in the field of the law of the sea.

2. In the Tribunal as a whole the representation of the principal legal systems of the world and equitable geographical distribution shall be assured.

### Article 3

#### MEMBERSHIP

1. No two members of the Tribunal may be nationals of the same State. A person who for the purposes of membership in the Tribunal 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.

2. There shall be no fewer than three members from each geographical group as established by the General Assembly of the United Nations.

### Article 4

#### NOMINATIONS AND ELECTIONS

1. Each State Party may nominate not more than two persons having the qualifications prescribed in article 2 of this Annex. The members of the Tribunal shall be elected from the list of persons thus nominated.

2. At least three months before the date of the election, the Secretary-General of the United Nations in the case of the first election and the Registrar of the Tribunal in the case of subsequent elections shall address a written invitation to the States Parties to submit their nominations for members of the Tribunal within two months. He shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties before the seventh day of the last month before the date of each election.

3. The first election shall be held within six months of the date of entry into force of this Convention.

4. The members of the Tribunal shall be elected by secret ballot. Elections shall be held at a meeting of the States Parties convened by the Secretary-General of the United Nations in the case of the first election and by a procedure agreed to by the States Parties in the case of subsequent elections. Two thirds of the States Parties shall constitute a quorum at that meeting. The persons elected to the Tribunal shall be those nominees who obtain the largest number of

votes and a two-thirds majority of the States Parties present and voting, provided that such majority includes a majority of the States Parties.

### Article 5

#### TERM OF OFFICE

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

2. The members of the Tribunal 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 of the United Nations immediately after the first election.

3. The members of the Tribunal shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any proceedings which they may have begun before the date of their replacement.

4. In the case of the resignation of a member of the Tribunal, the letter of resignation shall be addressed to the President of the Tribunal. The place becomes vacant on the receipt of that letter.

### Article 6

#### VACANCIES

1. Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Registrar shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in article 4 of this Annex, and the date of the election shall be fixed by the President of the Tribunal after consultation with the States Parties.

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

### Article 7

#### INCOMPATIBLE ACTIVITIES

1. No member of the Tribunal may exercise any political or administrative function, or associate actively with or be financially interested in any of the operations of any enterprise concerned with the exploration for or exploitation of the resources of the sea or the sea-bed or other commercial use of the sea or the sea-bed.

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

3. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

*Article 8*

## CONDITIONS RELATING TO PARTICIPATION OF MEMBERS IN A PARTICULAR CASE

1. No member of the Tribunal 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 tribunal, or in any other capacity.
2. If, for some special reason, a member of the Tribunal considers that he should not take part in the decision of a particular case, he shall so inform the President of the Tribunal.
3. If the President considers that for some special reason one of the members of the Tribunal should not sit in a particular case, he shall give him notice accordingly.
4. Any doubt on these points shall be resolved by decision of the majority of the other members of the Tribunal present.

*Article 9*

## CONSEQUENCE OF CEASING TO FULFIL REQUIRED CONDITIONS

If, in the unanimous opinion of the other members of the Tribunal, a member has ceased to fulfil the required conditions, the President of the Tribunal shall declare the seat vacant.

*Article 10*

## PRIVILEGES AND IMMUNITIES

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

*Article 11*

## SOLEMN DECLARATION BY MEMBERS

Every member of the Tribunal shall, before taking up his duties, make a solemn declaration in open session that he will exercise his powers impartially and conscientiously.

*Article 12*

## PRESIDENT, VICE-PRESIDENT AND REGISTRAR

1. The Tribunal shall elect its President and Vice-President for three years; they may be re-elected.
2. The Tribunal shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.
3. The President and the Registrar shall reside at the seat of the Tribunal.

*Article 13*

## QUORUM

1. All available members of the Tribunal shall sit; a quorum of 11 elected members shall be required to constitute the Tribunal.

2. Subject to article 17 of this Annex, the Tribunal shall determine which members are available to constitute the Tribunal for the consideration of a particular dispute, having regard to the effective functioning of the chambers as provided for in articles 14 and 15 of this Annex.

3. All disputes and applications submitted to the Tribunal shall be heard and determined by the Tribunal, unless article 14 of this Annex applies, or the parties request that it shall be dealt with in accordance with article 15 of this Annex.

*Article 14*

## SEA-BED DISPUTES CHAMBER

A Sea-Bed Disputes Chamber shall be established in accordance with the provisions of section 4 of this Annex. Its jurisdiction, powers and functions shall be as provided for in Part XI, section 5.

*Article 15*

## SPECIAL CHAMBERS

1. The Tribunal may form such chambers, composed of three or more of its elected members, as it considers necessary for dealing with particular categories of disputes.
2. The Tribunal shall form a chamber for dealing with a particular dispute submitted to it if the parties so request. The composition of such a chamber shall be determined by the Tribunal with the approval of the parties.
3. With a view to the speedy dispatch of business, the Tribunal shall form annually a chamber composed of five of its elected members which may hear and determine disputes by summary procedure. Two alternative members shall be selected for the purpose of replacing members who are unable to participate in a particular proceeding.
4. Disputes shall be heard and determined by the chambers provided for in this article if the parties so request.
5. A judgment given by any of the chambers provided for in this article and in article 14 of this Annex shall be considered as rendered by the Tribunal.

*Article 16*

## RULES OF THE TRIBUNAL

The Tribunal shall frame rules for carrying out its functions. In particular it shall lay down rules of procedure.

*Article 17*

## NATIONALITY OF MEMBERS

1. Members of the Tribunal of the nationality of any of the parties to a dispute shall retain their right to participate as members of the Tribunal.
2. If the Tribunal, when hearing a dispute, includes upon the bench a member of the nationality of one of



the parties, any other party may choose a person to participate as a member of the Tribunal.

3. If the Tribunal, when hearing a dispute, does not include upon the bench a member of the nationality of the parties, each of those parties may choose a person to participate as a member of the Tribunal.

4. This article applies to the chambers referred to in articles 14 and 15 of this Annex. In such cases, the President, in consultation with the parties, shall request specified members of the Tribunal forming the chamber, as many as necessary, to give place to the members of the Tribunal of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the members 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 considered as one party only. Any doubt on this point shall be settled by the decision of the Tribunal.

6. Members chosen in accordance with paragraphs 2, 3 and 4 shall fulfil the conditions required by articles 2, 8 and 11 of this Annex. They shall participate in the decision on terms of complete equality with their colleagues.

#### *Article 18*

##### REMUNERATION OF MEMBERS

1. Each elected member of the Tribunal shall receive an annual allowance and, for each day on which he exercises his functions, a special allowance, provided that in any year the total sum payable to any member as special allowance shall not exceed the amount of the annual allowance.

2. The President shall receive a special annual allowance.

3. The Vice-President shall receive a special allowance for each day on which he acts as President.

4. The members chosen under article 17 of this Annex, other than elected members of the Tribunal, shall receive compensation for each day on which they exercise their functions.

5. The salaries, allowances and compensation shall be determined from time to time at meetings of the States Parties, taking into account the work load of the Tribunal. They may not be decreased during the term of office.

6. The salary of the Registrar shall be determined at meetings of the States Parties, on the proposal of the Tribunal.

7. Regulations adopted at meetings of the States Parties shall determine the conditions under which retirement pensions may be given to members of the Tribunal and to the Registrar, and the conditions under which members of the Tribunal and Registrar shall have their travelling expenses refunded.

8. The salaries, allowances, and compensation shall be free of all taxation.

#### *Article 19*

##### EXPENSES OF THE TRIBUNAL

1. The expenses of the Tribunal shall be borne by the States Parties and by the Authority on such terms and in such a manner as shall be decided at meetings of the States Parties.

2. When an entity other than a State Party or the Authority is a party to a case submitted to it, the Tribunal shall fix the amount which that party is to contribute towards the expenses of the Tribunal.

#### SECTION 2. COMPETENCE

#### *Article 20*

##### ACCESS TO THE TRIBUNAL

1. The Tribunal shall be open to States Parties.

2. The Tribunal shall be open to entities other than States Parties in any case expressly provided for in Part XI or in any case submitted pursuant to any other agreement conferring jurisdiction on the Tribunal which is accepted by all the parties to that case.

#### *Article 21*

##### JURISDICTION

The jurisdiction of the Tribunal comprises all disputes and all applications submitted to it in accordance with this Convention and all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal.

#### *Article 22*

##### REFERENCE OF DISPUTES SUBJECT TO OTHER AGREEMENTS

If all the parties to a treaty or convention already in force and concerning the subject-matter covered by this Convention so agree, any disputes concerning the interpretation or application of such treaty or convention may, in accordance with such agreement, be submitted to the Tribunal.

#### *Article 23*

##### APPLICABLE LAW

The Tribunal shall decide all disputes and applications in accordance with article 293.

#### SECTION 3. PROCEDURE

#### *Article 24*

##### INSTITUTION OF PROCEEDINGS

1. Disputes are submitted to the Tribunal, as the case may be, either by notification of a special agreement or by 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 notify the special agreement or the application to all concerned.

3. The Registrar shall also notify all States Parties.

#### *Article 25*

##### PROVISIONAL MEASURES

1. In accordance with article 290, the Tribunal and its Sea-Bed Disputes Chamber shall have the power to prescribe provisional measures.
2. If the Tribunal is not in session or a sufficient number of members is not available to constitute a quorum, the provisional measures shall be prescribed by the chamber of summary procedure formed under article 15, paragraph 3, of this Annex. Notwithstanding article 15, paragraph 4, of this Annex, such provisional measures may be adopted at the request of any party to the dispute. They shall be subject to review and revision by the Tribunal.

#### *Article 26*

##### HEARING

1. 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 of the Tribunal shall preside.
2. The hearing shall be public, unless the Tribunal decides otherwise or unless the parties demand that the public be not admitted.

#### *Article 27*

##### CONDUCT OF CASE

The Tribunal shall make orders for the conduct of the case, decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

#### *Article 28*

##### DEFAULT

When one of the parties does not appear before the Tribunal or fails to defend its case, the other party may request the Tribunal to continue the proceedings and make its decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its decision, the Tribunal must satisfy itself not only that it has jurisdiction over the dispute, but also that the claim is well founded in fact and law.

#### *Article 29*

##### MAJORITY FOR DECISION

1. All questions shall be decided by a majority of the members of the Tribunal who are present.
2. In the event of an equality of votes, the President or the member of the Tribunal who acts in his place shall have a casting vote.

#### *Article 30*

##### JUDGMENT

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the members of the Tribunal who have taken part in the decision.
3. If the judgment does not represent in whole or in part the unanimous opinion of the members of the Tribunal, any member shall be entitled to deliver a separate opinion.
4. 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 parties to the dispute.

#### *Article 31*

##### REQUEST TO INTERVENE

1. Should a State Party consider that it has an interest of a legal nature which may be affected by the decision in any dispute, it may submit a request to the Tribunal to be permitted to intervene.
2. It shall be for the Tribunal to decide upon this request.
3. If a request to intervene is granted, the decision of the Tribunal in respect of the dispute shall be binding upon the intervening State Party in so far as it relates to matters in respect of which that State Party intervened.

#### *Article 32*

##### RIGHT TO INTERVENE IN CASES OF INTERPRETATION OR APPLICATION

1. Whenever the interpretation or application of this Convention is in question, the Registrar shall notify all States Parties forthwith.
2. Whenever pursuant to article 21 or 22 of this Annex the interpretation or application of an international agreement is in question, the Registrar shall notify all the parties to the agreement.
3. Every Party referred to in paragraphs 1 and 2 has the right to intervene in the proceedings; if it uses this right, the interpretation given by the judgment will be equally binding upon it.

#### *Article 33*

##### FINALITY AND BINDING FORCE OF DECISIONS

1. The decision of the Tribunal is final and shall be complied with by all the parties to the dispute.
2. The decision shall have no binding force except between the parties in respect of that particular dispute.
3. In the event of dispute as to the meaning or scope of the decision, the Tribunal shall construe it upon the request of any party.

*Article 34*

## COSTS

Unless otherwise decided by the Tribunal, each party shall bear its own costs.

## SECTION 4. SEA-BED DISPUTES CHAMBER

*Article 35*

## COMPOSITION

1. The Sea-Bed Disputes Chamber referred to in article 14 of this Annex shall be composed of 11 members, selected by a majority of the elected members of the Tribunal from among them.

2. In the selection of the members of the Chamber, the representation of the principal legal systems of the world and equitable geographical distribution shall be assured. The Assembly of the Authority may adopt recommendations of a general nature relating to such representation and distribution.

3. The members of the Chamber shall be selected every three years and may be selected for a second term.

4. The Chamber shall elect its President from among its members, who shall serve for the term for which the Chamber has been selected.

5. If any proceedings are still pending at the end of any three-year period for which the Chamber has been selected, the Chamber shall complete the proceedings in its original composition.

6. If a vacancy occurs in the Chamber, the Tribunal shall select a successor from among its elected members, who shall hold office for the remainder of his predecessor's term.

7. A quorum of seven of the members selected by the Tribunal shall be required to constitute the Chamber.

*Article 36*

## AD HOC CHAMBERS

1. The Sea-Bed Disputes Chamber shall form an *ad hoc* chamber, composed of three of its members, for dealing with a particular dispute submitted to it in accordance with article 188, paragraph 1(b). The composition of such a chamber shall be determined by the Sea-Bed Disputes Chamber with the approval of the parties.

2. If the parties do not agree on the composition of an *ad hoc* chamber, each party to the dispute shall appoint one member, and the third member shall be appointed by them in agreement. If they disagree, or if any party fails to make an appointment, the President of the Sea-Bed Disputes Chamber shall promptly make the appointment or appointments from among its members, after consultation with the parties.

3. Members of the *ad hoc* chamber must not be in the service of, or nationals of, any of the parties to the dispute.

*Article 37*

## ACCESS

The Chamber shall be open to the States Parties, the Authority and the other entities referred to in Part XI, section 5.

*Article 38*

## APPLICABLE LAW

In addition to the provisions of article 293, the Chamber shall apply:

(a) the rules, regulations and procedures of the Authority adopted in accordance with this Convention; and

(b) the terms of contracts concerning activities in the Area in matters relating to those contracts.

*Article 39*

## ENFORCEMENT OF DECISIONS OF THE CHAMBER

The decisions of the Chamber shall be enforceable in the territories of the States Parties in the same manner as judgments or orders of the highest court of the State Party in whose territory the enforcement is sought.

*Article 40*

## APPLICABILITY OF OTHER SECTIONS OF THIS ANNEX

1. The other sections of this Annex which are not incompatible with this section apply to the Chamber.

2. In the exercise of its functions relating to advisory opinions, the Chamber shall be guided by the provisions of this Annex relating to procedure before the Tribunal to the extent to which it recognizes them to be applicable.

## SECTION 5. AMENDMENTS

*Article 41*

## AMENDMENTS

1. Amendments to this Annex, other than amendments to section 4, may be adopted only in accordance with article 313 or by consensus at a conference convened in accordance with this Convention.

2. Amendments to section 4 may be adopted only in accordance with article 314.

3. The Tribunal may propose such amendments to this Statute as it may consider necessary, by written communications to the States Parties for their consideration in conformity with paragraphs 1 and 2.

## Annex VII

### ARBITRATION

#### Article 1

##### INSTITUTION OF PROCEEDINGS

Subject to the provisions of Part XV, any party to a dispute may submit the dispute to the arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

#### Article 2

##### LIST OF ARBITRATORS

1. A list of arbitrators shall be drawn up and maintained by the Secretary-General of the United Nations. Every State Party shall be entitled to nominate four arbitrators, each of whom shall be a person experienced in maritime affairs and enjoying the highest reputation for fairness, competence and integrity. The names of the persons so nominated shall constitute the list.

2. If at any time the arbitrators nominated by a State Party in the list so constituted shall be fewer than four, that State Party shall be entitled to make further nominations as necessary.

3. The name of an arbitrator shall remain on the list until withdrawn by the State Party which made the nomination, provided that such arbitrator shall continue to serve on any arbitral tribunal to which that arbitrator has been appointed until the completion of the proceedings before that arbitral tribunal.

#### Article 3

##### CONSTITUTION OF ARBITRAL TRIBUNAL

For the purpose of proceedings under this Annex, the arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

(a) Subject to subparagraph (g), the arbitral tribunal shall consist of five members.

(b) The party instituting the proceedings shall appoint one member to be chosen preferably from the list referred to in article 2 of this Annex, who may be its national. The appointment shall be included in the notification referred to in article 1 of this Annex.

(c) The other party to the dispute shall, within 30 days of receipt of the notification referred to in article 1 of this Annex, appoint one member to be chosen preferably from the list, who may be its national. If the appointment is not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointment be made in accordance with subparagraph (e).

(d) The other three members shall be appointed by agreement between the parties. They shall be chosen

preferably from the list and shall be nationals of third States unless the parties otherwise agree. The parties to the dispute shall appoint the President of the arbitral tribunal from among those three members. If, within 60 days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of one or more of the members of the tribunal to be appointed by agreement, or on the appointment of the President, the remaining appointment or appointments shall be made in accordance with subparagraph (e), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned 60-day period.

(e) Unless the parties agree that any appointment under subparagraphs (c) and (d) be made by a person or a third State chosen by the parties, the President of the International Tribunal for the Law of the Sea shall make the necessary appointments. If the President is unable to act under this subparagraph or is a national of one of the parties to the dispute, the appointment shall be made by the next senior member of the International Tribunal for the Law of the Sea who is available and is not a national of one of the parties. The appointments referred to in this subparagraph shall be made from the list referred to in article 2 of this Annex within a period of 30 days of the receipt of the request and in consultation with the parties. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Parties in the same interest shall appoint one member of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal. The number of members of the tribunal appointed separately by the parties shall always be smaller by one than the number of members of the tribunal to be appointed jointly by the parties.

(h) In disputes involving more than two parties, the provisions of subparagraphs (a) to (f) shall apply to the maximum extent possible.

#### Article 4

##### FUNCTIONS OF ARBITRAL TRIBUNAL

An arbitral tribunal constituted under article 3 of this Annex shall function in accordance with this Annex and the other provisions of this Convention.

#### Article 5

##### PROCEDURE

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own procedure, assuring to each party a full opportunity to be heard and to present its case.

**Article 6**

## DUTIES OF PARTIES TO A DISPUTE

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:

- (a) provide it with all relevant documents, facilities and information; and
- (b) enable it when necessary to call witnesses or experts and receive their evidence and to visit the localities to which the case relates.

**Article 7**

## EXPENSES

Unless the arbitral tribunal decides 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.

**Article 8**

## REQUIRED MAJORITY FOR DECISIONS

Decisions of the arbitral tribunal shall be taken by a majority vote of its members. The absence or abstention of less than half of the members shall not constitute a bar to the tribunal reaching a decision. In the event of an equality of votes, the President shall have a casting vote.

**Article 9**

## DEFAULT OF APPEARANCE

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 failure of a party to defend its case shall not constitute a bar to the proceedings. Before making its award, the arbitral tribunal must satisfy itself not only that it has jurisdiction over the dispute but also that the claim is well founded in fact and law.

**Article 10**

## AWARD

The award of the arbitral tribunal shall be confined to the subject-matter of the dispute and state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the award. Any member of the tribunal may attach a separate or dissenting opinion to the award.

**Article 11**

## FINALITY OF AWARD

The award shall be final and without appeal, unless the parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the parties to the dispute.

**Article 12**

## INTERPRETATION OR IMPLEMENTATION OF AWARD

1. Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the award may be submitted by either party for decision to the arbitral tribunal which made the award. For this purpose, any vacancy in the tribunal shall be filled in the manner provided for in the original appointments of the members of the tribunal.

2. Any such controversy may be submitted to another court or tribunal under article 287 by agreement of all the parties to the dispute.

**Article 13**

## APPLICATION TO ENTITIES OTHER THAN STATES PARTIES

The provisions of this Annex shall apply *mutatis mutandis* to any dispute involving entities other than States Parties.

**Annex VIII**

## SPECIAL ARBITRATION

**Article 1**

## INSTITUTION OF PROCEEDINGS

Subject to Part XV, any party to a dispute concerning the interpretation or application of the articles of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may submit the dispute to the special arbitral procedure provided for in this Annex by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of the claim and the grounds on which it is based.

**Article 2**

## LISTS OF EXPERTS

1. A list of experts shall be established and maintained in respect of each of the fields of (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, and (4) navigation, including pollution from vessels and by dumping.

2. The lists of experts shall be drawn up and maintained, in the field of fisheries by the Food and Agriculture Organization of the United Nations, in the field of protection and preservation of the marine environment by the United Nations Environment Programme, in the field of marine scientific research by the Inter-Governmental Oceanographic Commission, in the field of navigation, including pollution from vessels and by dumping, by the International Maritime Organization, or in each case by the

appropriate subsidiary body concerned to which such organization, programme or commission has delegated this function.

3. Every State Party shall be entitled to nominate two experts in each field whose competence in the legal, scientific or technical aspects of such field is established and generally recognized and who enjoy the highest reputation for fairness and integrity. The names of the persons so nominated in each field shall constitute the appropriate list.

4. If at any time the experts nominated by a State Party in the list so constituted shall be fewer than two, that State Party shall be entitled to make further nominations as necessary.

5. The name of an expert shall remain on the list until withdrawn by the State Party which made the nomination, provided that such expert shall continue to serve on any special arbitral tribunal to which that expert has been appointed until the completion of the proceedings before that special arbitral tribunal.

### Article 3

#### CONSTITUTION OF SPECIAL ARBITRAL TRIBUNAL

For the purpose of proceedings under this Annex, the special arbitral tribunal shall, unless the parties otherwise agree, be constituted as follows:

(a) Subject to subparagraph (g), the special arbitral tribunal shall consist of five members.

(b) The party instituting the proceedings shall appoint two members to be chosen preferably from the appropriate list or lists referred to in article 2 of this Annex relating to the matters in dispute, one of whom may be its national. The appointments shall be included in the notification referred to in article 1 of this Annex.

(c) The other party to the dispute shall, within 30 days of receipt of the notification referred to in article 1 of this Annex, appoint two members to be chosen preferably from the appropriate list or lists relating to the matters in dispute, one of whom may be its national. If the appointments are not made within that period, the party instituting the proceedings may, within two weeks of the expiration of that period, request that the appointments be made in accordance with subparagraph (e).

(d) The parties to the dispute shall by agreement appoint the President of the special arbitral tribunal, chosen preferably from the appropriate list, who shall be a national of a third State, unless the parties otherwise agree. If, within 30 days of receipt of the notification referred to in article 1 of this Annex, the parties are unable to reach agreement on the appointment of the President, the appointment shall be made in accordance with subparagraph (e), at the request of a party to the dispute. Such request shall be made within two weeks of the expiration of the aforementioned 30-day period.

(e) Unless the parties agree that the appointment be made by a person or a third State chosen by the parties, the Secretary-General of the United Nations

shall make the necessary appointments within 30 days of receipt of a request under subparagraphs (c) and (d). The appointments referred to in this subparagraph shall be made from the appropriate list or lists of experts referred to in article 2 of this Annex and in consultation with the parties to the dispute and the appropriate international organization. The members so appointed shall be of different nationalities and may not be in the service of, ordinarily resident in the territory of, or nationals of, any of the parties to the dispute.

(f) Any vacancy shall be filled in the manner prescribed for the initial appointment.

(g) Parties in the same interest shall appoint two members of the tribunal jointly by agreement. Where there are several parties having separate interests or where there is disagreement as to whether they are of the same interest, each of them shall appoint one member of the tribunal.

(h) In disputes involving more than two parties, the provisions of subparagraphs (a) to (f) shall apply to the maximum extent possible.

### Article 4

#### GENERAL PROVISIONS

Annex VII, articles 4 to 13, apply *mutatis mutandis* to the special arbitration proceedings in accordance with this Annex.

### Article 5

#### FACT FINDING

1. The parties to a dispute concerning the interpretation or application of the provisions of this Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, or (4) navigation, including pollution from vessels and by dumping, may at any time agree to request a special arbitral tribunal constituted in accordance with article 3 of this Annex to carry out an inquiry and establish the facts giving rise to the dispute.

2. Unless the parties otherwise agree, the findings of fact of the special arbitral tribunal acting in accordance with paragraph 1, shall be considered as conclusive as between the parties.

3. If all the parties to the dispute so request, the special arbitral tribunal may formulate recommendations which, without having the force of a decision, shall only constitute the basis for a review by the parties of the questions giving rise to the dispute.

4. Subject to paragraph 2, the special arbitral tribunal shall act in accordance with the provisions of this Annex, unless the parties otherwise agree.

**Annex IX****PARTICIPATION BY INTERNATIONAL ORGANIZATIONS***Article 1***USE OF TERMS**

For the purposes of article 305 and of this Annex, "international organization" means an inter-governmental organization constituted by States to which its member States have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of those matters.

*Article 2***SIGNATURE**

An international organization may sign this Convention if a majority of its member States are signatories of this Convention. At the time of signature an international organization shall make a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to that organization by its member States which are signatories, and the nature and extent of that competence.

*Article 3***FORMAL CONFIRMATION AND ACCESSION**

1. An international organization may deposit its instrument of formal confirmation or of accession if a majority of its member States deposit or have deposited their instruments of ratification or accession.

2. The instruments deposited by the international organization shall contain the undertakings and declarations required by articles 4 and 5 of this Annex.

*Article 4***EXTENT OF PARTICIPATION AND RIGHTS AND OBLIGATIONS**

1. The instrument of formal confirmation or of accession of an international organization shall contain an undertaking to accept the rights and obligations of States under this Convention in respect of matters relating to which competence has been transferred to it by its member States which are Parties to this Convention.

2. An international organization shall be a Party to this Convention to the extent that it has competence in accordance with the declarations, communications of information or notifications referred to in article 5 of this Annex.

3. Such an international organization shall exercise the rights and perform the obligations which its member States which are Parties would otherwise have under this Convention, on matters relating to

which competence has been transferred to it by those member States. The member States of that international organization shall not exercise competence which they have transferred to it.

4. Participation of such an international organization shall in no case entail an increase of the representation to which its member States which are States Parties would otherwise be entitled, including rights in decision-making.

5. Participation of such an international organization shall in no case confer any rights under this Convention on member States of the organization which are not States Parties to this Convention.

6. In the event of a conflict between the obligations of an international organization under this Convention and its obligations under the agreement establishing the organization or any acts relating to it, the obligations under this Convention shall prevail.

*Article 5***DECLARATIONS, NOTIFICATIONS AND COMMUNICATIONS**

1. The instrument of formal confirmation or of accession of an international organization shall contain a declaration specifying the matters governed by this Convention in respect of which competence has been transferred to the organization by its member States which are Parties to this Convention.

2. A member State of an international organization shall, at the time it ratifies or accedes to this Convention or at the time when the organization deposits its instrument of formal confirmation or of accession, whichever is later, make a declaration specifying the matters governed by this Convention in respect of which it has transferred competence to the organization.

3. States Parties which are member States of an international organization which is a Party to this Convention shall be presumed to have competence over all matters governed by this Convention in respect of which transfers of competence to the organization have not been specifically declared, notified or communicated by those States under this article.

4. The international organization and its member States which are States Parties shall promptly notify the depositary of this Convention of any changes to the distribution of competence, including new transfers of competence, specified in the declarations under paragraphs 1 and 2.

5. Any State Party may request an international organization and its member States which are States Parties to provide information as to which, as between the organization and its member States, has competence in respect of any specific question which has arisen. The organization and the member States concerned shall provide this information within a

reasonable time. The international organization and the member States may also, on their own initiative, provide this information.

6. Declarations, notifications and communications of information under this article shall specify the nature and extent of the competence transferred.

#### Article 6

##### RESPONSIBILITY AND LIABILITY

1. Parties which have competence under article 5 of this Annex shall have responsibility for failure to comply with obligations or for any other violation of this Convention.

2. Any State Party may request an international organization or its member States which are States Parties for information as to who has responsibility in respect of any specific matter. The organization and the member States concerned shall provide this information. Failure to provide this information within a reasonable time or the provision of contradictory information shall result in joint and several liability.

#### Article 7

##### SETTLEMENT OF DISPUTES

1. At the time of deposit of its instrument of formal confirmation or of accession, or at any time thereafter, an international organization shall be free to choose, by means of a written declaration, one or more of the means for the settlement of disputes concerning the interpretation or application of this Convention, referred to in article 287, paragraph 1(a), (c) or (d).

2. Part XV applies *mutatis mutandis* to any dispute between Parties to this Convention, one or more of which are international organizations.

3. When an international organization and one or more of its member States; are joint parties to a dispute, or parties in the same interest, the organization shall be deemed to have accepted the same procedures for the settlement of disputes as the member States; when, however, a member State has chosen only the International Court of Justice under article 287, the organization and the member State concerned shall be deemed to have accepted arbitration in accordance with Annex VII, unless the parties to the dispute otherwise agree.

#### Article 8

##### APPLICABILITY OF PART XVII

Part XVII applies *mutatis mutandis* to an international organization, except in respect of the following:

(a) the instrument of formal confirmation or of accession of an international organization shall not be taken into account in the application of article 308, paragraph 1;

(b) (i) an international organization shall have exclusive capacity with respect to the application of

articles 312 to 315, to the extent that it has competence under article 5 of this Annex over the entire subject-matter of the amendment;

(ii) the instrument of formal confirmation or of accession of an international organization to an amendment, the entire subject-matter over which the international organization has competence under article 5 of this Annex, shall be considered to be the instrument of ratification or accession of each of the member States which are States Parties, for the purposes of applying article 316, paragraphs 1, 2 and 3;

(iii) the instrument of formal confirmation or of accession of the international organization shall not be taken into account in the application of article 316, paragraphs 1 and 2, with regard to all other amendments;

(c) (i) an international organization may not denounce this Convention in accordance with article 317 if any of its member States is a State Party and if it continues to fulfil the qualifications specified in article 1 of this Annex;

(ii) an international organization shall denounce this Convention when none of its member States is a State Party or if the international organization no longer fulfils the qualifications specified in article 1 of this Annex. Such denunciation shall take effect immediately.



**CONVENTION FOR THE PROTECTION AND DEVELOPMENT OF THE MARINE ENVIRONMENT OF THE WIDER CARIBBEAN REGION [27]**

**Cartagena de Indias, 24 March 1983**

The Contracting Parties,

Fully aware of the economic and social value of the marine environment, including coastal areas, of the wider Caribbean region,

Conscious of their responsibility to protect the marine environment of the wider Caribbean region for the benefit and enjoyment of present and future generations,

Recognizing the special hydrographic and ecological characteristics of the region and its vulnerability to pollution,

Recognizing further the threat to the marine environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the absence of sufficient integration of an environmental dimension into the development process,

Considering the protection of the ecosystems of the marine environment of the wider Caribbean region to be one of their principal objectives,

Realizing fully the need for co-operation amongst themselves and with competent international organizations in order to ensure co-ordinated and comprehensive development without environmental damage,

Recognizing the desirability of securing the wider acceptance of international marine pollution agreements already in existence,

Noting however, that, in spite of the progress already achieved, these agreements do not cover all aspects of environmental deterioration and do not entirely meet the special requirements of the wider Caribbean region,

Have agreed as follows:

*Article 1*

CONVENTION AREA

1. This Convention shall apply to the wider Caribbean region, hereinafter referred to as "the Convention area" as defined in paragraph 1 of article 2.
2. Except as may be otherwise provided in any protocol to this Convention, the Convention area shall not include internal waters of the Contracting Parties.

*Article 2*

DEFINITIONS

For the purposes of this Convention:

1. The "Convention area" means the marine environment of the Gulf of Mexico, the Caribbean

Sea and the areas of the Atlantic Ocean adjacent thereto, south of 30° north latitude and within 200 nautical miles of the Atlantic coasts of the States referred to in article 25 of the Convention.

2. "Organization" means the institution designated to carry out the functions enumerated in paragraph 1 of article 15.

*Article 3*

GENERAL PROVISIONS

1. The Contracting Parties shall endeavour to conclude bilateral or multilateral agreements, including regional or subregional agreements, for the protection of the marine environment of the Convention area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organization and, through the Organization, to all signatories and Contracting Parties to this Convention.

2. This Convention and its protocols shall be construed in accordance with international law relating to their subject-matter. Nothing in this Convention or its protocols shall be deemed to affect obligations assumed by the Contracting Parties under agreements previously concluded.

3. Nothing in this Convention or its protocols shall prejudice the present or future claims or the legal views of any Contracting Party concerning the nature and extent of maritime jurisdiction.

*Article 4*

GENERAL OBLIGATIONS

1. The Contracting Parties shall, individually or jointly, take all appropriate measures in conformity with international law and in accordance with this Convention and those of its protocols in force to which they are parties to prevent, reduce and control pollution of the Convention area and to ensure sound environmental management, using for this purpose the best practicable means at their disposal and in accordance with their capabilities.

2. The Contracting Parties shall, in taking the measures referred to in paragraph 1, ensure that the implementation of those measures does not cause pollution of the marine environment outside the Convention area.

3. The Contracting Parties shall co-operate in the formulation and adoption of protocols or other agreements to facilitate the effective implementation of this Convention.

4. The Contracting Parties shall take appropriate measures, in conformity with international law, for the effective discharge of the obligations prescribed in this Convention and its protocols and shall endeavour to harmonize their policies in this regard.

5. The Contracting Parties shall co-operate with the competent international, regional and sub-regional organizations for the effective implementation of this Convention and its protocols. They shall assist each other in fulfilling their obligations under this Convention and its protocols.

#### *Article 5*

##### POLLUTION FROM SHIPS

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution of the Convention area caused by discharges from ships and, for this purpose, to ensure the effective implementation of the applicable international rules and standards established by the competent international organization.

#### *Article 6*

##### POLLUTION CAUSED BY DUMPING

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution of the Convention area caused by dumping of wastes and other matter at sea from ships, aircraft or man-made structures at sea, and to ensure the effective implementation of the applicable international rules and standards.

#### *Article 7*

##### POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution of the Convention area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources on their territories.

#### *Article 8*

##### POLLUTION FROM SEA-BED ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution of the Convention area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.

#### *Article 9*

##### AIRBORNE POLLUTION

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution of the Convention area resulting from discharges into the atmosphere from activities under their jurisdiction.

#### *Article 10*

##### SPECIALLY PROTECTED AREAS

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems, as well as the

habitat of depleted, threatened or endangered species, in the Convention area. To this end, the Contracting Parties shall endeavour to establish protected areas. The establishment of such areas shall not affect the rights of other Contracting Parties and third States. In addition, the Contracting Parties shall exchange information concerning the administration and management of such areas.

#### *Article 11*

##### CO-OPERATION IN CASES OF EMERGENCY

1. The Contracting Parties shall co-operate in taking all necessary measures to respond to pollution emergencies in the Convention area, whatever the cause of such emergencies, and to control, reduce or eliminate pollution or the threat of pollution resulting therefrom. To this end, the Contracting Parties shall, individually and jointly, develop and promote contingency plans for responding to incidents involving pollution or the threat thereof in the Convention area.

2. When a Contracting Party becomes aware of cases in which the Convention area is in imminent danger of being polluted or has been polluted, it shall immediately notify other States likely to be affected by such pollution, as well as the competent international organizations. Furthermore, it shall inform, as soon as feasible, such other States and competent international organizations of measures it has taken to minimize or reduce pollution or the threat thereof.

#### *Article 12*

##### ENVIRONMENTAL IMPACT ASSESSMENT

1. As part of their environmental management policies the Contracting Parties undertake to develop technical and other guidelines to assist the planning of their major development projects in such a way as to prevent or minimize harmful impacts on the Convention area.

2. Each Contracting Party shall assess within its capabilities, or ensure the assessment of, the potential effects of such projects on the marine environment, particularly in coastal areas, so that appropriate measures may be taken to prevent any substantial pollution of, or significant and harmful changes to, the Convention area.

3. With respect to the assessments referred to in paragraph 2, each Contracting Party shall, with the assistance of the Organization when requested, develop procedures for the dissemination of information and may, where appropriate, invite other Contracting Parties which may be affected to consult with it and to submit comments.

#### *Article 13*

##### SCIENTIFIC AND TECHNICAL CO-OPERATION

1. The Contracting Parties undertake to co-operate, directly and, when appropriate, through the competent international and regional organizations,

in scientific research, monitoring and the exchange of data and other scientific information relating to the purposes of this Convention.

2. To this end, the Contracting Parties undertake to develop and co-ordinate their research and monitoring programmes relating to the Convention area and to ensure, in co-operation with the competent international and regional organizations, the necessary links between their research centres and institutes with a view to producing compatible results. With the aim of further protecting the Convention area, the Contracting Parties shall endeavour to participate in international arrangements for pollution research and monitoring.

3. The Contracting Parties undertake to co-operate, directly and, when appropriate, through the competent international and regional organizations, in the provision to other Contracting Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention area, taking into account the special needs of the smaller island developing countries and territories.

#### Article 14

##### LIABILITY AND COMPENSATION

The Contracting Parties shall co-operate with a view to adopting appropriate rules and procedures, which are in conformity with international law, in the field of liability and compensation for damage resulting from pollution of the Convention area.

#### Article 15

##### INSTITUTIONAL ARRANGEMENTS

1. The Contracting Parties designate the United Nations Environment Programme to carry out the following secretariat functions:

- (a) To prepare and convene the meetings of Contracting Parties and conferences provided for in articles 16, 17 and 18;
- (b) To transmit the information received in accordance with articles 3, 11 and 22;
- (c) To perform the functions assigned to it by protocols to this Convention;
- (d) To consider enquiries by, and information from, the Contracting Parties and to consult with them on questions relating to this Convention, its protocols and annexes thereto;
- (e) To co-ordinate the implementation of co-operative activities agreed upon by the meetings of Contracting Parties and conferences provided for in articles 16, 17 and 18;
- (f) To ensure the necessary co-ordination with other international bodies which the Contracting Parties consider competent.

2. Each Contracting Party shall designate an appropriate authority to serve as the channel of

communication with the Organization for the purposes of this Convention and its protocols.

#### Article 16

##### MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings once every two years and extraordinary meetings at any other time deemed necessary, upon the request of the Organization or at the request of any Contracting Party, provided that such requests are supported by the majority of the Contracting Parties.

2. It shall be the function of the meetings of the Contracting Parties to keep under review the implementation of this Convention and its protocols and, in particular:

- (a) To assess periodically the state of the environment in the Convention area;
- (b) To consider the information submitted by the Contracting Parties under article 22;
- (c) To adopt, review and amend annexes to this Convention and to its protocols, in accordance with article 19;
- (d) To make recommendations regarding the adoption of any additional protocols or any amendments to this Convention or its protocols in accordance with articles 17 and 18;
- (e) To establish working groups as required to consider any matters concerning this Convention and its protocols, and annexes thereto;
- (f) To consider co-operative activities to be undertaken within the framework of this Convention and its protocols, including their financial and institutional implications, and to adopt decisions relating thereto;
- (g) To consider and undertake any other action that may be required for the achievement of the purposes of this Convention and its protocols.

#### Article 17

##### ADOPTION OF PROTOCOLS

1. The Contracting Parties, at a conference of plenipotentiaries, may adopt additional protocols to this Convention pursuant to paragraph 3 of article 4.

2. If so requested by a majority of the Contracting Parties, the Organization shall convene a conference of plenipotentiaries for the purpose of adopting additional protocols to this Convention.

#### Article 18

##### AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Contracting Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a majority of the Contracting Parties.

2. Any Contracting Party to this Convention may propose amendments to any protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a majority of the Contracting Parties to the protocol concerned.

3. The text of any proposed amendment shall be communicated by the Organization to all Contracting Parties at least 90 days before the opening of the conference of plenipotentiaries.

4. Any amendment to this Convention shall be adopted by a three-fourths majority vote of the Contracting Parties to the Convention which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the Convention. Amendments to any protocol shall be adopted by a three-fourths majority vote of the Contracting Parties to the protocol which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the protocol.

5. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraph 3 shall enter into force between Contracting Parties having accepted such amendments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least three fourths of the Contracting Parties to this Convention or to the protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Contracting Party on the thirtieth day after the date on which that Party deposits its instrument.

6. After entry into force of an amendment to this Convention or to a protocol, any new Contracting Party to the Convention or such protocols shall become a Contracting Party to the Convention or protocol as amended.

#### *Article 19*

##### ANNEXES AND AMENDMENTS TO ANNEXES

1. Annexes to this Convention or to a protocol shall form an integral part of the Convention or, as the case may be, such protocol.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the adoption and entry into force of amendments to annexes to this Convention or to annexes to a protocol:

(a) Any Contracting Party may propose amendments to annexes to this Convention or to annexes to any protocol at a meeting convened pursuant to article 16;

(b) Such amendments shall be adopted by a three-fourths majority vote of the Contracting Parties to

the instrument in question present at the meeting referred to in article 16;

(c) The Depositary shall without delay communicate the amendments so adopted to all Contracting Parties to the Convention;

(d) Any Contracting Party that is unable to accept an amendment to annexes to this Convention or to annexes to any protocol shall so notify the Depositary in writing within 90 days from the date on which the amendment was adopted;

(e) The Depositary shall without delay notify all Contracting Parties of notifications received pursuant to the preceding subparagraph;

(f) On expiration of the period referred to in subparagraph (d), the amendment to the annex shall become effective for all Contracting Parties to this Convention or to the protocol concerned which have not submitted a notification in accordance with the provisions of that subparagraph;

(g) A Contracting Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party.

3. The adoption and entry into force of a new annex shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex, provided that, if it entails an amendment to the Convention or to one of its protocols, the new annex shall not enter into force until such time as that amendment enters into force.

4. Any amendment to the Annex on Arbitration shall be proposed and adopted, and shall enter into force, in accordance with the procedures set out in article 18.

#### *Article 20*

##### RULES OF PROCEDURE AND FINANCIAL RULES

1. The Contracting Parties shall unanimously adopt rules of procedure for their meetings.

2. The Contracting Parties shall unanimously adopt financial rules, prepared in consultation with the Organization, to determine, in particular, their financial participation under this Convention and under protocols to which they are parties.

#### *Article 21*

##### SPECIAL EXERCISE OF THE RIGHT TO VOTE

In their fields of competence, the regional economic integration organizations referred to in article 25 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 and to one or more protocols. Such organizations shall not exercise their right to vote if the member States concerned exercise theirs, and vice versa.

**Article 22**

## TRANSMISSION OF INFORMATION

The Contracting Parties shall transmit to the Organization information on the measures adopted by them in the implementation of this Convention and of protocols to which they are parties, in such form and at such intervals as the meetings of Contracting Parties may determine.

**Article 23**

## SETTLEMENT OF DISPUTES

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or its protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Contracting Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute shall upon common agreement, except as may be otherwise provided in any protocol to this Convention, be submitted to arbitration under the conditions set out in the Annex on Arbitration. However, failure to reach common agreement on submission of the dispute to arbitration shall not absolve the Contracting Parties from the responsibility of continuing to seek to resolve it by the means referred to in paragraph 1.

3. A Contracting Party may at any time declare that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other Contracting Party accepting the same obligation, the application of the arbitration procedure set out in the Annex on Arbitration. Such declaration shall be notified in writing to the Depositary, who shall communicate it to the other Contracting Parties.

**Article 24**

## RELATIONSHIP BETWEEN THE CONVENTION AND ITS PROTOCOLS

1. No State or regional economic integration organization may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one protocol to the Convention. No State or regional economic integration organization may become a Contracting Party to a protocol unless it is, or becomes at the same time, a Contracting Party to the Convention.

2. Decisions concerning any protocol shall be taken only by the Contracting Parties to the protocol concerned.

**Article 25**

## SIGNATURE

This Convention and the Protocol concerning Cooperation in Combating Oil Spills in the Wider Caribbean Region shall be open for signature at

Cartagena de Indias on 24 March 1983 and at Bogotá from 25 March 1983 to 23 March 1984 by States invited to participate in the Conference of Plenipotentiaries on the Protection and Development of the Marine Environment of the Wider Caribbean Region, held at Cartagena de Indias from 21 to 24 March 1983. They shall also be open for signature between the same dates by any regional economic integration organization exercising competence in fields covered by the Convention and that Protocol and having at least one member State which belongs to the wider Caribbean region, provided that such regional organization has been invited to participate in the Conference of Plenipotentiaries.

**Article 26**

## RATIFICATION, ACCEPTANCE AND APPROVAL

1. This Convention and its protocols shall be subject to ratification, acceptance or approval by States. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Republic of Colombia, which will assume the functions of Depositary.

2. This Convention and its protocols shall also be subject to ratification, acceptance or approval by the organizations referred to in article 25 having at least one member State a party to the Convention. In their instruments of ratification, acceptance or approval, such organizations shall declare the extent of their competence with respect to the matters governed by the Convention and the relevant protocol. Subsequently these organizations shall inform the Depositary of any substantial modification in the extent of their competence.

**Article 27**

## ACCESSION

1. This Convention and its protocols shall be open for accession by the States and organizations referred to in article 25 as from the day following the date on which the Convention or the protocol concerned is closed for signature.

2. After entry into force of this Convention and of any protocol, any State or regional economic integration organization not referred to in article 25 may accede to the Convention and to any protocol subject to prior approval by three fourths of the Contracting Parties to the Convention or the protocol concerned, provided that any such regional economic integration organization exercises competence in fields covered by the Convention and the relevant protocol and has at least one member State, belonging to the wider Caribbean region, that is a party to the Convention and the relevant protocol.

3. In their instruments of accession, the organizations referred to in paragraphs 1 and 2 shall declare the extent of their competence with respect to the matters governed by the Convention and the relevant protocol. These organizations shall also

inform the Depositary of any substantial modification in the extent of their competence.

4. Instruments of accession shall be deposited with the Depositary.

#### *Article 28*

##### ENTRY INTO FORCE

1. This Convention and the Protocol concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region shall enter into force on the thirtieth day following the date of deposit of the ninth instrument of ratification, acceptance or approval of, or accession to, those agreements by the States referred to in article 25.

2. Any additional protocol to this Convention, except as otherwise provided in such protocol, shall enter into force on the thirtieth day following the date of deposit of the ninth instrument of ratification, acceptance, or approval of such protocol, or of accession thereto.

3. For the purposes of paragraphs 1 and 2, any instrument deposited by an organization referred to in article 25 shall not be counted as additional to that deposited by any member State of such organization.

4. Thereafter, this Convention and any protocol shall enter into force with respect to any State or organization referred to in article 25 or article 27 on the thirtieth day following the date of deposit of its instruments of ratification, acceptance, approval or accession.

#### *Article 29*

##### DENUNCIATION

1. At any time after two years from the date of entry into force of this Convention with respect to a Contracting Party, that Contracting Party may denounce the Convention by giving written notification to the Depositary.

2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party may, at any time after two years from the date of entry into force of such protocol with respect to that Contracting Party, denounce the protocol by giving written notification to the Depositary.

3. Denunciation shall take effect on the ninetieth day after the date on which notification is received by the Depositary.

4. Any Contracting Party which denounces this Convention shall be considered as also having denounced any protocol to which it was a Contracting Party.

5. Any Contracting Party which, upon its denunciation of a protocol, is no longer a Contracting Party to any protocol to this Convention, shall be considered as also having denounced the Convention itself.

#### *Article 30*

##### DEPOSITARY

1. The Depositary shall inform the Signatories and the Contracting Parties, as well as the Organization, of:

(a) The signature of this Convention and of its protocols, and the deposit of instruments of ratification, acceptance, approval or accession;

(b) The date on which the Convention or any protocol will come into force for each Contracting Party;

(c) Notification of any denunciation and the date on which it will take effect;

(d) The amendments adopted with respect to the Convention or to any protocol, their acceptance by the Contracting Parties and the date of their entry into force;

(e) All matters relating to new annexes and to the amendment of any annex;

(f) Notifications by regional economic integration organizations of the extent of their competence with respect to matters governed by this Convention and the relevant protocols, and of any modifications thereto.

2. The original of this Convention and of any protocol shall be deposited with the Depositary, the Government of the Republic of Colombia, which shall send certified copies thereof to the Signatories, the Contracting Parties, and the Organization.

3. As soon as the Convention and its protocols enter into force, the Depositary shall transmit a certified copy of the instrument concerned to the Secretary-General 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 by their respective Governments, have signed this Convention.

Done at Cartagena de Indias this twenty-fourth day of March one thousand nine hundred and eighty-three in a single copy in the English, French and Spanish languages, the three texts being equally authentic.

#### **Annex**

##### ARBITRATION

#### *Article 1*

Unless the agreement referred to in article 23 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with articles 2 to 10 below.

*Article 2*

The claimant party shall notify the Secretariat that the parties have agreed to submit the dispute to arbitration pursuant to paragraph 2 or paragraph 3 of article 23 of the Convention. 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. The Secretariat shall forward the information thus received to all Contracting Parties to the Convention or to the protocol concerned.

*Article 3*

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, nor have his 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.

*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 Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months' 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 of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

*Article 5*

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention and the protocol or protocols concerned.

2. Any arbitral tribunal constituted under the provisions of this annex shall draw up its own rules of procedure.

*Article 6*

1. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request

of one of the parties, recommend essential interim measures of protection.

3. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

4. The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

*Article 7*

The tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

*Article 8*

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.

*Article 9*

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 10*

1. The 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.

2. The award of the arbitral tribunal shall be accompanied by a statement of reasons on which it is based. It shall be final and binding upon the parties to the dispute.

3. 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 arbitral tribunal constituted for this purpose in the same manner as the first.

**PROTOCOL CONCERNING  
CO-OPERATION IN COMBATING OIL  
SPILLS IN THE WIDER CARIBBEAN  
REGION [28]**

**Cartagena de Indias, 24 March 1983**

The Contracting Parties to this Protocol,

Being Contracting Parties to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, done at Cartagena de Indias on 24 March 1983,

Conscious that oil exploration, production and refining activities, as well as related marine transport, pose a threat of significant oil spills in the wider Caribbean region,

Aware that the islands of the region are particularly vulnerable, owing to the fragility of their ecosystems and the economic reliance of certain of them on the continuous utilization of their coastal areas, to damage resulting from significant oil pollution,

Recognizing that, in the event of an oil spill or the threat thereof, prompt and effective action should be taken initially at the national level, to organize and co-ordinate prevention, mitigation and clean-up activities,

Recognizing further the importance of sound preparation, co-operation and mutual assistance in responding effectively to oil spills or the threat thereof,

Determined to avert, through the adoption of measures to prevent and combat pollution resulting from oil spills, damage to the marine environment, including coastal areas, of the wider Caribbean region,

Have agreed as follows:

**Article 1**

**DEFINITIONS**

For the purposes of this Protocol:

1. "Wider Caribbean region" means the Convention area as defined in article 2 of the Convention and adjacent coastal areas.
2. "Convention" means the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region.
3. "Related interests" means the interests of a Contracting Party directly affected or threatened and concerning, among others:
  - (a) Maritime, coastal, port or estuarine activities;
  - (b) The historical and tourist appeal of the area in question, including water sports and recreation;
  - (c) The health of the coastal population; and

(d) Fishing activities and the conservation of natural resources.

4. "Oil spill incident" means a discharge, or a significant threat of a discharge, of oil, however caused, of a magnitude that requires emergency action or other immediate response for the purpose of minimizing its effects or eliminating the threat.

5. "Organization" means the institution referred to in paragraph 2 of article 2 of the Convention.

6. "Regional Co-ordinating Unit" means the unit referred to in the Action Plan for the Caribbean Environment Programme.

**Article 2**

**APPLICATION**

This Protocol applies to oil spill incidents which have resulted in, or which pose a significant threat of, pollution to the marine and coastal environment of the wider Caribbean region or which adversely affect the related interests of one or more of the Contracting Parties.

**Article 3**

**GENERAL PROVISIONS**

1. The Contracting Parties shall, within their capabilities, co-operate in taking all necessary measures, both preventive and remedial, for the protection of the marine and coastal environment of the wider Caribbean region, particularly the coastal areas of the islands of the region, from oil spill incidents.

2. The Contracting Parties shall, within their capabilities, establish and maintain, or ensure the establishment and maintenance of, the means of responding to oil spill incidents and shall endeavour to reduce the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the identification and development of the capability to respond to an oil spill incident and the designation of an authority responsible for the implementation of this Protocol.

**Article 4**

**EXCHANGE OF INFORMATION**

Each Contracting Party shall periodically exchange with the other Contracting Parties up-to-date information relating to its implementation of this Protocol, including the identity of the authorities responsible for such implementation, and information on their laws, regulations, institutions and operational procedures relating to the prevention of oil spill incidents and to the means of reducing and combating the harmful effects of oil spills.



*Article 5*COMMUNICATION OF INFORMATION  
CONCERNING, AND REPORTING OF, OIL SPILL  
INCIDENTS

1. Each Contracting Party shall establish appropriate procedures to ensure that information regarding oil spill incidents is reported as rapidly as possible, and shall, *inter alia*:

(a) Require its appropriate officials, masters of ships flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it any oil spill incident involving their ships or facilities;

(b) Request masters of all ships and pilots of all aircraft operating in the vicinity of its coasts to report to it any oil spill incident of which they are aware.

2. In the event of receiving a report regarding an oil spill incident, a Contracting Party shall immediately notify all other Contracting Parties whose interests are likely to be affected by such incident, as well as the flag State of any ship involved in it. The Contracting Party shall also inform the competent international organizations. Furthermore, as soon as feasible, it shall inform such Contracting Parties and competent international organizations of measures it has taken to minimize or reduce pollution or the threat thereof.

*Article 6*

## MUTUAL ASSISTANCE

1. Each Contracting Party shall render assistance, within its capabilities, to other Contracting Parties which request assistance in responding to an oil spill incident within the framework of joint response action agreed between or among the requesting and assisting Contracting Parties.

2. Each Contracting Party shall, subject to its laws and regulations, facilitate the movement into, through and out of its territory of technical personnel, equipment and material necessary for responding to an oil spill incident.

*Article 7*

## OPERATIONAL MEASURES

Each Contracting Party shall, within its capabilities, take steps including those outlined below in responding to an oil spill incident:

(a) Make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;

(b) Promptly communicate information concerning the incident pursuant to article 5;

(c) Promptly determine its ability to take effective measures to respond to the incident and the assistance that might be required;

(d) Consult as appropriate with other Contracting Parties concerned in the process of determining the necessary response to the incident;

(e) Take the measures necessary to prevent, reduce or eliminate the effects of the incident, including monitoring of the situation.

*Article 8*

## SUBREGIONAL ARRANGEMENTS

1. With a view to facilitating the implementation of the provisions of this Protocol, and in particular articles 6 and 7, the Contracting Parties should conclude appropriate bilateral or multilateral subregional arrangements.

2. Contracting Parties to this Protocol which enter into such subregional arrangements shall notify the other Contracting Parties, as well as the Organization, of the conclusion and the content of such arrangements.

*Article 9*

## INSTITUTIONAL ARRANGEMENTS

The Contracting Parties designate the Organization to carry out, through the Regional Coordinating Unit when established and in close co-operation with the International Maritime Organization, the following functions:

(a) Assisting Contracting Parties, upon request, in the following areas:

(i) The preparation, periodic review and updating of the contingency plans referred to in paragraph 2 of article 3, with a view, *inter alia*, to promoting the compatibility of the plans of the Contracting Parties, and

(ii) Publicizing training courses and programmes;

(b) Assisting Contracting Parties upon request, on a regional basis, in the following areas:

(i) The co-ordination of regional emergency response activities, and

(ii) The provision of a forum for discussion of such activities and related topics;

(c) Establishing and maintaining liaison with:

(i) Competent regional and international organizations, and

(ii) Appropriate private entities conducting activities in the wider Caribbean region, including major oil producers, refiners, oil spill clean-up contractors and co-operatives, and oil transporters;

(d) Maintaining a current inventory of emergency response equipment, materials and expertise available in the wider Caribbean region;

(e) Disseminating information on the prevention and combating of oil spills;

(f) Identifying or maintaining means for emergency response communications;

- (g) Encouraging research by the Contracting Parties, competent international organizations and appropriate private entities on oil spill-related matters, including the environmental impacts of oil spills and of oil spill control materials and techniques;
- (h) Assisting the Contracting Parties in the exchange of information pursuant to article 4; and
- (i) Preparing reports and carrying out other duties assigned to it by the Contracting Parties.

to regional co-operation to combat spills of hazardous substances other than oil. Pending the preparation and entry into force of such annex, the Protocol shall be provisionally applied upon its entry into force to hazardous substances other than oil.

#### *Article 10*

##### MEETINGS OF THE CONTRACTING PARTIES

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 16 of the Convention. The Contracting Parties to this Protocol may also hold extraordinary meetings as provided for in article 16 of the Convention.
2. It shall be the function of the meetings of the Contracting Parties:
  - (a) To review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness;
  - (b) To consider means whereby regional co-operation could be extended to incidents involving hazardous substances other than oil; and
  - (c) To consider measures to improve co-operation under this Protocol including, in accordance with paragraph 2(d) of article 16 of the Convention, possible amendments to this Protocol.

#### *Article 11*

##### RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to its protocols shall apply to this Protocol.
2. The rules of procedure and the financial rules adopted pursuant to article 20 of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Cartagena de Indias this twenty-fourth day of March one thousand nine hundred and eighty-three in a single copy in the English, French and Spanish languages, the three texts being equally authentic.

#### **Annex**

On the basis of paragraph 2 (b) of Article 10 of this Protocol, the Contracting Parties at their first meeting are committed to preparing, through an annex, the changes necessary to extend this Protocol

**AGREEMENT FOR CO-OPERATION IN DEALING WITH POLLUTION OF THE NORTH SEA BY OIL AND OTHER HARMFUL SUBSTANCES [29]**

**Bonn, 13 September 1983**

The Governments of the Kingdom of Belgium, the Kingdom of Denmark, the French Republic, the Federal Republic of Germany, the Kingdom of the Netherlands, the Kingdom of Norway, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland and the European Economic Community,

Recognizing that pollution of the sea by oil and other harmful substances in the North Sea area may threaten the marine environment and the interests of coastal States,

Noting that such pollution has many sources and that casualties and other incidents at sea are of great concern,

Convinced that an ability to combat such pollution as well as active co-operation and mutual assistance among States are necessary for the protection of their coasts and related interests,

Welcoming the progress that has already been achieved within the framework of the Agreement for Co-operation in dealing with Pollution of the North Sea by Oil, signed at Bonn on 9 June 1969,

Wishing to develop further mutual assistance and co-operation in combating pollution,

Have agreed as follows:

*Article 1*

This Agreement shall apply whenever the presence or the prospective presence of oil or other harmful substances polluting or threatening to pollute the sea within the North Sea area, as defined in Article 2 of this Agreement, presents a grave and imminent danger to the coast or related interests of one or more Contracting Parties.

*Article 2*

For the purpose of this Agreement the North Sea area means the North Sea proper southwards of latitude 61° N, together with:

- (a) the Skagerrak, the southern limit of which is determined east of the Skaw by the latitude 57°44.8' N;
- (b) the English Channel and its approaches eastwards of a line drawn fifty nautical miles to the west of a line joining the Scilly Isles and Ushant.

*Article 3*

1. The Contracting Parties consider that protection against pollution of the kind referred to in Article 1 of this Agreement is a matter which calls for active co-operation between them.

2. The Contracting Parties shall jointly develop and establish guidelines for the practical, operational and technical aspects of joint action.

*Article 4*

Contracting Parties undertake to inform the other Contracting Parties about:

- (a) their national organization for dealing with pollution of the kind referred to in Article 1 of this Agreement;
- (b) the competent authority responsible for receiving and dispatching reports of such pollution and for dealing with questions concerning measures of mutual assistance between Contracting Parties;
- (c) their national means for avoiding or dealing with such pollution, which might be made available for international assistance;
- (d) new ways in which such pollution may be avoided and about new effective measures to deal with it;
- (e) major pollution incidents of this kind dealt with.

*Article 5*

1. Whenever a Contracting Party is aware of a casualty or the presence of oil or other harmful substances in the North Sea area likely to constitute a serious threat to the coast or related interests of any other Contracting Party, it shall inform that Party without delay through its competent authority.

2. The Contracting Parties undertake to request the masters of all ships flying their flags and pilots of aircraft registered in their countries to report without delay through the channels which may be most practicable and adequate in the circumstances:

- (a) all casualties causing or likely to cause pollution of the sea;
- (b) the presence, nature and extent of oil or other harmful substances likely to constitute a serious threat to the coast or related interests of one or more Contracting Parties.

3. The Contracting Parties shall establish a standard form for the reporting of pollution as required under paragraph 1 of this Article.

*Article 6*

1. For the sole purpose of this Agreement the North Sea area is divided into the zones described in the Annex to this Agreement.

2. The Contracting Party within whose zone a situation of the kind described in Article 1 of this Agreement occurs, shall make the necessary assessments of the nature and extent of any casualty or, as the case may be, of the type and approximate quantity of oil or other harmful substances and the direction and speed of movement thereof.

3. The Contracting Party concerned shall immediately inform all the other Contracting Parties through their competent authorities of its assessments and of any action which it has taken to deal with the oil or other harmful substances and shall keep these substances under observation as long as they are present in its zone.

4. The obligations of the Contracting Parties under the provisions of this Article with respect to the zones of joint responsibility shall be the subject of special technical arrangements to be concluded between the Parties concerned. These arrangements shall be communicated to the other Contracting Parties.

#### *Article 7*

A Contracting Party requiring assistance to deal with pollution or the prospective presence of pollution at sea or on its coast may call on the help of the other Contracting Parties. Contracting Parties requesting assistance shall specify the kind of assistance they require. The Contracting Parties called upon for help in accordance with this Article shall use their best endeavours to bring such assistance as is within their power taking into account, particularly in the case of pollution by harmful substances other than oil, the technological means available to them.

#### *Article 8*

1. The provisions of this Agreement shall not be interpreted as in any way prejudicing the rights and obligations of the Contracting Parties under international law, especially in the field of the prevention and combating of marine pollution.

2. In no case shall the division into zones referred to in Article 6 of this Agreement be invoked as a precedent or argument in any matter concerning sovereignty or jurisdiction.

#### *Article 9*

1. In the absence of an agreement concerning the financial arrangements governing actions of Contracting Parties to deal with pollution which might be concluded on a bilateral or multilateral basis or on the occasion of a joint combating operation, Contracting Parties shall bear the costs of their respective actions in dealing with pollution in accordance with subparagraph (a) or subparagraph (b) below:

(a) If the action was taken by one Contracting Party at the express request of another Contracting Party, the Contracting Party requesting such assistance shall reimburse to the assisting Contracting Party the costs of its action;

(b) If the action was taken by a Contracting Party on its own initiative, this Contracting Party shall bear the costs of its action.

2. The Contracting Party requesting assistance may cancel its request at any time, but in that case it shall bear the costs already incurred or committed by the assisting Contracting Party.

#### *Article 10*

Unless otherwise agreed the costs of action taken by a Contracting Party at the request of another Contracting Party shall be calculated according to the law and current practice in the assisting country concerning the reimbursement of such costs by a person or entity liable.

#### *Article 11*

Article 9 of this Agreement shall not be interpreted as in any way prejudicing the rights of Contracting Parties to recover from third parties the costs of action to deal with pollution or the threat of pollution under other applicable provisions and rules of national and international law.

#### *Article 12*

1. Meetings of the Contracting Parties shall be held at regular intervals and at any time when, due to special circumstances, it is so decided in accordance with the Rules of Procedure.

2. The Contracting Parties at their first meeting shall draw up Rules of Procedure and Financial Rules, which shall be adopted by unanimous vote.

3. The Depositary Government shall convene the first meeting of Contracting Parties as soon as possible after the entry into force of this Agreement.

#### *Article 13*

Within the areas of its competence, the European Economic Community is entitled to a number of votes equal to the number of its Member States which are Contracting Parties to the present Agreement. The European Economic Community shall not exercise its right to vote in cases where its Member States exercise theirs and conversely.

#### *Article 14*

It shall be the duty of meetings of the Contracting Parties:

(a) to exercise overall supervision over the implementation of this Agreement;

(b) to review the effectiveness of the measures taken under this Agreement;

(c) to carry out such other functions as may be necessary under the terms of this Agreement.

#### *Article 15*

1. The Contracting Parties shall make provision for the performance of secretariat duties in relation to this Agreement, taking into account existing

arrangements in the framework of other international agreements on the prevention of marine pollution in force for the same region as this Agreement.

2. Each Contracting Party shall contribute 2.5% towards the annual expenditure of the Agreement. The balance of the Agreement's expenditure shall be divided among Contracting Parties other than the European Economic Community in proportion to their gross national product in accordance with the scale of assessment adopted regularly by the United Nations General Assembly. In no case shall the contribution of a Contracting Party to this balance exceed 20% of the balance.

#### *Article 16*

1. Without prejudice to Article 17 of this Agreement, a proposal by a Contracting Party for the amendment of this Agreement or its Annex shall be considered at a meeting of the Contracting Parties. Following adoption of the proposal by unanimous vote the amendment shall be communicated by the Depositary Government to the Contracting Parties.

2. Such an amendment shall enter into force on the first day of the second month following the date on which the Depositary Government has received notifications of approval from all Contracting Parties.

#### *Article 17*

1. Two or more Contracting Parties may modify the common boundaries of their zones described in the Annex to this Agreement.

2. Such a modification shall enter into force for all Contracting Parties on the first day of the sixth month following the date of its communication by the Depositary Government unless, within a period of three months following that communication, a Contracting Party has expressed an objection or has requested consultation on the matter.

#### *Article 18*

1. This Agreement shall be open for signature by the Governments of the States invited to participate in the Conference on the Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances, held at Bonn on 13 September 1983, and by the European Economic Community.

2. These States and the European Economic Community may become Parties to this Agreement either by signature without reservation as to ratification, acceptance or approval or by signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval.

3. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Federal Republic of Germany.

#### *Article 19*

1. This Agreement shall enter into force on the first day of the second month following the date on which the Governments of all the States mentioned in Article 18 of this Agreement and the European Economic Community have signed the Agreement without reservation as to ratification, acceptance or approval or have deposited an instrument of ratification, acceptance or approval.

2. Upon the entry into force of this Agreement, the Agreement for Co-operation in dealing with Pollution of the North Sea by Oil, done at Bonn on 9 June 1969, shall cease to be in force.

#### *Article 20*

1. The Contracting Parties may unanimously invite any other coastal State of the North East Atlantic area to accede to this Agreement.

2. In such a case Article 2 of this Agreement and its Annex shall be amended as necessary. The amendments shall be adopted by unanimous vote at a meeting of the Contracting Parties and shall take effect upon the entry into force of this Agreement for the acceding State.

#### *Article 21*

1. For each State acceding to this Agreement, the Agreement shall enter into force on the first day of the second month following the date of deposit by such State of its instrument of accession.

2. Instruments of accession shall be deposited with the Government of the Federal Republic of Germany.

#### *Article 22*

1. After this Agreement has been in force for five years it may be denounced by any Contracting Party.

2. Denunciation shall be effected by a notification in writing addressed to the Depositary Government which shall notify all the other Contracting Parties of any denunciation received and of the date of its receipt.

3. A denunciation shall take effect one year after its receipt by the Depositary Government.

#### *Article 23*

The Depositary Government shall inform the Contracting Parties and those referred to in Article 18 of this Agreement of:

- (a) any signature of this Agreement;
- (b) the deposit of any instrument of ratification, acceptance, approval or accession and of the receipt of any notice of denunciation;
- (c) the date of entry into force of this Agreement;

(d) the receipt of any notification of approval relating to amendments to this Agreement or its Annex and of the date of entry into force of such amendments.

#### *Article 24*

The original of this Agreement, of which the English, French and German texts are equally authentic, shall be deposited with the Government of the Federal Republic of Germany, which shall send certified copies thereof to the Contracting Parties and which shall transmit a certified copy to the Secretary-General 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 authorised thereto by their respective Governments, have signed this Agreement.

Done at Bonn, this thirteenth day of September 1983.

## **INTERNATIONAL TROPICAL TIMBER AGREEMENT [30]**

**Geneva, 18 November 1983**

The Parties to this Agreement,

Recalling the Declaration and the Programme of Action on the Establishment of a New International Economic Order adopted by the General Assembly,

Recalling resolutions 93 (IV) and 124 (V) on the Integrated Programme for Commodities adopted by the United Nations Conference on Trade and Development at its fourth and fifth sessions,

Recognizing the importance of, and the need for, proper and effective conservation and development of tropical timber forests with a view to ensuring their optimum utilization while maintaining the ecological balance of the regions concerned and of the biosphere,

Recognizing the importance of tropical timber to the economies of members, particularly to the exports of producing members and the supply requirements of consuming members,

Desiring to establish a framework of international co-operation between producing and consuming members in finding solutions to the problems facing the tropical timber economy,

Have agreed as follows:

### **Chapter I**

#### **OBJECTIVES**

##### *Article 1*

#### **OBJECTIVES**

With a view to achieving the relevant objectives adopted by the United Nations Conference on Trade and Development in its resolutions 93 (IV) and 124 (V) on the Integrated Programme for Commodities, for the benefit of both producing and consuming members and bearing in mind the sovereignty of producing members over their natural resources, the objectives of the International Tropical Timber Agreement, 1983 (hereinafter referred to as "this Agreement") are:

(a) To provide an effective framework for co-operation and consultation between tropical timber producing and consuming members with regard to all relevant aspects of the tropical timber economy;

(b) To promote the expansion and diversification of international trade in tropical timber and the improvement of structural conditions in the tropical timber market, by taking into account, on the one hand, a long-term increase in consumption and continuity of supplies, and, on the other, prices which are remunerative to producers and equitable for consumers, and the improvement of market access;

- (c) To promote and support research and development with a view to improving forest management and wood utilization;
- (d) To improve market intelligence with a view to ensuring greater transparency in the international tropical timber market;
- (e) To encourage increased and further processing of tropical timber in producing member countries with a view to promoting their industrialization and thereby increasing their export earnings;
- (f) To encourage members to support and develop industrial tropical timber reforestation and forest management activities;
- (g) To improve marketing and distribution of tropical timber exports of producing members;
- (h) To encourage the development of national policies aimed at sustainable utilization and conservation of tropical forests and their genetic resources, and at maintaining the ecological balance in the regions concerned.

## Chapter II

### DEFINITIONS

#### Article 2

##### DEFINITIONS

For the purposes of this Agreement:

1. "Tropical timber" means non-coniferous tropical wood for industrial uses, which grows or is produced in the countries situated between the Tropic of Cancer and the Tropic of Capricorn. The term covers logs, sawnwood, veneer sheets and plywood. Plywood which includes in some measure conifers of tropical origin shall also be covered by this definition.
2. "Further processing" means the transformation of logs into primary wood products, semi-finished and finished products made wholly or almost wholly of tropical timber.
3. "Member" means a Government or an intergovernmental organization referred to in article 5 which has consented to be bound by this Agreement whether it is in force provisionally or definitively.
4. "Producing member" means any country with tropical forest resources and/or a net exporter of tropical timber in volume terms which is listed in annex A and which becomes a party to this Agreement, or any country with tropical forest resources and/or a net exporter of tropical timber in volume terms which is not so listed and which becomes a party to this Agreement and which the Council, with the consent of that country, declares to be a producing member.
5. "Consuming member" means any country listed in annex B which becomes a party to this Agreement, or any country not so listed which becomes a party to this Agreement and which the Council, with the consent of that country, declares to be a consuming member.
6. "Organization" means the International Tropical Timber Organization established in accordance with article 3.
7. "Council" means the International Tropical Timber Council established in accordance with article 6.
8. "Special vote" means a vote requiring at least two thirds of the votes cast by producing members present and voting and at least 60 per cent of the votes cast by consuming members present and voting, counted separately, on condition that these votes are cast by at least half of the producing members present and voting and at least half of the consuming members present and voting.
9. "Simple distributed majority vote" means a vote requiring more than half of the votes cast by producing members present and voting and more than half of the votes cast by consuming members present and voting, counted separately.
10. "Financial year" means the period from 1 January to 31 December inclusive.
11. "Freely usable currencies" means the Deutsche mark, the French franc, the Japanese yen, the pound sterling, the United States dollar and any other currency which has been designated from time to time by a competent international monetary organization as being in fact widely used to make payments for international transactions and widely traded in the principal exchange markets.

## Chapter III

### ORGANIZATION AND ADMINISTRATION

#### Article 3

##### ESTABLISHMENT, HEADQUARTERS AND STRUCTURE OF THE INTERNATIONAL TROPICAL TIMBER ORGANIZATION

1. The International Tropical Timber Organization is hereby established to administer the provisions and supervise the operation of this Agreement.
2. The Organization shall function through the International Tropical Timber Council established under article 6, the committees and other subsidiary bodies referred to in article 24, and the Executive Director and staff.
3. The Council shall, at its first session, decide on the location of the headquarters of the Organization.
4. The headquarters of the Organization shall at all times be located in the territory of a member.

*Article 4*

## MEMBERSHIP IN THE ORGANIZATION

There shall be two categories of membership in the Organization, namely:

- (a) Producing; and
- (b) Consuming.

*Article 5*

## MEMBERSHIP BY INTERGOVERNMENTAL ORGANIZATIONS

1. Any reference in this Agreement to "Governments" shall be construed as including the European Economic Community and any other intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements. Accordingly, any reference in this Agreement to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession shall, in the case of such intergovernmental organizations, be construed as including a reference to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession, by such intergovernmental organizations.

2. In the case of voting on matters within their competence, such intergovernmental organizations shall vote with a number of votes equal to the total number of votes attributable to their member States in accordance with article 10. In such cases, the member States of such intergovernmental organizations shall not be entitled to exercise their individual voting rights.

**Chapter IV**

## INTERNATIONAL TROPICAL TIMBER COUNCIL

*Article 6*

## COMPOSITION OF THE INTERNATIONAL TROPICAL TIMBER COUNCIL

1. The highest authority of the Organization shall be the International Tropical Timber Council, which shall consist of all the members of the Organization.

2. Each member shall be represented in the Council by one representative and may designate alternates and advisers to attend sessions of the Council.

3. An alternate representative shall be empowered to act and vote on behalf of the representative during the latter's absence or in special circumstances.

*Article 7*

## POWERS AND FUNCTIONS OF THE COUNCIL

1. The Council shall exercise all such powers and perform or arrange for the performance of all such

functions as are necessary to carry out the provisions of this Agreement.

2. The Council shall, by special vote, adopt such rules and regulations as are necessary to carry out the provisions of this Agreement, including its own rules of procedure and the financial and staff regulations of the Organization. Such financial regulations shall, *inter alia*, govern the receipt and expenditure of funds under the Administrative and Special Accounts. The Council may, in its rules of procedure, provide for a procedure whereby it may, without meeting, decide specific questions.

3. The Council shall keep such records as are required for the performance of its functions under this Agreement.

*Article 8*

## CHAIRMAN AND VICE-CHAIRMAN OF THE COUNCIL

1. The Council shall elect for each calendar year a Chairman and a Vice-Chairman, whose salaries shall not be paid by the Organization.

2. The Chairman and the Vice-Chairman shall be elected, one from among the representatives of producing members and the other from among the representatives of consuming members. These offices shall alternate each year between the two categories of members, provided, however, that this shall not prohibit the re-election of either or both under exceptional circumstances, by special vote of the Council.

3. In the temporary absence of the Chairman, the Vice-Chairman shall act in his place. In the temporary absence of both the Chairman and the Vice-Chairman, or in the absence of one or both of them for the rest of the term for which they were elected, the Council may elect new officers from among the representatives of the producing members and/or from among the representatives of the consuming members, as the case may be, on a temporary basis or for the rest of the term for which the predecessor or predecessors were elected.

*Article 9*

## SESSIONS OF THE COUNCIL

1. As a general rule, the Council shall hold at least one regular session a year.

2. The Council shall meet in special session whenever it so decides or at the request of:

- (a) The Executive Director, in agreement with the Chairman of the Council; or
- (b) A majority of producing members or a majority of consuming members; or
- (c) Members holding at least 500 votes.

3. Sessions of the Council shall be held at the headquarters of the Organization unless the Council,



by special vote, decides otherwise. If on the invitation of any member the Council meets elsewhere than at the headquarters of the Organization, that member shall pay the additional cost of holding the meeting away from headquarters.

4. Notice of any sessions and the agenda for such sessions shall be communicated to members by the Executive Director at least six weeks in advance, except in cases of emergency, when notice shall be communicated at least seven days in advance.

#### *Article 10*

##### DISTRIBUTION OF VOTES

1. The producing members shall together hold 1,000 votes and the consuming members shall together hold 1,000 votes.

2. The votes of the producing members shall be distributed as follows:

(a) Four hundred votes shall be distributed equally among the three producing regions of Africa, Asia-Pacific and Latin America. The votes thus allocated to each of these regions shall then be distributed equally among the producing members of that region;

(b) Three hundred votes shall be distributed among the producing members in accordance with their respective shares of the total tropical forest resources of all producing members; and

(c) Three hundred votes shall be distributed among the producing members in proportion to the average of the values of their respective net exports of tropical timber during the most recent three-year period for which definitive figures are available.

3. Notwithstanding the provisions of paragraph 2 of this article, the total votes allocated to the producing members from the African region, calculated in accordance with paragraph 2 of this article, shall be distributed equally among all producing members from the African region. If there are any remaining votes, each of these votes shall be allocated to a producing member from the African region: the first to the producing member which is allocated the highest number of votes calculated in accordance with paragraph 2 of this article, the second to the producing member which is allocated the second highest number of votes, and so on until all the remaining votes have been distributed.

4. For purposes of the calculation of the distribution of votes under paragraph 2 (b) of this article, "tropical forest resources" means productive closed broadleaved forests as defined by the Food and Agriculture Organization of the United Nations (FAO).

5. The votes of the consuming members shall be distributed as follows: each consuming member shall have 10 initial votes; the remaining votes shall be distributed among the consuming members in proportion to the average volume of their respective

net imports of tropical timber during the three-year period commencing four calendar years prior to the distribution of votes.

6. The Council shall distribute the votes for each financial year at the beginning of its first session of that year in accordance with the provisions of this article. Such distribution shall remain in effect for the rest of that year, except as provided for in paragraph 7 of this article.

7. Whenever the membership of the Organization changes or when any member has its voting rights suspended or restored under any provision of this Agreement, the Council shall redistribute the votes within the affected category or categories of members in accordance with the provisions of this article. The Council shall, in that event, decide when such redistribution shall become effective.

8. There shall be no fractional votes.

#### *Article 11*

##### VOTING PROCEDURE OF THE COUNCIL

1. Each member shall be entitled to cast the number of votes it holds and no member shall be entitled to divide its votes. A member may, however, cast differently from such votes any votes which it is authorized to cast under paragraph 2 of this article.

2. By written notification to the Chairman of the Council, any producing member may authorize, under its own responsibility, any other producing member, and any consuming member may authorize, under its own responsibility, any other consuming member, to represent its interests and to cast its votes at any meeting of the Council.

3. When abstaining, a member shall be deemed not to have cast its votes.

#### *Article 12*

##### DECISIONS AND RECOMMENDATIONS OF THE COUNCIL

1. The Council shall endeavour to take all decisions and to make all recommendations by consensus. If consensus cannot be reached, the Council shall take all decisions and make all recommendations by a simple distributed majority vote, unless this Agreement provides for a special vote.

2. Where a member avails itself of the provisions of article 11, paragraph 2, and its votes are cast at a meeting of the Council, such member shall, for the purposes of paragraph 1 of this article, be considered as present and voting.

#### *Article 13*

##### QUORUM FOR THE COUNCIL

1. The quorum for any meeting of the Council shall be the presence of a majority of producing members and a majority of consuming members, provided that

such members hold at least two thirds of the total votes in their respective categories.

2. If there is no quorum in accordance with paragraph 1 of this article on the day fixed for the meeting and on the following day, the quorum on the subsequent days of the session shall be the presence of a majority of producing members and a majority of consuming members, provided that such members hold a majority of the total votes in their respective categories.

3. Representation in accordance with article 11, paragraph 2, shall be considered as presence.

#### *Article 14*

##### CO-OPERATION AND CO-ORDINATION WITH OTHER ORGANIZATIONS

1. The Council shall make whatever arrangements are appropriate for consultation or co-operation with the United Nations and its organs, such as the United Nations Conference on Trade and Development (UNCTAD), the United Nations Industrial Development Organization (UNIDO), the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP) and the International Trade Centre UNCTAD/GATT (ITC), and with the Food and Agriculture Organization of the United Nations (FAO) and such other specialized agencies of the United Nations and intergovernmental, governmental and non-governmental organizations as may be appropriate.

2. The Organization shall, to the maximum extent possible, utilize the facilities, services and expertise of existing intergovernmental, governmental or non-governmental organizations, in order to avoid duplication of efforts in achieving the objectives of this Agreement and to enhance the complementarity and the efficiency of their activities.

#### *Article 15*

##### ADMISSION OF OBSERVERS

The Council may invite any non-member Government or any of the organizations referred to in articles 14, 20 and 27 concerned with tropical timber to attend as observers any of the meetings of the Council.

#### *Article 16*

##### EXECUTIVE DIRECTOR AND STAFF

1. The Council shall, by special vote, appoint the Executive Director.

2. The terms and conditions of appointment of the Executive Director shall be determined by the Council.

3. The Executive Director shall be the chief administrative officer of the Organization and shall be responsible to the Council for the administration

and operation of this Agreement in accordance with decisions of the Council.

4. The Executive Director shall appoint the staff in accordance with regulations to be established by the Council. At its first session, the Council shall, by special vote, decide the number of executive and professional staff the Executive Director may appoint. Any changes in the number of executive and professional staff shall be decided by the Council by special vote. The staff shall be responsible to the Executive Director.

5. Neither the Executive Director nor any member of the staff shall have any financial interest in the tropical timber industry or trade, or associated commercial activities.

6. In the performance of their duties, the Executive Director and staff shall not seek or receive instructions from any member or from any authority external to the Organization. They shall refrain from any action which might reflect on their positions as international officials ultimately responsible to the Council. Each member shall respect the exclusively international character of the responsibilities of the Executive Director and staff and shall not seek to influence them in the discharge of their responsibilities.

### Chapter V

#### PRIVILEGES AND IMMUNITIES

##### *Article 17*

##### PRIVILEGES AND IMMUNITIES

1. The Organization shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property, and to institute legal proceedings.

2. The Organization shall, as soon as possible after the entry into force of this Agreement, seek to conclude with the Government of the country in which the headquarters of the Organization is to be located (hereinafter referred to as the "host Government") an agreement (hereinafter referred to as the "Headquarters Agreement") relating to such status, privileges and immunities of the Organization, of its Executive Director, its staff and experts, and of representatives of members, as are necessary for the purpose of discharging their functions.

3. Pending the conclusion of the Headquarters Agreement referred to in paragraph 2 of this article, the Organization shall request the host Government to grant, within the limits of its national legislation, exemption from taxation on remuneration paid by the Organization to its employees, and on the assets, income and other property of the Organization.

4. The Organization may also conclude, with one or more countries, agreements to be approved by the

Council relating to such capacity, privileges and immunities as may be necessary for the proper functioning of this Agreement.

5. If the headquarters of the Organization is moved to another country, the member in question shall, as soon as possible, conclude with the Organization a headquarters agreement to be approved by the Council.

6. The Headquarters Agreement shall be independent of this Agreement. It shall, however, terminate:

- (a) By agreement between the host Government and the Organization;
- (b) In the event of the headquarters of the Organization being moved from the country of the host Government; or
- (c) In the event of the Organization ceasing to exist.

## Chapter VI

### FINANCE

#### Article 18

##### FINANCIAL ACCOUNTS

1. There shall be established two accounts:

- (a) The Administrative Account; and
- (b) The Special Account.

2. The Executive Director shall be responsible for the administration of these accounts and the Council shall make provision in its rules of procedure therefor.

#### Article 19

##### ADMINISTRATIVE ACCOUNT

1. The expenses necessary for the administration of this Agreement shall be brought into the Administrative Account and shall be met by annual contributions paid by members in accordance with their respective constitutional or institutional procedures and assessed in accordance with paragraphs 3, 4 and 5 of this article.

2. The expenses of delegations to the Council, the committees and any other subsidiary bodies of the Council referred to in article 24 shall be met by the members concerned. In cases where a member requests special services from the Organization, the Council shall require that member to pay the costs of such services.

3. Before the end of each financial year, the Council shall approve the administrative budget of the Organization for the following financial year and shall assess the contribution of each member to that budget.

4. The contribution of each member to the administrative budget for each financial year shall be in the proportion which the number of its votes at the time the administrative budget for that financial year is approved bears to the total votes of all the members. In assessing contributions, the votes of each member shall be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom.

5. The initial contribution of any member joining the Organization after the entry into force of this Agreement shall be assessed by the Council on the basis of the number of votes to be held by that member and the period remaining in the current financial year, but the assessment made upon other members from the current financial year shall not thereby be altered.

6. Contributions to the first administrative budget shall become due on a date to be decided by the Council at its first session. Contributions to subsequent administrative budgets shall become due on the first day of each financial year. Contributions of members in respect of the financial year in which they join the Organization shall be due on the date on which they become members.

7. If a member has not paid its full contribution to the administrative budget within four months after such contribution becomes due in accordance with paragraph 6 of this article, the Executive Director shall request that member to make payment as quickly as possible. If that member has still not paid its contribution within two months after such request, that member shall be requested to state the reasons for its inability to make payment. If at the expiry of seven months from the due date of contribution, that member has still not paid its contribution, its voting rights shall be suspended and an interest charge shall be levied on its late contribution at the central bank rate of the host country until such time as it has paid in full its contribution, unless the Council, by special vote, decides otherwise.

8. A member whose rights have been suspended under paragraph 7 of this article shall remain liable to pay its contribution.

#### Article 20

##### SPECIAL ACCOUNT

1. There shall be established two sub-accounts under the Special Account:

- (a) The Pre-Project Sub-Account; and
- (b) The Project Sub-Account.

2. The possible sources of finance for the Special Account shall be:

- (a) The Second Account of the Common Fund for Commodities, when it becomes operational;
- (b) Regional and international financial institutions; and

## (c) Voluntary contributions.

3. The resources of the Special Account shall be used only for approved projects or for pre-project activities.

4. All expenditures under the Pre-Project Sub-Account shall be reimbursed from the Project Sub-Account if projects are subsequently approved and funded. If within six months of entry into force of this Agreement the Council does not receive any funds for the Pre-Project Sub-Account, it shall review the situation and take appropriate action.

5. All receipts pertaining to specific identifiable projects shall be brought into the Special Account. All expenditures incurred on such projects, including remuneration and travel expenses of consultants and experts, shall be charged to the Special Account.

6. The Council shall, by special vote, establish terms and conditions on which it would, when and where appropriate, sponsor projects for loan financing, where a member or members have voluntarily assumed full obligations and responsibilities for such loans. The Organization shall have no obligations for such loans.

7. The Council may nominate and sponsor any entity with the consent of that entity, including a member or members, to receive loans for the financing of approved projects and to undertake all the obligations involved, except that the Organization shall reserve to itself the right to monitor the use of resources and to follow up on the implementation of projects so financed. However, the Organization shall not be responsible for guarantees voluntarily provided by individual members or other entities.

8. No member shall be responsible by reason of its membership in the Organization for any liability arising from borrowing or lending by any other member or entity in connection with projects.

9. In the event that voluntary unearmarked funds are offered to the Organization, the Council may accept such funds. Such funds may be utilized for pre-project activities as well as for approved projects.

10. The Executive Director shall endeavour to seek, on such terms and conditions as the Council may decide, adequate and assured finance for projects approved by the Council.

11. Contributions for specified approved projects shall be used only for the projects for which they were originally intended, unless otherwise decided by the Council in agreement with the contributor. After the completion of a project, the Organization shall return to each contributor for specific projects the balance of any funds remaining *pro rata* to each contributor's share in the total of the contributions originally made available for financing that project, unless otherwise agreed to by the contributor.

*Article 21*

## FORMS OF PAYMENT

1. Contributions to the Administrative Account shall be payable in freely usable currencies and shall be exempt from foreign-exchange restrictions.

2. Financial contributions to the Special Account shall be payable in freely usable currencies and shall be exempt from foreign-exchange restrictions.

3. The Council may also decide to accept other forms of contributions to the Special Account, including scientific and technical equipment or personnel, to meet the requirements of approved projects.

*Article 22*

## AUDIT AND PUBLICATION OF ACCOUNTS

1. The Council shall appoint independent auditors for the purpose of auditing the accounts of the Organization.

2. Independently audited statements of the Administrative Account and of the Special Account shall be made available to members as soon as possible after the close of each financial year, but not later than six months after that date, and be considered for approval by the Council at its next session, as appropriate. A summary of the audited accounts and balance sheet shall thereafter be published.

**Chapter VII**

## OPERATIONAL ACTIVITIES

*Article 23*

## PROJECTS

1. All project proposals shall be submitted to the Organization by members and shall be examined by the relevant committee.

2. In order to achieve the objectives set out in article 1, the Council shall examine all project proposals in the fields of research and development, market intelligence, further and increased processing in developing producing member countries, and reforestation and forest management, together with the recommendation submitted by the relevant committee; such project proposals based on tropical timber as defined in article 2, paragraph 1, may encompass tropical timber products other than those listed in article 2, paragraph 1. This provision shall also apply, where relevant, to the functions of the committees as set forth in article 25.

3. On the basis of the criteria set out in paragraph 6 or paragraph 7 of this article, the Council shall, by special vote, approve projects for financing or sponsorship in accordance with article 20.

4. The Council shall, on a continuing basis, arrange for the implementation of, and with a view to

ensuring their effectiveness follow up, approved projects.

5. Research and development projects should relate to at least one of the following five areas:

- (a) Wood utilization, including the utilization of lesser-known and lesser-used species;
- (b) Natural forest development;
- (c) Reforestation development;
- (d) Harvesting, logging infrastructure, training of technical personnel;
- (e) Institutional framework, national planning.

6. Projects on research and development approved by the Council shall be consistent with each of the following criteria:

- (a) They should be related to the production and utilization of industrial tropical timber;
- (b) They should yield benefits to the tropical timber economy as a whole and be relevant to producing as well as consuming members;
- (c) They should be related to the maintenance and expansion of the international tropical timber trade;
- (d) They should offer reasonable prospects for positive economic returns in relation to costs; and
- (e) They shall make maximum use of existing research institutions and, to the greatest extent possible, avoid duplication of efforts.

7. Projects in the fields of market intelligence, further and increased processing, and reforestation and forest management, should be consistent with criterion (b) and, as far as possible, consistent with criteria (a), (c), (d) and (e) as contained in paragraph 6 of this article.

8. The Council shall decide on the relative priorities of projects, taking into account the interests and characteristics of each of the producing regions. Initially, the Council shall give priority to research and development project profiles as endorsed by the Sixth Preparatory Meeting on Tropical Timber under the Integrated Programme for Commodities and to such other projects as the Council may approve.

9. The Council may, by special vote, terminate its sponsorship of any project.

#### Article 24

##### ESTABLISHMENT OF COMMITTEES

1. The following committees are hereby established as permanent committees of the Organization:

- (a) Committee on Economic Information and Market Intelligence;
- (b) Committee on Reforestation and Forest Management; and
- (c) Committee on Forest Industry.

2. The Council may, by special vote, establish such other committees and subsidiary bodies as it deems appropriate and necessary.

3. The committees and subsidiary bodies referred to in paragraphs 1 and 2 of this article shall be responsible to, and work under the general direction of, the Council. Meetings of the committees and subsidiary bodies shall be convened by the Council.

4. Participation in each of the committees shall be open to all members. The rules of procedure of the committees shall be decided by the Council.

#### Article 25

##### FUNCTIONS OF THE COMMITTEES

1. The Committee on Economic Information and Market Intelligence shall:

- (a) Keep under review the availability and quality of statistics and other information required by the Organization;
- (b) Analyze the statistical data and specific indicators as identified in annex C for the monitoring of international tropical timber trade;
- (c) Keep under continuous review the international tropical timber market, its current situation and short-term prospects on the basis of the data mentioned in subparagraph (b) above and other relevant information;
- (d) Make recommendations to the Council on the need for, and nature of, appropriate studies on tropical timber, including long-term prospects of the international tropical timber market, and monitor and review any studies commissioned by the Council;
- (e) Carry out any other tasks related to the economic, technical and statistical aspects of tropical timber assigned to it by the Council;
- (f) Assist in the provision of technical co-operation to producing members to improve their relevant statistical services.

2. The Committee on Reforestation and Forest Management shall:

- (a) Keep under regular review the support and assistance being provided at a national and international level for reforestation and forest management for the production of industrial tropical timber;
- (b) Encourage the increase of technical assistance to national programmes for reforestation and forest management;
- (c) Assess the requirements and identify all possible sources of financing for reforestation and forest management;
- (d) Review regularly future needs of international trade in industrial tropical timber and, on this basis, identify and consider appropriate possible schemes and measures in the field of reforestation and forest management;
- (e) Facilitate transfer of knowledge in the field of reforestation and forest management with the assistance of competent organizations;
- (f) Co-ordinate and harmonize these activities for co-operation in the field of reforestation and forest

management with the relevant activities pursued elsewhere, such as those under FAO, UNEP, the World Bank, regional banks and other competent organizations.

3. The Committee on Forest Industry shall:

(a) Promote co-operation between producing and consuming members as partners in the development of processing activities in producing member countries, *inter alia*, in the following areas:

- (i) Transfer of technology;
- (ii) Training;
- (iii) Standardization of nomenclature of tropical timber;
- (iv) Harmonization of specifications of processed products;
- (v) Encouragement of investment and joint ventures; and
- (vi) Marketing;

(b) Promote exchange of information in order to facilitate structural changes involved in increased and further processing in the interests of both producing and consuming members;

(c) Monitor ongoing activities in this field, and identify and consider problems and possible solutions to them in co-operation with the competent organizations;

(d) Encourage the increase of technical assistance to national programmes for the processing of tropical timber.

4. Research and development shall be a common function of the committees established under article 24, paragraph 1.

5. In view of the close relationship between research and development, reforestation and forest management, increased and further processing, and market intelligence, each of the permanent committees, in addition to carrying out the functions assigned to it above, shall, with regard to project proposals referred to it, including those on research and development in its area of competence:

- (a) Consider and technically appraise and evaluate project proposals;
- (b) In accordance with general guidelines established by the Council, decide on and implement pre-project activities necessary for making recommendations on project proposals to the Council;
- (c) Identify possible sources of finance for projects referred to in article 20, paragraph 2;
- (d) Follow up the implementation of projects and provide for the collection and dissemination of the results of projects as widely as possible for the benefit of all members;
- (e) Make recommendations to the Council relating to projects;
- (f) Carry out any other tasks related to projects assigned to it by the Council.

6. In carrying out these common functions, each committee shall take into account the need to

strengthen the training of personnel in producing member countries; to consider and propose modalities for organizing or strengthening the research and development activities and capacities of members, particularly producing members; and to promote the transfer of research know-how and techniques among members, particularly among producing members.

## Chapter VIII

### RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES

#### Article 26

##### RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES

When the Common Fund becomes operational, the Organization shall take full advantage of the facilities of the Second Account of the Common Fund according to the principles set out in the Agreement establishing the Common Fund for Commodities.

## Chapter IX

### STATISTICS, STUDIES AND INFORMATION

#### Article 27

##### STATISTICS, STUDIES AND INFORMATION

1. The Council shall establish close relationships with appropriate intergovernmental, governmental and non-governmental organizations, in order to help ensure the availability of recent and reliable data and information on all factors concerning tropical timber. The Organization, in co-operation with such organizations, shall compile, collate and, as necessary, publish such statistical information on production, supply, trade, stocks, consumption and market prices of tropical timber, and on related areas, as is necessary for the operation of this Agreement.

2. Members shall, to the fullest extent possible not inconsistent with their national legislation, furnish, within a reasonable time, statistics and information on tropical timber requested by the Council.

3. The Council shall arrange to have any necessary studies undertaken of the trends and of short- and long-term problems of the world tropical timber market.

4. The Council shall ensure that information furnished by members shall not be used in such a manner as to prejudice the confidentiality of the operations of persons or companies producing, processing or marketing tropical timber.

#### Article 28

##### ANNUAL REPORT AND REVIEW

1. The Council shall, within six months after the close of each calendar year, publish an annual report

on its activities and such other information as it considers appropriate.

2. The Council shall annually review and assess the world tropical timber situation and exchange views on the outlook for, and other issues closely related to, the world tropical timber economy, including ecological and environmental aspects.

3. The review shall be carried out in the light of:

(a) Information supplied by members in relation to national production, trade, supply, stocks, consumption and prices of tropical timber;

(b) Statistical data and specific indicators provided by members on the areas listed in annex C; and

(c) Such other relevant information as may be available to the Council either directly or through the appropriate organizations in the United Nations system and appropriate intergovernmental, governmental or non-governmental organizations.

4. The results of the review shall be included in the reports of the Council's deliberations.

## Chapter X

### MISCELLANEOUS

#### Article 29

##### COMPLAINTS AND DISPUTES

Any complaint that a member has failed to fulfil its obligations under this Agreement and any dispute concerning the interpretation or application of this Agreement shall be referred to the Council for decision. Decisions of the Council on these matters shall be final and binding.

#### Article 30

##### GENERAL OBLIGATIONS OF MEMBERS

1. Members shall for the duration of this Agreement use their best endeavours and co-operate to promote the attainment of its objectives and to avoid any action contrary thereto.

2. Members undertake to accept as binding decisions of the Council under the provisions of this Agreement and shall seek to refrain from implementing measures which would have the effect of limiting or running counter to them.

#### Article 31

##### RELIEF FROM OBLIGATIONS

1. Where it is necessary on account of exceptional circumstances or emergency or *force majeure* not expressly provided for in this Agreement, the Council may, by special vote, relieve a member of an obligation under this Agreement if it is satisfied by an explanation from that member regarding the reasons why the obligation cannot be met.

2. The Council, in granting relief to a member under paragraph 1 of this article, shall state explicitly

the terms and conditions on which, and the period for which, the member is relieved of such obligation, and the reasons for which the relief is granted.

#### Article 32

##### DIFFERENTIAL AND REMEDIAL MEASURES AND SPECIAL MEASURES

1. Developing importing members whose interests are adversely affected by measures taken under this Agreement may apply to the Council for appropriate differential and remedial measures. The Council shall consider taking appropriate measures in accordance with section III, paragraphs 3 and 4, of resolution 93 (IV) of the United Nations Conference on Trade and Development.

2. Members in the category of least developed countries as defined by the United Nations may apply to the Council for special measures in accordance with section III, paragraph 4, of resolution 93 (IV) and with paragraph 82 of the Substantial New Programme of Action for the 1980s for the Least Developed Countries.

## Chapter XI

### FINAL PROVISIONS

#### Article 33

##### DEPOSITARY

The Secretary-General of the United Nations is hereby designated as the depositary of this Agreement.

#### Article 34

##### SIGNATURE, RATIFICATION, ACCEPTANCE AND APPROVAL

1. This Agreement shall be open for signature at United Nations Headquarters from 2 January 1984 until one month after the date of its entry into force by Governments invited to the United Nations Conference on Tropical Timber, 1983.

2. Any Government referred to in paragraph 1 of this article may:

- (a) At the time of signing this Agreement, declare that by such signature it expresses its consent to be bound by this Agreement (definitive signature); or
- (b) After signing this Agreement, ratify, accept or approve it by the deposit of an instrument to that effect with the depositary.

#### Article 35

##### ACCESSION

1. This Agreement shall be open for accession by the Governments of all States upon conditions established by the Council, which shall include a time-limit for the deposit of instruments of accession. The Council may, however, grant extensions of time to Governments which are unable to accede by the time-limit set in the conditions of accession.

2. Accession shall be effected by the deposit of an instrument of accession with the depositary.

#### *Article 36*

##### NOTIFICATION OF PROVISIONAL APPLICATION

A signatory Government which intends to ratify, accept or approve this Agreement, or a Government for which the Council has established conditions for accession but which has not yet been able to deposit its instrument, may, at any time, notify the depositary that it will apply this Agreement provisionally either when it enters into force in accordance with article 37, or, if it is already in force, at a specified date.

#### *Article 37*

##### ENTRY INTO FORCE

1. This Agreement shall enter into force definitively on 1 October 1984 or on any date thereafter, if 12 Governments of producing countries holding at least 55 per cent of the total votes as set out in annex A to this Agreement, and 16 Governments of consuming countries holding at least 70 per cent of the total votes as set out in annex B to this Agreement have signed this Agreement definitively or have ratified, accepted or approved it or acceded thereto pursuant to article 34, paragraph 2, or article 35.

2. If this Agreement has not entered into force definitively on 1 October 1984, it shall enter into force provisionally on that date or on any date within six months thereafter, if 10 Governments of producing countries holding at least 50 per cent of the total votes as set out in annex A to this Agreement, and 14 Governments of consuming countries holding at least 65 per cent of the total votes as set out in annex B to this Agreement, have signed this Agreement definitively or have ratified, accepted or approved it pursuant to article 34, paragraph 2, or have notified the depositary under article 36 that they will apply this Agreement provisionally.

3. If the requirements for entry into force under paragraph 1 or paragraph 2 of this article have not been met on 1 April 1985, the Secretary-General of the United Nations shall invite those Governments which have signed this Agreement definitively or have ratified, accepted or approved it pursuant to article 34, paragraph 2, or have notified the depositary that they will apply this Agreement provisionally, to meet at the earliest time practicable to decide whether to put this Agreement into force provisionally or definitively among themselves in whole or in part. Governments which decide to put this Agreement into force provisionally among themselves may meet from time to time to review the situation and decide whether this Agreement shall enter into force definitively among themselves.

4. For any Government which has not notified the depositary under article 36 that it will apply this Agreement provisionally and which deposits its instrument of ratification, acceptance, approval or

accession after the entry into force of this Agreement, this Agreement shall enter into force on the date of such deposit.

5. The Secretary-General of the United Nations shall convene the first session of the Council as soon as possible after the entry into force of this Agreement.

#### *Article 38*

##### AMENDMENTS

1. The Council may, by special vote, recommend an amendment of this Agreement to the members.

2. The Council shall fix a date by which members shall notify the depositary of their acceptance of the amendment.

3. An amendment shall enter into force 90 days after the depositary has received notifications of acceptance from members constituting at least two thirds of the producing members and accounting for at least 85 per cent of the votes of the producing members, and from members constituting at least two thirds of the consuming members and accounting for at least 85 per cent of the votes of the consuming members.

4. After the depositary informs the Council that the requirements for entry into force of the amendment have been met, and notwithstanding the provisions of paragraph 2 of this article relating to the date fixed by the Council, a member may still notify the depositary of its acceptance of the amendment, provided that such notification is made before the entry into force of the amendment.

5. Any member which has not notified its acceptance of an amendment by the date on which such amendment enters into force shall cease to be a party to this Agreement as from that date, unless such member has satisfied the Council that its acceptance could not be obtained in time owing to difficulties in completing its constitutional or institutional procedures, and the Council decides to extend for that member the period for acceptance of the amendment. Such member shall not be bound by the amendment before it has notified its acceptance thereof.

6. If the requirements for the entry into force of the amendment have not been met by the date fixed by the Council in accordance with paragraph 2 of this article, the amendment shall be considered withdrawn.

#### *Article 39*

##### WITHDRAWAL

1. A member may withdraw from this Agreement at any time after the entry into force of this Agreement by giving written notice of withdrawal to the depositary. That member shall simultaneously inform the Council of the action it has taken.

2. Withdrawal shall become effective 90 days after the notice is received by the depositary.



*Article 40*

## EXCLUSION

If the Council decides that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of this Agreement, it may, by special vote, exclude that member from this Agreement. The Council shall immediately so notify the depositary. Six months after the date of the Council's decision, that member shall cease to be a party to this Agreement.

*Article 41*

## SETTLEMENT OF ACCOUNTS WITH WITHDRAWING OR EXCLUDED MEMBERS OR MEMBERS UNABLE TO ACCEPT AN AMENDMENT

1. The Council shall determine any settlement of accounts with a member which ceases to be a party to this Agreement owing to:

- (a) Non-acceptance of an amendment to this Agreement under article 38;
- (b) Withdrawal from this Agreement under article 39; or
- (c) Exclusion from this Agreement under article 40.

2. The Council shall retain any contribution paid to the Administrative Account by a member which ceases to be a party to this Agreement.

3. A member which has ceased to be a party to this Agreement shall not be entitled to any share of the proceeds of liquidation or the other assets of the Organization. Nor shall such member be liable for payment of any part of the deficit, if any, of the Organization upon termination of this Agreement.

*Article 42*

## DURATION, EXTENSION AND TERMINATION

1. This Agreement shall remain in force for a period of five years after its entry into force unless the Council, by special vote, decides to extend, renegotiate or terminate it in accordance with provisions of this article.

2. The Council may, by special vote, decide to extend this Agreement for not more than two periods of two years each.

3. If, before the expiry of the five-year period referred to in paragraph 1 of this article, or before the expiry of an extension period referred to in paragraph 2 of this article, as the case may be, a new agreement to replace this Agreement has been negotiated but has not yet entered into force either definitively or provisionally, the Council may, by special vote, extend this Agreement until the provisional or definitive entry into force of the new agreement.

4. If a new agreement is negotiated and enters into force during any period of extension of this

Agreement under paragraph 2 or paragraph 3 of this article, this Agreement, as extended, shall terminate upon the entry into force of the new agreement.

5. The Council may at any time, by special vote, decide to terminate this Agreement with effect from such date as it may determine.

6. Notwithstanding the termination of this Agreement, the Council shall continue in being for a period not exceeding 18 months to carry out the liquidation of the Organization, including the settlement of accounts, and, subject to relevant decisions to be taken by special vote, shall have during that period such powers and functions as may be necessary for these purposes.

7. The Council shall notify the depositary of any decision taken under this article.

*Article 43*

## RESERVATIONS

Reservations may not be made with respect to any of the provisions of this Agreement.

In witness whereof the undersigned, being duly authorized thereto, have affixed their signatures under this Agreement on the dates indicated.

Done at Geneva on the eighteenth day of November, one thousand nine hundred and eighty-three, the text of this Agreement in the Arabic, English, French, Russian and Spanish languages being equally authentic. The authentic Chinese text of this Agreement shall be established by the depositary and submitted for adoption to all signatories and States and intergovernmental organizations which have acceded to this Agreement.

**Annex A**

List of producing countries with tropical forest resources and/or net exporters of tropical timber in volume terms, and allocation of votes for the purposes of article 37

Bolivia	21
Brazil	130
Burma	31
Central African Republic	20
Colombia	23
Congo	20
Costa Rica	9
Dominican Republic	9
Ecuador	14
El Salvador	8
Gabon	21
Ghana	20
Guatemala	10
Haiti	8
Honduras	9
India	32
Indonesia	139
Ivory Coast	21
Liberia	20
Madagascar	20
Malaysia	126
Mexico	13
Nigeria	20
Panama	9
Papua New Guinea	24
Peru	25
Philippines	43
Sudan	20
Surinam	14
Thailand	19
Trinidad and Tobago	8
United Republic of Cameroon	20
United Republic of Tanzania	20
Venezuela	15
Viet Nam	18
Zaire	21

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TOTAL 1,000

**Annex B**

List of consuming countries and allocation of votes for the purposes of article 37

Argentina	14
Australia	20
Austria	12
Bulgaria	10
Canada	16
Chile	10
Egypt	11
European Economic Community	(277)
Belgium/Luxembourg	21
Denmark	13
France	56
Germany, Federal Republic of	44
Greece	14
Ireland	12
Italy	41
Netherlands	35
United Kingdom of Great Britain and Northern Ireland	41
Finland	10
Iraq	10
Israel	12
Japan	330
Jordan	10
Malta	10
New Zealand	10
Norway	11
Republic of Korea	56
Romania	10
Spain	24
Sweden	11
Switzerland	11
Turkey	10
Union of Soviet Socialist Republics	14
United States of America	79
Yugoslavia	12

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TOTAL 1,000

## Annex C

## STATISTICAL DATA AND SPECIFIC INDICATORS NEEDED AS IDENTIFIED FOR THE MONITORING OF INTERNATIONAL TROPICAL TIMBER TRADE\*

	From producing members	From consuming members
A. <i>Basic monthly data</i> for regular monitoring of major tropical timber trade flows	Export volumes (values): by products, species, destination and other available relevant details  Average f.o.b. prices: for specific products and species representative of major trade flows	Import volumes (values): by products, species, origin and other available relevant details  Average c.i.f. prices: for specific products and species representative of major trade flows
B. <i>Specific supplementary data and indicators</i> from which short-term supply-demand for tropical wood can be derived	Periodic evaluation of stocks at point of embarkation and, if possible, at intermediate stages Forest industry production (capacity) and industrial wood input/output Removals of industrial timber from forests Freight rates Export quotas – trade incentives Climatic obstacles – natural catastrophes	Periodic evaluation of stocks at point of debarkation and, if possible, at intermediate stages Share of tropical timber in total trade Exports and re-exports of wood products Building activity, housing starts, mortgage rates Furniture production
C. <i>Other relevant specific information</i>	Changes in tariffs and non-tariff obstacles	End-use surveys in major sectors using tropical timber Changes in veneer surface fashion Changes in tariffs and non-tariff obstacles Trends in substitution among wood and with other products
D. <i>General economic indicators and information</i> directly or indirectly affecting the international (tropical) timber trade	Publicly available and relevant national and international economic and financial indicators, e.g. gross national product, exchange rates, interest rates, inflation rates, terms of trade. National and international policies and measures affecting international tropical timber trade.	

\* Annexed pursuant to consensus reached in the Executive Committee of the Conference on 29 March 1983.

**PROTOCOL TO THE 1979  
CONVENTION ON LONG-RANGE  
TRANSBOUNDARY AIR POLLUTION  
ON LONG-TERM FINANCING OF THE  
CO-OPERATIVE PROGRAMME FOR  
MONITORING AND EVALUATION OF  
THE LONG-RANGE TRANSMISSION OF  
AIR POLLUTANTS IN EUROPE  
(EMEP)\* [31]**

**Geneva, 28 September 1984**

The Contracting Parties,

Recalling that the Convention on Long-range Transboundary Air Pollution (hereinafter referred to as "the Convention") entered into force on 16 March 1983,

Aware of the importance of the "Co-operative programme for the monitoring and evaluation of the long-range transmission of air pollutants in Europe" (hereinafter referred to as EMEP), as provided for in Articles 9 and 10 of the Convention,

Cognizant of the positive results achieved so far in the implementation of EMEP,

Recognizing that the implementation of EMEP has hitherto been made possible by financial means provided by the United Nations Environment Programme (UNEP) and by voluntary contributions from Governments,

Bearing in mind that since the UNEP contribution will continue only until the end of 1984, and that since this contribution together with the voluntary contributions from Governments have been inadequate to support fully the EMEP work plan, it will therefore be necessary to provide for long-term funding after 1984,

Considering the appeal of the Economic Commission for Europe to ECE member Governments, contained in its decision B (XXXVIII), to make available, on a basis to be agreed at the first meeting of the Executive Body for the Convention (hereinafter referred to as the "Executive Body"), the financial resources to enable the Executive Body to carry out its activities, in particular as regards the work of EMEP,

Noting that the Convention does not contain any provisions for financing EMEP and that it is, therefore, necessary to make appropriate arrangements regarding this matter,

Considering the elements to guide the drafting of a formal instrument supplementing the Convention, as listed in recommendations adopted by the Executive Body at its first session (7-10 June 1983),

Have agreed as follows:

**Article 1**

**DEFINITIONS**

For the purposes of the present Protocol:

1. "UN assessment rate" means a Contracting Party's rate for the financial year in question in the scale of assessments for the apportionment of the expenses of the United Nations.

2. "Financial year" means the financial year of the United Nations; and "annual basis" and "annual costs" shall be construed accordingly.

3. "General Trust Fund" means the General Trust Fund for the Financing of the Implementation of the Convention on Long-range Transboundary Air Pollution, which has been established by the Secretary-General of the United Nations.

4. "Geographical scope of EMEP" means the area within which, co-ordinated by the international centres of EMEP,<sup>a</sup> monitoring is carried out.

**Article 2**

**FINANCING OF EMEP**

The financing of EMEP shall cover the annual costs of the international centres co-operating within EMEP for the activities appearing in the work programme of the Steering Body of EMEP.

**Article 3**

**CONTRIBUTIONS**

1. In accordance with the provisions of this article the financing of EMEP shall consist of mandatory contributions, supplemented by voluntary contributions. Contributions may be made in convertible currency, non-convertible currency, or in kind.

2. Mandatory contributions shall be made on an annual basis by all Contracting Parties to the present Protocol which are within the geographical scope of EMEP.

3. Voluntary contributions may be made by the Contracting Parties or Signatories to the present Protocol, even if their territory lies outside the geographical scope of EMEP, as well as, subject to approval by the Executive Body, on the recommendation of the Steering Body of EMEP, by any other country, organization or individual which wishes to contribute to the work programme.

4. The annual costs of the work programme shall be covered by the mandatory contributions. Contributions in cash and in kind, such as those provided by host countries for international centres, shall be specified in the work programme. Voluntary contributions may, subject to the approval by the Executive Body, on the recommendation of the Steering Body, be utilized either for reducing the mandatory contributions or for financing specific activities within the scope of EMEP.

5. Mandatory and voluntary contributions in cash shall be deposited in the General Trust Fund.

<sup>a</sup> The international centres are at present: the Chemical Co-ordinating Centre, the Meteorological Synthesizing Centre-East and the Meteorological Synthesizing Centre-West.

\* See Volume I for the 1979 Convention.

*Article 4*

## SHARING OF COSTS

1. Mandatory contributions shall be made in accordance with the terms of the Annex to the present Protocol.
2. The Executive Body shall consider the need to amend the Annex:
  - (a) if the annual budget of EMEP increases by a factor of two and half times the level of the annual budget adopted for the year of entry into force of the present Protocol or for the year of last amendment of the Annex, whichever is later; or
  - (b) if the Executive Body, on the recommendation of the Steering Body, designates a new international centre; or
  - (c) six years after the entry into force of the present Protocol, or six years after last amendment to the Annex, whichever is later.
3. Amendments to the Annex shall be adopted by consensus of the Executive Body.

*Article 5*

## ANNUAL BUDGET

An annual budget for EMEP shall be drawn up by the Steering Body of EMEP, and shall be adopted by the Executive Body not later than one year in advance of the financial year to which it applies.

*Article 6*

## AMENDMENTS TO THE PROTOCOL

1. Any Contracting Party to the present Protocol may propose amendments to it.
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 to the Protocol. The Executive Body shall discuss the 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 to the Protocol at least 90 days in advance.
3. An amendment to the present Protocol, other than an amendment to its Annex, shall be adopted by consensus of the representatives of the Contracting Parties to the Protocol and shall enter into force for the Contracting Parties to the Protocol which have accepted it on the ninetieth day after the date on which two-thirds of those Contracting Parties have deposited with the depositary their instruments of acceptance of the amendment. 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 7*

## SETTLEMENT OF DISPUTES

If a dispute arises between two or more Contracting Parties to the present Protocol as to its interpretation or application, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute.

*Article 8*

## SIGNATURE

1. The present Protocol shall be open for signature at the United Nations Office in Geneva from 28 September 1984 until 5 October 1984 inclusive, then at the Headquarters of the United Nations in New York until 4 April 1985, 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 Protocol, provided that the States and organizations concerned are parties to the 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 Protocol attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

*Article 9*

## RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.
2. The present Protocol shall be open for accession as from 5 October 1984 by the States and Organizations referred to in article 8, 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 10*

## ENTRY INTO FORCE

1. The present Protocol shall enter into force on the ninetieth day following the date on which:
  - (a) instruments of ratification, acceptance, approval or accession have been deposited by at least nineteen States and Organizations referred to in

article 8, paragraph 1, which are within the geographical scope of EMEP; and

(b) the aggregate of the UN assessment rates for such States and Organizations exceeds forty per cent.

2. For each State and Organization referred to in article 8, paragraph 1, which ratifies, accepts or approves the present protocol or accedes thereto after the requirements for entry into force laid down in paragraph 1 above have been met, 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 11

##### WITHDRAWAL

1. At any time after five years from the date on which the present Protocol has come into force with respect to a Contracting Party, that Contracting Party may withdraw from it 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.

2. Withdrawal shall not affect the financial obligations of the withdrawing Party until the date on which the withdrawal takes effect.

#### Article 12

##### AUTHENTIC TEXTS

The original of the present 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 present Protocol.

Done at Geneva, this twenty-eighth day of September one thousand nine hundred and eighty-four.

#### Annex referred to in article 4

Mandatory contributions for sharing of costs for financing the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), shall be calculated according to the following scale:

	%
Austria	1.59
Bulgaria	0.35
Byelorussian SSR	0.71
Czechoslovakia	1.54
Finland	1.07
German Democratic Republic	2.74
Holy See	0.02
Hungary	0.45
Iceland	0.06

Liechtenstein	0.02
Norway	1.13
Poland	1.42
Portugal	0.30
Romania	0.37
San Marino	0.02
Spain	3.54
Sweden	2.66
Switzerland	2.26
Turkey	0.60
Ukrainian SSR	2.60
USSR	20.78
Yugoslavia	0.60

##### Member countries of the European Economic Community:

Belgium	2.36
Denmark	1.38
France	11.99
Germany, Federal Republic of	15.73
Greece	1.00
Ireland	0.50
Italy	6.89
Luxembourg	0.10
Netherlands	3.28
United Kingdom	8.61
EEC	3.33
Total	100.00

The order in which the Contracting Parties are listed in this Annex is specifically made in relation to the cost-sharing system agreed upon by the Executive Body for the Convention. Accordingly, the listing is a feature which is specific to the Protocol on the financing of EMEP.

**PROTOCOL TO THE 1979  
CONVENTION ON LONG-RANGE  
TRANSBOUNDARY AIR POLLUTION  
ON THE REDUCTION OF SULPHUR  
EMISSIONS OR THEIR  
TRANSBOUNDARY FLUXES BY AT  
LEAST 30 PER CENT [32]**

**Helsinki, 8 July 1985**

The Parties,

Determined to implement the Convention on Long-range Transboundary Air Pollution,

Concerned that the present emissions of air pollutants are causing widespread damage, in exposed parts of Europe and North America, to natural resources of vital environmental and economic importance, such as forests, soils and waters, and to materials (including historical monuments) and, under certain circumstances, have harmful effects on human health,

Aware of the fact that the predominant sources of air pollution contributing to the acidification of the environment are the combustion of fossil fuels for energy production, and the main technological processes in various industrial sectors, as well as transport, which lead to emissions of sulphur dioxide, nitrogen oxides, and other pollutants,

Considering that high priority should be given to reducing sulphur emissions, which will have positive results environmentally, on the overall economic situation and on human health,

Recalling the decision of the United Nations Economic Commission for Europe (ECE) at its thirty-ninth session, which stresses the urgency of intensifying efforts to arrive at co-ordinated national strategies and policies in the ECE region to reduce sulphur emissions effectively at national levels,

Recalling the recognition by the Executive Body for the Convention at its first session of the need to decrease effectively the total annual emissions of sulphur compounds or their transboundary fluxes by 1993-1995, using 1980 levels as the basis for calculations of reductions,

Recalling that the Multilateral Conference on the Causes and Prevention of Damage to Forests and Water by Air Pollution in Europe (Munich, 24-27 June 1984) had requested that the Executive Body for the Convention, as a matter of highest priority, adopt a proposal for a specific agreement on the reduction of annual national sulphur emissions or their transboundary fluxes by 1993 at the latest,

Noting that a number of Contracting Parties to the Convention have decided to implement reductions of their national annual sulphur emissions or their transboundary fluxes by at least 30 per cent as soon as possible and at the latest by 1993, using 1980 levels as the basis for calculation of reductions,

Recognizing, on the other hand, that some Contracting Parties to the Convention, while not

signing the present Protocol at the time of its opening for signature, will nevertheless contribute significantly to the reduction of transboundary air pollution, or will continue to make efforts to control sulphur emissions, as stated in the document annexed to the report of the Executive Body at its third session,

Have agreed as follows:

*Article 1*

DEFINITIONS

For the purposes of the present Protocol,

1. "Convention" means the Convention on Long-range Transboundary Air Pollution, adopted in Geneva on 13 November 1979,
2. "EMEP" means the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe,
3. "Executive Body" means the Executive Body for the Convention constituted under article 10, paragraph 1 of the Convention,
4. "Geographical scope of EMEP" means the area defined in article 1, paragraph 4 of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), adopted in Geneva on 28 September 1984.
5. "Parties" means, unless the context otherwise requires, the Parties to the present Protocol.

*Article 2*

BASIC PROVISIONS

The Parties shall reduce their national annual sulphur emissions or their transboundary fluxes by at least 30 per cent as soon as possible and at the latest by 1993, using 1980 levels as the basis for calculation of reductions.

*Article 3*

FURTHER REDUCTIONS

The Parties recognize the need for each of them to study at the national level the necessity for further reductions, beyond those referred to in article 2, of sulphur emissions or their transboundary fluxes when environmental conditions warrant.

*Article 4*

REPORTING OF ANNUAL EMISSIONS

Each Party shall provide annually to the Executive Body its levels of national annual sulphur emissions, and the basis upon which they have been calculated.

*Article 5*

## CALCULATIONS OF TRANSBOUNDARY FLUXES

EMEP shall in good time before the annual meetings of the Executive Body provide to the Executive Body calculations of sulphur budgets and also of transboundary fluxes and depositions of sulphur compounds for each previous year within the geographical scope of EMEP, utilizing appropriate models. In areas outside the geographical scope of EMEP, models appropriate to the particular circumstances of Parties therein shall be used.

*Article 6*

## NATIONAL PROGRAMMES, POLICIES AND STRATEGIES

The Parties shall, within the framework of the Convention, develop without undue delay national programmes, policies and strategies which shall serve as a means of reducing sulphur emissions or their transboundary fluxes, by at least 30 per cent as soon as possible and at the latest by 1993, and shall report thereon as well as on progress towards achieving the goal to the Executive Body.

*Article 7*

## AMENDMENTS TO THE PROTOCOL

1. Any Party may propose amendments to the present Protocol.
2. Proposed amendments shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe who shall communicate them to all Parties. The Executive Body shall discuss the 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 Parties at least 90 days in advance.
3. An amendment to the present Protocol shall be adopted by consensus of the representatives of the Parties, and shall enter into force for the Parties which have accepted it on the ninetieth day after the date on which two-thirds of the Parties have deposited 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 8*

## SETTLEMENT OF DISPUTES

If a dispute arises between two or more Parties as to the interpretation or application of the present Protocol, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the Parties to the dispute.

*Article 9*

## SIGNATURE

1. The present Protocol shall be open for signature at Helsinki (Finland) from 8 July 1985 until 12 July 1985 inclusive, 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 Protocol, provided that the States and organizations concerned are Parties to the 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 Protocol attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

*Article 10*

## RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.
2. The present Protocol shall be open for accession as from 13 July 1985 by the States and organizations referred to in article 9 paragraph 1.
3. A State or organization acceding to the present Protocol after its entry into force shall implement Article 2 at the latest by 1993. However, if the Protocol is acceded to after 1990, Article 2 may be implemented later than 1993 by the Party concerned but not later than 1995, and such a Party shall implement Article 6 correspondingly.
4. 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 depositary.

*Article 11*

## ENTRY INTO FORCE

1. The present Protocol shall enter into force on the ninetieth day following the date on which the sixteenth instrument of ratification, acceptance, approval or accession has been deposited.
2. For each State and organization referred to in article 9 paragraph 1, which ratifies, accepts or approves the present 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 Party of its instrument of ratification, acceptance, approval, or accession.

*Article 12*

WITHDRAWAL

At any time after five years from the date on which the present Protocol has come into force with respect to a Party, that Party may withdraw from it 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 13*

AUTHENTIC TEXTS

The original of the present 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 present Protocol.

Done at Helsinki this eighth day of July one thousand nine hundred and eighty-five.

**PROTOCOL TO THE 1979  
CONVENTION ON LONG-RANGE  
TRANSBOUNDARY AIR POLLUTION  
CONCERNING THE CONTROL OF  
EMISSIONS OF NITROGEN OXIDES OR  
THEIR TRANSBOUNDARY FLUXES [33]**

**Sofia, 31 October 1988**

The Parties,

Determined to implement the Convention on Long-range Transboundary Air Pollution,

Concerned that present emissions of air pollutants are causing damage, in exposed parts of Europe and North America, to natural resources of vital environmental and economic importance,

Recalling that the Executive Body for the Convention recognized at its second session the need to reduce effectively the total annual emissions of nitrogen oxides from stationary and mobile sources or their transboundary fluxes by 1995, and the need on the part of other States that had already made progress in reducing these emissions to maintain and review their emission standards for nitrogen oxides,

Taking into consideration existing scientific and technical data on emissions, atmospheric movements and effects on the environment of nitrogen oxides and their secondary products, as well as on control technologies,

Conscious that the adverse environmental effects of emissions of nitrogen oxides vary among countries,

Determined to take effective action to control and reduce national annual emissions of nitrogen oxides of their transboundary fluxes by, in particular, the application of appropriate national emission standards to new mobile and major new stationary sources and the retrofitting of existing major stationary sources,

Recognizing that scientific and technical knowledge of these matters is developing and that it will be necessary to take such developments into account when reviewing the operation of this Protocol and deciding on further action,

Noting that the elaboration of an approach based on critical loads is aimed at the establishment of an effect-oriented scientific basis to be taken into account when reviewing the operation of this Protocol and at deciding on further internationally agreed measures to limit and reduce emissions of nitrogen oxides or their transboundary fluxes,

Recognizing that the expeditious consideration of procedures to create more favourable conditions for exchange of technology will contribute to the effective reduction of emissions of nitrogen oxides in the region of the Commission,

Noting with appreciation the mutual commitment undertaken by several countries to implement immediate and substantial reductions of national annual emissions of nitrogen oxides,

Acknowledging the measures already taken by some countries which have had the effect of reducing emissions of nitrogen oxides,

Have agreed as follows:

### Article 1

#### DEFINITIONS

For the purposes of the present Protocol,

1. "Convention" means the Convention on Long-range Transboundary Air Pollution, adopted in Geneva on 13 November 1979;
2. "EMEP" means the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe;
3. "Executive Body" means the Executive Body for the Convention constituted under article 10, paragraph 1 of the Convention;
4. "Geographical scope of EMEP" means the area defined in article 1, paragraph 4 of the Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), adopted in Geneva on 28 September 1984;
5. "Parties" means, unless the context otherwise requires, the Parties to the present Protocol;
6. "Commission" means the United Nations Economic Commission for Europe;
7. "Critical load" means a quantitative estimate of the exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge;
8. "Major existing stationary source" means any existing stationary source the thermal input of which is at least 100 MW;
9. "Major new stationary source" means any new stationary source the thermal input of which is at least 50 MW;
10. "Major source category" means any category of sources which emits or may emit air pollutants in the form of nitrogen oxides, including the categories described in the Technical Annex, and which contributes at least 10% of the total national emissions of nitrogen oxides on an annual basis as measured or calculated in the first calendar year after the date of entry into force of the present Protocol, and every fourth year thereafter;
11. "New stationary source" means any stationary source the construction or substantial modification of which is commenced after the expiration of two years from the date of entry into force of the present Protocol; and

12. "New mobile source" means a motor vehicle or other mobile source which is manufactured after the expiration of two years from the date of entry into force of the present Protocol.

### Article 2

#### BASIC OBLIGATIONS

1. The Parties shall, as soon as possible and as a first step, take effective measures to control and/or reduce their national annual emissions of nitrogen oxides or their transboundary fluxes so that these, at the latest by 31 December 1994, do not exceed their national annual emissions of nitrogen oxides or transboundary fluxes of such emissions for the calendar year 1987 or any previous year to be specified upon signature of, or accession to, the Protocol, provided that in addition, with respect to any Party specifying such a previous year, its national average annual transboundary fluxes or national average annual emissions of nitrogen oxides for the period from 1 January 1987 to 1 January 1996 do not exceed its transboundary fluxes or national emissions for the calendar year 1987.
2. Furthermore, the Parties shall in particular, and no later than two years after the date of entry into force of the present Protocol:
  - (a) Apply national emissions standards to major new stationary sources and/or source categories, and to substantially modified stationary sources in major source categories, based on the best available technologies which are economically feasible, taking into consideration the Technical Annex;
  - (b) Apply national emission standards to new mobile sources in all major source categories based on the best available technologies which are economically feasible, taking into consideration the Technical Annex and the relevant decisions taken within the framework of the Inland Transport Committee of the Commission; and
  - (c) Introduce pollution control measures for major existing stationary sources, taking into consideration the Technical Annex and the characteristics of the plant, its age and its rate of utilization and the need to avoid undue operational disruption.
3. (a) The Parties shall, as a second step, commence negotiations, no later than six months after the date of entry into force of the present Protocol, on further steps to reduce national annual emissions of nitrogen oxides or transboundary fluxes of such emissions, taking into account the best available scientific and technological developments, internationally accepted critical loads and other elements resulting from the work programme undertaken under article 6.
  - (b) To this end, the Parties shall co-operate in order to establish:
    - (i) Critical loads;
    - (ii) Reductions in national annual emissions of nitrogen oxides or transboundary fluxes of such

emissions as required to achieve agreed objectives based on critical loads; and

(iii) Measures and a timetable commencing no later than 1 January 1996 for achieving such reductions.

4. Parties may take more stringent measures than those required by the present article.

#### Article 3

##### EXCHANGE OF TECHNOLOGY

1. The Parties shall, consistent with their national laws, regulations and practices, facilitate the exchange of technology to reduce emissions of nitrogen oxides, particularly through the promotion of:

- (a) Commercial exchange of available technology;
- (b) Direct industrial contacts and co-operation, including joint ventures;
- (c) Exchange of information and experience; and
- (d) Provision of technical assistance.

2. In promoting the activities specified in subparagraphs (a) and (d) above, the Parties shall create favourable conditions by facilitating contacts and co-operation among appropriate organizations and individuals in the private and public sectors that are capable of providing technology, design and engineering services, equipment or finance.

3. The Parties shall, no later than six months after the date of entry into force of the present Protocol, commence consideration of procedures to create more favourable conditions for the exchange of technology to reduce emissions of nitrogen oxides.

#### Article 4

##### UNLEADED FUEL

The Parties shall, as soon as possible and no later than two years after the date of entry into force of the present Protocol, make unleaded fuel sufficiently available, in particular cases as a minimum along main international transit routes, to facilitate the circulation of vehicles equipped with catalytic converters.

#### Article 5

##### REVIEW PROCESS

1. The Parties shall regularly review the present Protocol, taking into account the best available scientific substantiation and technological development.

2. The first review shall take place no later than one year after the date of entry into force of the present Protocol.

#### Article 6

##### WORK TO BE UNDERTAKEN

The Parties shall give high priority to research and monitoring related to the development and application of an approach based on critical loads to determine, on a scientific basis, necessary reductions in emissions of nitrogen oxides. The Parties shall, in particular, through national research programmes, in the work plan of the Executive Body and through other co-operative programmes within the framework of the Convention, seek to:

- (a) Identify and quantify effects of emissions of nitrogen oxides on humans, plant and animal life, waters, soils and materials, taking into account the impact on these of nitrogen oxides from sources other than atmospheric deposition;
- (b) Determine the geographical distribution of sensitive areas;
- (c) Develop measurements and model calculations including harmonized methodologies for the calculation of emissions, to quantify the long-range transport of nitrogen oxides and related pollutants;
- (d) Improve estimates of the performance and costs of technologies for control of emissions of nitrogen oxides and record the development of improved and new technologies; and
- (e) Develop, in the context of an approach based on critical loads, methods to integrate scientific, technical and economic data in order to determine appropriate control strategies.

#### Article 7

##### NATIONAL PROGRAMMES, POLICIES AND STRATEGIES

The Parties shall develop without undue delay national programmes, policies and strategies to implement the obligations under the present Protocol that shall serve as a means of controlling and reducing emissions of nitrogen oxides or their transboundary fluxes.

#### Article 8

##### INFORMATION EXCHANGE AND ANNUAL REPORTING

1. The Parties shall exchange information by notifying the Executive Body of the national programmes, policies and strategies that they develop in accordance with article 7 and by reporting to it annually on progress achieved under, and any changes to, those programmes, policies and strategies, and in particular on:

- (a) The levels of national annual emissions of nitrogen oxides and the basis upon which they have been calculated;
- (b) Progress in applying national emission standards required under article 2, subparagraphs 2 (a) and 2 (b), and the national emission standards

applied or to be applied, and the sources and/or source categories concerned;

(c) Progress in introducing the pollution control measures required under article 2, subparagraph 2 (c), the sources concerned and the measures introduced or to be introduced;

(d) Progress in making unleaded fuel available;

(e) Measures taken to facilitate the exchange of technology; and

(f) Progress in establishing critical loads.

2. Such information shall, as far as possible, be submitted in accordance with a uniform reporting framework.

#### *Article 9*

##### CALCULATIONS

EMEP shall, utilizing appropriate models and in good time before the annual meetings of the Executive Body, provide to the Executive Body calculations of nitrogen budgets and also of transboundary fluxes and deposition of nitrogen oxides within the geographical scope of EMEP. In areas outside the geographical scope of EMEP, models appropriate to the particular circumstances of Parties to the Convention therein shall be used.

#### *Article 10*

##### TECHNICAL ANNEX

The Technical Annex to the present Protocol is recommendatory in character. It shall form an integral part of this Protocol.

#### *Article 11*

##### AMENDMENTS TO THE PROTOCOL

1. Any Party may propose amendments to the present Protocol.

2. Proposed amendments shall be submitted in writing to the Executive Secretary of the Commission who shall communicate them to all Parties. The Executive Body shall discuss the proposed amendments at its next annual meeting provided that these proposals have been circulated by the Executive Secretary to the Parties at least ninety days in advance.

3. Amendments to the Protocol, other than amendments to its Technical Annex, shall be adopted by consensus of the Parties present at a meeting of the Executive Body, and shall enter into force for the Parties which have accepted them on the ninetieth day after the date on which two thirds of the Parties have deposited their instruments of acceptance thereof. Amendments shall enter into force for any Party which has accepted them after two thirds of the Parties have deposited their instruments of acceptance of the amendment, on the ninetieth day after the date on which that Party deposited its instrument of acceptance of the amendments.

4. Amendments to the Technical Annex shall be adopted by consensus of the Parties present at a meeting of the Executive Body and shall become effective thirty days after the date on which they have been communicated in accordance with paragraph 5 below.

5. Amendments under paragraphs 3 and 4 above shall, as soon as possible after their adoption, be communicated by the Executive Secretary to all Parties.

#### *Article 12*

##### SETTLEMENT OF DISPUTES

If a dispute arises between two or more Parties as to the interpretation or application of the present Protocol, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute.

#### *Article 13*

##### SIGNATURE

1. The present Protocol shall be open for signature at Sofia from 1 November 1988 until 4 November 1988 inclusive, then at the Headquarters of the United Nations in New York until 5 May 1989, by the member States of the Commission, as well as States having consultative status with the Commission, 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 Commission, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the Protocol, provided that the States and organizations concerned are Parties to the 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 Protocol attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

#### *Article 14*

##### RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.

2. The present Protocol shall be open for accession as from 6 May 1989 by the States and organizations referred to in article 13, paragraph 1.

3. A State or organization which accedes to the present Protocol after 31 December 1993 may implement articles 2 and 4 no later than 31 December 1995.

4. 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 depositary.

#### Article 15

##### ENTRY INTO FORCE

1. The present Protocol shall enter into force on the ninetieth day following the date on which the sixteenth instrument of ratification, acceptance, approval or accession has been deposited.

2. For each State and organization referred to in article 13, paragraph 1, which ratifies, accepts or approves the present 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 following the date of deposit by such Party of its instrument of ratification, acceptance, approval, or accession.

#### Article 16

##### WITHDRAWAL

At any time after five years from the date on which the present Protocol has come into force with respect to a Party, that Party may withdraw from it by giving written notification to the depositary. Any such withdrawal shall take effect on the ninetieth day following the date of its receipt by the depositary, or on such later date as may be specified in the notification of the withdrawal.

#### Article 17

##### AUTHENTIC TEXTS

The original of the present 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 present protocol.

Done at Sofia this thirty-first day of October one thousand nine hundred and eighty-eight.

#### Technical Annex

1. Information regarding emission performance and costs is based on official documentation of the Executive Body and its subsidiary bodies, in particular documents EB.AIR/WG.3/R.8, R.9 and R.16, and ENV/WP.1/R.86, and Corr. 1, as reproduced in chapter 7 of Effects and Control of Transboundary Air Pollution.\* Unless otherwise

indicated, the technologies listed are considered to be well established on the basis of operational experience.\*\*

2. The information contained in this annex is incomplete. Because experience with new engines and new plants incorporating low emission technology, as well as with retrofitting existing plants, is continuously expanding, regular elaboration and amendment of the annex will be necessary. The annex cannot be an exhaustive statement of technical options; its aim is to provide guidance for the Parties in identifying economically feasible technologies for giving effect to the obligations of the Protocol.

#### I. CONTROL TECHNOLOGIES FOR NO<sub>x</sub> EMISSIONS FROM STATIONARY SOURCES

3. Fossil fuel combustion is the main stationary source of anthropogenic NO<sub>x</sub> emissions. In addition, some non-combustion processes can contribute relevant NO<sub>x</sub> emissions.

4. Major stationary source categories of NO<sub>x</sub> emissions may include:

- (a) Combustion plants;
- (b) Industrial process furnaces (e.g., cement manufacture);
- (c) Stationary gas turbines and internal combustion engines; and
- (d) Non-combustion processes (e.g., nitric acid production).

5. Technologies for the reduction of NO<sub>x</sub> emissions focus on certain combustion/process modifications, and, especially for large power plants, on flue gas treatment.

6. For retrofitting of existing plants, the extent of application of low-NO<sub>x</sub> technologies may be limited by negative operational side-effects or by other site-specific constraints. In the case of retrofitting, therefore, only approximate estimates are given for typically achievable NO<sub>x</sub> emission values. For new plants, negative side-effects can be minimized or excluded by appropriate design features.

7. According to currently available data, the costs of combustion modifications can be considered as small for new plants. However, in the case of retrofitting, for instance at large power plants, they ranged from about 8 to 25 Swiss francs per kWel (in 1985). As a rule, investment costs of flue gas treatment systems are considerably higher.

8. For stationary sources, emission factors are expressed in milligrams of NO<sub>2</sub> per normal (0° C, 1013 mb) cubic metre (mg/m<sup>3</sup>), dry basis.

\*\* It is at present difficult to provide reliable data on the costs of control technologies in absolute terms. For cost data included in the present annex, emphasis should therefore be placed on the relationships between the costs of different technologies rather than on absolute cost figures.

\* Air Pollution Studies No. 4 (United Nations publication, Sales No. E.87.II.E.36).

## COMBUSTION PLANTS

9. The category of combustion plants comprises fossil fuel combustion in furnaces, boilers, indirect heaters and other combustion facilities with a heat input larger than 10 MW, without mixing the combustion flue gases with other effluents or treated materials. The following combustion technologies, either singly or in combination, are available for new and existing installations:

- (a) Low-temperature design of the fire box, including fluidized bed combustion;
- (b) Low excess-air operation;
- (c) Installation of special low-NO<sub>x</sub> burners;
- (d) Flue gas recirculation into the combustion air;
- (e) Staged combustion/overfire-air operation; and
- (f) Reburning (fuel staging).\*\*\*

Performance standards that can be achieved are summarized in table 1.

10. Flue gas treatment by selective catalytic reduction (SCR) is an additional NO<sub>x</sub> emission reduction measure with efficiencies of up to 80% and more. Considerable operational experience from new and retrofitted installations is now being obtained within the region of the Commission, in particular for power plants larger than 300 MW (thermal). When combined with combustion modifications, emission values of 200 mg/m<sup>3</sup> (solid fuels, 6% O<sub>2</sub>) and 150 mg/m<sup>3</sup> (liquid fuels, 3% O<sub>2</sub>) can be easily met.

11. Selective non-catalytic reduction (SNCR), a flue gas treatment for a 20–60% NO<sub>x</sub> reduction, is a cheaper technology for special applications (e.g., refinery furnaces and base load gas combustion).

## STATIONARY GAS TURBINES AND INTERNAL COMBUSTION (IC) ENGINES

12. NO<sub>x</sub> emissions from stationary gas turbines can be reduced either by combustion modification (dry control) or by water/steam-injection (wet control). Both measures are well established. By these means, emission values of 150 mg/m<sup>3</sup> (gas, 15% O<sub>2</sub>) and 300 mg/m<sup>3</sup> (oil, 15% O<sub>2</sub>) can be met. Retrofit is possible.

13. NO<sub>x</sub> emissions from stationary spark ignition IC engines can be reduced either by combustion modifications (e.g., lean-burn and exhaust gas recirculation concepts) or by flue gas treatment (closed-loop 3-way catalytic converter, SCR). The technical and economic feasibility of these various processes depends on engine size, engine type (two stroke/four stroke), and engine operation mode (constant/varying load). The lean-burn concept is capable of meeting NO<sub>x</sub> emission values of 800 mg/m<sup>3</sup> (5% O<sub>2</sub>), the SCR process reduces NO<sub>x</sub> emissions

well below 400 mg/m<sup>3</sup> (5% O<sub>2</sub>), and the three-way catalytic converter reduces such emissions even below 200 mg/m<sup>3</sup> (5% O<sub>2</sub>).

## INDUSTRIAL PROCESS FURNACES – CEMENT CALCINATION

14. The precalcination process is being evaluated within the region of the Commission as a possible technology with the potential for reducing NO<sub>x</sub> concentrations in the flue gas of new and existing cement calcination furnaces to about 300 mg/m<sup>3</sup> (10% O<sub>2</sub>).

## NON-COMBUSTION PROCESSES – NITRIC ACID PRODUCTION

15. Nitric acid production with a high pressure absorption (> 8 bar) is capable of keeping NO<sub>x</sub> concentrations in undiluted effluents below 400 mg/m<sup>3</sup>. The same emission performance can be met by medium pressure absorption in combination with a SCR process or any other similar efficient NO<sub>x</sub> reduction process. Retrofit is possible.

II. CONTROL TECHNOLOGIES FOR NO<sub>x</sub> EMISSIONS FROM MOTOR VEHICLES

16. The motor vehicles considered in this annex are those used for road transport, namely: petrol-fuelled and diesel-fuelled passenger cars, light-duty vehicles and heavy-duty vehicles. Appropriate reference is made as necessary, to the specific vehicle categories (M<sub>1</sub>, M<sub>2</sub>, M<sub>3</sub>, N<sub>1</sub>, N<sub>2</sub>, N<sub>3</sub>) defined in ECE Regulation No. 13 pursuant to the 1958 Agreement concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicles Equipment and Parts.

17. Road transport is a major source of anthropogenic NO<sub>x</sub> emission in many Commission countries, contributing between 40 and 80% of total national emissions. Typically, petrol-fuelled vehicles contribute two-thirds of total road transport NO<sub>x</sub> emissions.

18. The technologies available for the control of nitrogen oxides from motor vehicles are summarized in tables 3 and 6. It is convenient to group the technologies by reference to existing or proposed national and international emission standards differing in stringency of control. Because current regulatory test cycles only reflect urban and metropolitan driving, the estimates of relative NO<sub>x</sub> emissions given below take account of higher speed driving where NO<sub>x</sub> emissions can be particularly important.

19. The additional production cost figures for the various technologies given in tables 3 and 6 are manufacturing cost estimates rather than retail prices.

\*\*\* There is limited operational experience of this type of combustion technology.

20. Control of production conformity and in-use vehicle performance is important in ensuring that the reduction potential of emission standards is achieved in practice.

21. Technologies that incorporate or are based on the use of catalytic converters require unleaded fuel. Free circulation of vehicles equipped with catalysts depends on the general availability of unleaded petrol.

#### PETROL-FUELLED AND DIESEL-FUELLED PASSENGER CARS (M<sub>1</sub>)

22. In table 2, four emission standards are summarized. These are used in table 3 to group the various engine technologies for petrol vehicles according to their NO<sub>x</sub> emission reduction potential.

23. The emission standards A, B, C and D include limits on hydrocarbon (HC) and carbon monoxide (CO) emissions as well as NO<sub>x</sub>. Estimates of emission reductions for these pollutants, relative to the baseline ECE R.15-04 case, are given in table 4.

24. Current diesel cars can meet the NO<sub>x</sub> emission requirements of standards A, B and C. Strict particulate emission requirements, together with the stringent NO<sub>x</sub> limits of standard D, imply that diesel passenger cars will require further development, probably including electronic control of the fuel pump, advanced fuel injection systems, exhaust gas

recirculation and particulate traps. Only experimental vehicles exist to date. (See also table 6, footnote a).

#### OTHER LIGHT-DUTY VEHICLES (N<sub>1</sub>)

25. The control methods for passenger cars are applicable but NO<sub>x</sub> reductions, costs and commercial lead time factors may differ.

#### HEAVY-DUTY PETROL-FUELLED VEHICLES (M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub>, N<sub>3</sub>)

26. This class of vehicle is insignificant in western Europe and is decreasing in eastern Europe. United States 1990 and United States 1991 NO<sub>x</sub> emission levels (see table 5) could be achieved at modest cost without significant technology advancement.

#### HEAVY-DUTY DIESEL-FUELLED VEHICLES (M<sub>2</sub>, M<sub>3</sub>, N<sub>2</sub>, N<sub>3</sub>)

27. In table 5, three emission standards are summarized. These are used in table 6 to group engine technologies for heavy-duty diesel vehicles according to NO<sub>x</sub> reduction potential. The baseline engine configuration is changing, with a trend away from naturally aspirated to turbo-charged engines. This trend has implications for improved baseline fuel consumption performance. Comparative estimates of consumption are therefore not included.

**Table 1**NO<sub>x</sub> PERFORMANCE STANDARDS (MG/M<sup>3</sup>) THAT CAN BE ACHIEVED BY COMBUSTION MODIFICATIONS

Plant type <sup>a</sup>			Uncontrolled baseline	Existing plant retrofit <sup>b</sup>		New plant	O <sub>2</sub> %
				Range	Typical value		
Solid Fuels	10 MW <sup>c</sup> to 300 MW	Grate Combustion (coal)	300-1000	-	600	400	7
		Fluidized Bed Combustion (i) stationary (ii) circulating	300-600	-	-	400	7
			150-300	-	-	200	7
		Pulverized Coal Combustion (i) dry bottom (ii) wet bottom	700-1700	600-1100	800	<600	6
			1000-2300	1000-1400	-	<1000	6
	>300 MW	Pulverized Coal Combustion (i) dry bottom (ii) wet bottom	700-1700	600-1100	-	<600	6
1000-2300			1000-1400	-	<1000	6	
Liquid Fuels	10 MW <sup>c</sup> to 300 MW	Distillate Oil Combustion	-	-	300	-	3
		Residual Oil Combustion	500-1400	200-400	400	-	3
	>300 MW	Residual Oil Combustion	500-1400	200-400	-	-	3
Gaseous Fuels	10 MW <sup>c</sup> to 300 MW		150-1000	100-300	-	<300	3
		>300 MW	250-1400	100-300	-	<300	3

<sup>a</sup> Capacity numbers refer to MW (thermal) heat input by fuel (lower heating value).

<sup>b</sup> Only approximate values can be given due to site specific factors and greater uncertainty for retrofitting of existing plant.

<sup>c</sup> For small (10 MW-100 MW) plants, a greater degree of uncertainty applies to all figures given.



**Table 2**

## DEFINITION OF EMISSION STANDARDS

Standard	Limits	Comments
A. ECE R.15-04	HC + NO <sub>x</sub> : 19-28 g/test	Current ECE standard (Regulation No. 15, including the 04 series of amendments, pursuant to the 1958 Agreement referred to in paragraph 16 above), also adopted by the European Economic Community (Directive 83/351/EEC). ECE R.15 urban test cycle. Emission limit varies with vehicle mass.
B. "Luxembourg 1985"	HC + NO <sub>x</sub> : 1.4-2.0 l : 8.0 g/test This standard only used to group technology (<1.4 l : 15.0 g/test, >2.0 l : 6.5 g/test)	Standards to be introduced during 1988-1993 in the European Economic Community, as discussed at the 1985 Luxembourg meeting of EEC Council of Ministers and finally agreed upon in December 1987. ECE R.15 urban test cycle applies. Standard for engines >2 l is generally equivalent to US 1983 standard. Standard for engines <1.4 l is provisional, definite standard to be elaborated. Standard for engines of 1.4-2.0 applies to all diesel cars >1.4 l.
C. "Stockholm 1985"		Standards for national legislation based on the "master document" developed after the 1985 Stockholm meeting of Environment Ministers from eight countries. Matching US 1987 standards, with the following test procedures: US Federal Test Procedure (1975). Highway fuel economy test procedure.
D. "California 1989"	NO <sub>x</sub> : 0.62 g/km NO <sub>x</sub> : 0.76 g/km NO <sub>x</sub> : 0.25 g/km	Standards to be introduced in the State of California, USA, from 1989 models onwards. US Federal Test Procedure.

**Table 3****PETROL ENGINE TECHNOLOGIES, EMISSION PERFORMANCE, COSTS AND FUEL CONSUMPTION FOR EMISSION STANDARD LEVELS**

Standard	Technology	Composite <sup>a</sup> NO <sub>x</sub> reduction (%)	Additional <sup>b</sup> production cost (1986 Swiss francs)	Fuel consumption index <sup>a</sup>
A.	Baseline (Current conventional spark-ignition engine with carburettor)	— <sup>c</sup>	—	100
B.	a) Fuel injection + EGR + secondary air <sup>d</sup>	25	200	105
	b) Open-loop three-way catalyst (+ EGR)	55	150	103
	c) Lean-burn engine with oxidation catalyst (+ EGR) <sup>e</sup>	60	200–600	90
C.	Closed-loop three-way catalyst	90	300–600	95
D.	Closed-loop three-way catalyst (+ EGR)	92	350–650	98

<sup>a</sup> Composite NO<sub>x</sub> reduction and fuel consumption index estimates are for an average-weight European car operating under average European driving conditions.

<sup>b</sup> Additional production costs could be more realistically expressed as a percentage of the total car cost. However, since cost estimates are primarily for comparison in relative terms only, the formulation of the original documents has been retained.

<sup>c</sup> Composite NO<sub>x</sub> emission factor = 2.6 g/km.

<sup>d</sup> "EGR" means exhaust gas recirculation.

<sup>e</sup> Based entirely on data for experimental engines. Virtually no production of lean-burn engines exists.

**Table 4**

ESTIMATED REDUCTIONS IN HC AND CO EMISSIONS FROM PETROL-FUELLED PASSENGER CARS FOR DIFFERENT TECHNOLOGIES

Standard	HC-reduction (%)	CO-reduction (%)
B.	a) 30-40	50
	b) 50-60	40-50
	c) 70-90	70-90
C.	90	90
D.	90	90

**Table 5**

DEFINITION OF EMISSION STANDARDS

Standard	NO <sub>x</sub> limits (g/kWh)	Comments
I ECE R.49	18	13 mode test
II US-1990	8.0	Transient test
III US-1991	6.7	Transient test

**Table 6**HEAVY DUTY DIESEL ENGINE TECHNOLOGIES, EMISSION PERFORMANCE <sup>a</sup> AND COSTS FOR EMISSION STANDARD LEVELS

Standard	Technology	NO <sub>x</sub> reduction estimate (%)	Additional production cost (1984 US\$)
I	Current conventional direct injection diesel engine	—	—
II <sup>b</sup>	Turbo-charging + after-cooling + injection timing retard (Combustion chamber and port modification) (Naturally-aspirated engines are unlikely to meet this standard)	40	\$115 (\$69 attributable to NO <sub>x</sub> standard) <sup>c</sup>
III <sup>b</sup>	Further refinements to technologies listed under II together with variable injection timing and use of electronics	50	\$404 (\$68 attributable to NO <sub>x</sub> standard) <sup>c</sup>

<sup>a</sup> Deterioration in diesel fuel quality would adversely affect emission and may affect fuel consumption for both heavy and light duty vehicles.

<sup>b</sup> It is still necessary to verify on a large scale the availability of new components.

<sup>c</sup> Particulate control and other considerations account for the balance.

## VIENNA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER [34]

Vienna, 22 March 1985

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, SCIENTIFIC AND 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 co-operate, 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 co-operation 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 Depository 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 Depository 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 Depository 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 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) On the expiry 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 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 Depository 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;

(b) 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 otherwise 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 on 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 it is 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 19;

(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 measurements 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 mechanism 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 observations 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 HO<sub>x</sub>, NO<sub>x</sub>, ClO<sub>x</sub> 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 analysing 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 (CO<sub>2</sub>)*

Carbon dioxide has significant natural and anthropogenic sources, and affects stratospheric ozone by influencing the thermal structure of the atmosphere.

(iii) *Methane* (CH<sub>4</sub>)

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* (N<sub>2</sub>O)

The dominant sources of N<sub>2</sub>O are natural, but anthropogenic contributions are becoming increasingly important. Nitrous oxide is the primary source of stratospheric NO<sub>x</sub>, which plays a vital role in controlling the abundance of stratospheric ozone.

(ii) *Nitrogen oxides* (NO<sub>x</sub>)

Ground-level sources of NO<sub>x</sub> play a major direct role only in tropospheric photochemical processes and an indirect role in stratosphere photochemistry, whereas injection of NO<sub>x</sub> 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. CCl<sub>4</sub>, CFC<sub>11</sub> (CFC-11), CF<sub>2</sub>Cl<sub>2</sub> (CFC-12), C<sub>2</sub>F<sub>3</sub>Cl<sub>3</sub> (CFC-113), C<sub>2</sub>F<sub>4</sub>Cl<sub>2</sub> (CFC-114)

Fully halogenated alkanes are anthropogenic and act as a source of ClO<sub>x</sub>, which plays a vital role in ozone photochemistry, especially in the 30–50 km altitude region.

(ii) *Partially halogenated alkanes*, e.g. CH<sub>3</sub>Cl, CHF<sub>2</sub>Cl (CFC-22), CH<sub>3</sub>CCl<sub>3</sub>, CHFCl<sub>2</sub> (CFC-21)

The sources of CH<sub>3</sub>Cl are natural, whereas the other partially halogenated alkanes mentioned above are anthropogenic in origin. These gases also act as a source of stratospheric ClO<sub>x</sub>.

## (d) Bromine substances

*Fully halogenated alkanes*, e.g. CF<sub>3</sub>Br

These gases are anthropogenic and act as a source of BrO<sub>x</sub>, which behaves in a manner similar to ClO<sub>x</sub>.

## (e) Hydrogen substances

(i) *Hydrogen* (H<sub>2</sub>)

Hydrogen, the source of which is natural and anthropogenic, plays a minor role in stratospheric photochemistry.

(ii) *Water* (H<sub>2</sub>O)

Water, the source of which is natural, plays a vital role in both tropospheric and stratospheric photochemistry. Local sources of water vapour 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 recommendations 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.

## **MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER [35]**

**Montreal, 16 September 1987**

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,

Acknowledging that special provision is required to meet the needs of developing countries for these substances,

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 and development of science and technology 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 listed in Annex A to this Protocol, whether existing alone

or in a mixture. It excludes, however, any such substance or mixture which is in a manufactured product other than a container used for the transportation or storage of the substance listed.

5. "Production" means the amount of controlled substances produced minus the amount destroyed by technologies to be approved by the Parties.

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. Each Party shall ensure that for the twelve-month period commencing on the first day of the seventh month following the date of the 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 twelve-month period commencing on the first day of the thirty-seventh month following the date of the entry into force of this Protocol, and in each twelve month period thereafter, its calculated level of consumption of the controlled substances listed in Group II of Annex A does not exceed its calculated level of consumption in 1986. 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. The mechanisms for implementing these measures shall be decided by the Parties at their first meeting following the first scientific review.

3. Each Party shall ensure that for the period 1 July 1993 to 30 June 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, eighty 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, eighty per cent of its calculated level of production in 1986. However, in order to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties, 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 period 1 July 1998 to 30 June 1999, 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, fifty 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, fifty per cent of its calculated level of production in 1986. However, in order to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production in 1986. This paragraph will apply unless the Parties decide otherwise at a meeting by a two-thirds majority of Parties present and voting, representing at least two-thirds of the total calculated level of consumption of these substances of the Parties. This decision shall be considered and made in the light of the assessments referred to in Article 6.

5. Any Party whose calculated level of production in 1986 of the controlled substances in Group I of Annex A was less than twenty-five kilotonnes may, for the purposes of industrial rationalization, transfer to or receive from any other Party, production in excess of the limits set out in paragraphs 1, 3 and 4 provided that the total combined calculated levels of production of the Parties concerned does not exceed the production limits set out in this Article. Any transfer of such production shall be notified to the secretariat, no later than the time of the transfer.

6. Any Party not operating under Article 5, that has facilities for the production of 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 provided that their total combined calculated level of consumption does not exceed the levels required by this Article.

(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 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 from 1986 levels 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 at least fifty per cent of the total consumption of the controlled substances of the Parties;

(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. (a) 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:

(i) Whether any substances, and if so which, should be added to or removed from any annex to this Protocol; and

(ii) The mechanism, scope and timing of the control measures that should apply to those substances;

(b) Any such decision shall become effective, provided that it has been accepted by a two-thirds majority vote of the Parties present and voting.

11. Notwithstanding the provisions contained in this Article, Parties may take more stringent measures than those required by this Article.

### Article 3

#### CALCULATION OF CONTROL LEVELS

For the purposes of Articles 2 and 5, each Party shall, for each Group of substances in Annex A, 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; and

(ii) Adding together, for each such Group, the resulting figures;

(b) Imports and exports, respectively, by following, *mutatis mutandis*, 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. Within one year of the entry into force of this Protocol, each Party shall ban the import of controlled substances from any State not party to this Protocol.

2. Beginning on 1 January 1993, no Party operating under paragraph 1 of Article 5 may export any controlled substances to any State not party to this Protocol.

3. Within three years of the date of the entry into force of this Protocol, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances. 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. Within five years of the entry into force of this Protocol, 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. 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 it 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 shall discourage the export, to any State not party to this Protocol, of technology for producing and for utilizing controlled substances.

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.

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.

8. Notwithstanding the provisions of this Article, imports referred to in paragraphs 1, 3 and 4 may be permitted from 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 and this Article, and has submitted data to that effect as specified in Article 7.

#### 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 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 within ten years of the date of entry into force of the Protocol shall, in order to meet its basic domestic needs, be entitled to delay its compliance with the control measures set out in paragraphs 1 to 4 of Article 2 by ten years after that specified in those paragraphs. However, such Party shall not exceed an annual calculated level of consumption of 0.3 kilograms per capita. Any such Party shall be entitled to use 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 its compliance with the control measures.

2. The Parties undertake to facilitate access to environmentally safe alternative substances and technology for Parties that are developing countries and assist them to make expeditious use of such alternatives.

3. The Parties undertake to facilitate bilaterally or multilaterally the provision of subsidies, aid, credits, guarantees or insurance programmes to Parties that

are developing countries for the use of alternative technology and for substitute products.

#### 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 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 for the year 1986, or the best possible estimates of such data where actual data are not available.

2. Each Party shall provide statistical data to the secretariat on its annual production (with separate data on amounts destroyed by technologies to be approved by the Parties), imports, and exports to Parties and non-Parties, respectively, of such substances for the year during which it becomes a Party and for each year thereafter. It shall forward the data no later than nine months after the end of the year to which the data relate.

#### 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 INFORMATION

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

##### TECHNICAL ASSISTANCE

1. The Parties shall in the context of the provisions of Article 4 of the Convention, and taking into account in particular the needs of developing countries, co-operate in promoting technical assistance to facilitate participation in and implementation of this Protocol.

2. Any Party or Signatory to this Protocol may submit a request to the secretariat for technical assistance for the purposes of implementing or participating in the Protocol.

3. The Parties, at their first meeting, shall begin deliberations on the means of fulfilling the obligations set out in Article 9, and paragraphs 1 and 2 of this Article, including the preparation of workplans. Such workplans shall pay special attention to the needs and circumstances of the developing countries. States and regional economic integration organizations not party to the Protocol should be encouraged to participate in activities specified in such workplans.

#### 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; and

(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 provided for in Article 2;

(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 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

For the purposes of this Protocol, the provisions of Article 19 of the Convention relating to withdrawal shall apply, except with respect to Parties referred to in paragraph 1 of Article 5. Any such 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 paragraphs 1 to 4 of Article 2. 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*
Group I		
	(CFC-11)	1.0
	(CFC-12)	1.0
	(CFC-113)	0.8
	(CFC-114)	1.0
	(CFC-115)	0.6
Group II		
	(halon-1211)	3.0
	(halon-1301)	10.0
	(halon-2402)	(to be determined)

\* These ozone depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically.

### ADJUSTMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER [35a]

London, 29 June 1990

The Second Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer decides, on the basis of assessments made pursuant to Article 6 of the Protocol, to adopt adjustments and reductions of production and consumption of the controlled substances in Annex A to the Protocol, as follows, with the understanding that:

- References in Article 2 to "this Article" and throughout the Protocol to "Article 2" shall be interpreted as references to Articles 2, 2A and 2B;
- References throughout the Protocol to "paragraphs 1 to 4 of Article 2" shall be interpreted as references to Articles 2A and 2B; and
- The reference in paragraph 5 of Article 2 to "paragraphs 1, 3 and 4" shall be interpreted as a reference to Article 2A.

#### A. Article 2A: CFCs

Paragraph 1 of Article 2 of the Protocol shall become paragraph 1 of Article 2A, which shall be entitled "Article 2A: CFCs". Paragraphs 3 and 4 of Article 2 shall be replaced by the following paragraphs, which shall be numbered paragraphs 2 to 6 of Article 2A:

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 1995, 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, fifty 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, fifty 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 1997, 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, fifteen 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, fifteen 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.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2000, 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 up to fifteen per cent of its calculated level of production in 1986.

6. In 1992, the Parties will review the situation with the objective of accelerating the reduction schedule.

#### B. Article 2B: Halons

Paragraph 2 of Article 2 of the Protocol shall be replaced by the following paragraphs, which shall be numbered paragraphs 1 to 4 of Article 2B:

##### 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 1995, 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, fifty 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, fifty 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. 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 essential uses for which no adequate alternatives are available.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2000, 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 exceed that limit by up to fifteen per cent of its calculated level of production in 1986. 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 essential uses for which no adequate alternatives are available.

4. By 1 January 1993, the Parties shall adopt a decision identifying essential uses, if any, for the purposes of paragraphs 2 and 3 of this Article. Such decision shall be reviewed by the Parties at their subsequent meetings.

## AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER [35b]

London, 29 June 1990

### ARTICLE 1: AMENDMENT

#### A. Preambular paragraphs

1. The 6th preambular paragraph of the Protocol shall be replaced by the following:

*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,

2. The 7th preambular paragraph of the Protocol shall be replaced by the following:

*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,

3. The 9th preambular paragraph of the Protocol shall be replaced by the following:

*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.

*B. Article 1: Definitions*

1. Paragraph 4 of Article 1 of the Protocol shall be replaced by the following paragraph:

4. "Controlled substance" means a substance in Annex A or in Annex B 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.

2. Paragraph 5 of Article 1 of the Protocol shall be replaced by the following paragraph:

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".

3. The following paragraph shall be added to Article 1 of the Protocol:

9. "Transitional substance" means a substance in Annex C to this Protocol, whether existing alone or in a mixture. It includes the isomers of any such substance, except as may be specified in Annex C, but excludes any transitional substance or mixture which is in a manufactured product other than a container used for the transportation or storage of that substance.

*C. Article 2, paragraph 5*

Paragraph 5 of Article 2 of the Protocol shall be replaced by the following paragraph:

5. Any Party may, for any one or more control periods, transfer to another Party any portion of its calculated level of production set out in Articles 2A to 2E, 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.

*D. Article 2, paragraph 6*

The following words shall be inserted in paragraph 6 of Article 2 before the words "controlled substances" the first time they occur:

Annex A or Annex B

*E. Article 2, paragraph 8(a)*

The following words shall be added after the words "this Article" wherever they appear in paragraph 8(a) of Article 2 of the Protocol:

and Articles 2A to 2E

*F. Article 2, paragraph 9(a)(i)*

The following words shall be added after "Annex A" in paragraph 9(a)(i) of Article 2 of the Protocol:

and/or Annex B

*G. Article 2, paragraph 9(a)(ii)*

The following words shall be deleted from paragraph 9(a)(ii) of Article 2 of the Protocol:

from 1986 levels

*H. Article 2, paragraph 9(c)*

The following words shall be deleted from paragraph 9(c) of Article 2 of the Protocol:

representing at least fifty per cent of the total consumption of the controlled substances of the Parties

and replaced by:

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

*I. Article 2, paragraph 10(b)*

Paragraph 10(b) of Article 2 of the Protocol shall be deleted, and paragraph 10(a) of Article 2 shall become paragraph 10.

*J. Article 2, paragraph 11*

The following words shall be added after the words "this Article" wherever they occur in paragraph 11 of Article 2 of the Protocol:

and Articles 2A to 2E

*K. Article 2C: Other fully halogenated CFCs*

The following paragraphs shall be added to the Protocol as Article 2C:

*Article 2C: Other fully halogenated CFCs*

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, 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, eighty 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, 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 1997, 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, fifteen 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, 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.

3. Each Party shall ensure that for the twelve-month period commencing on 1 January 2000, 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 exceed that limit by up to fifteen per cent of its calculated level of production in 1989.

#### L. Article 2D: Carbon tetrachloride

The following paragraphs shall be added to the Protocol as Article 2D:

##### Article 2D: Carbon tetrachloride

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 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 periods, 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 2000, 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.

#### M. Article 2E: 1,1,1-trichloroethane (methyl chloroform)

The following paragraphs shall be added to the Protocol as Article 2E:

##### Article 2E: 1,1,1-trichloroethane (methyl chloroform)

1. Each Party shall ensure that for the twelve-month period commencing on 1 January 1993, 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, 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, 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 1995, 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, seventy 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, seventy 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 2000, 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, thirty 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, thirty per cent of its calculated level of production in 1989. However, in order to satisfy the basic domestic needs of 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.

4. 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 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 in 1989.

5. The Parties shall review, in 1992, the feasibility of a more rapid schedule of reductions than that set out in this Article.

*N. Article 3: Calculation of control levels*

1. The following shall be added after "Articles 2" in Article 3 of the Protocol:

, 2A to 2E,

2. The following words shall be added after "Annex A" each time it appears in Article 3 of the Protocol:  
or Annex B

*O. Article 4: Control of trade with non-Parties*

1. Paragraphs 1 to 5 of Article 4 shall be replaced by the following paragraphs:

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.

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.

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.

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.

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.

2. Paragraph 8 of Article 4 of the Protocol shall be replaced by the following paragraph:

8. Notwithstanding the provisions of this Article, imports referred to in paragraphs 1, *1 bis*, 3, *3 bis*, 4 and *4 bis*, and exports referred to in paragraphs 2 and *2 bis*, 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 2E, and this Article and have submitted data to that effect as specified in Article 7.

3. The following paragraph shall be added to Article 4 of the Protocol as paragraph 9:

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.

*P. Article 5: Special situation of developing countries*

Article 5 of the Protocol shall be replaced by the following:

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 2E.

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 the controlled substances in 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;

(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.

4. If a Party operating under paragraph 1 of this Article, at any time before the control measures obligations in Articles 2A to 2E 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 their implementation by those same Parties will depend upon the effective implementation of the financial co-operation as provided by Article 10 and 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 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.

9. Decisions of the Parties referred to in paragraphs 4, 6 and 7 of this Article shall be taken according to the same procedure applied to decision-making under Article 10.

#### *Q. Article 6: Assessment and review of control measures*

The following words shall be added after "Article 2" in Article 6 of the Protocol:

Articles 2A to 2E, and the situation regarding production, imports and exports of the transitional substances in Group I of Annex C

#### *R. Article 7: Reporting of data*

Article 7 of the Protocol shall be replaced by the following:

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 each of the transitional substances in Group I of Annex C, for the year 1989, 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 Annex B enter into force for that Party.

3. Each Party shall provide statistical data to the Secretariat on its annual production (as defined in paragraph 5 of Article 1), and, separately,

- amounts used for feedstocks,
- amounts destroyed by technologies approved by the Parties,
- imports and exports to Parties and non-Parties respectively,

of each of the controlled substances listed in Annexes A and B as well as of the transitional

substances in Group I of Annex C, for the year during which provisions concerning the substances in Annex B entered into force for that Party and for each year thereafter. Data shall be forwarded not later than nine months after the end of the year to which the data relate.

4. For Parties operating under the provisions of paragraph 8(a) of Article 2, the requirements in paragraphs 1, 2 and 3 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.

*S. Article 9: Research, development, public awareness and exchange of information*

Paragraph 1(a) of Article 9 of the Protocol shall be replaced by the following:

(a) Best technologies for improving the containment, recovery, recycling, or destruction of controlled and transitional substances or otherwise reducing their emissions;

*T. Article 10: Financial mechanism*

Article 10 of the Protocol shall be replaced by the following:

*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 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.

#### U. Article 10A: Transfer of technology

The following Article shall be added to the Protocol as Article 10A:

##### 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.

#### V. Article 11: Meetings of the Parties

Paragraph 4(g) of Article 11 of the Protocol shall be replaced by the following:

(g) Assess, in accordance with Article 6, the control measures and the situation regarding transitional substances;

#### W. Article 17: Parties joining after entry into force

The following words shall be added after "as well as under" in Article 17:

Articles 2A to 2E, and

#### X. Article 19: Withdrawal

Article 19 of the Protocol shall be replaced by the following paragraph:

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.

#### Y. Annexes

The following annexes shall be added to the Protocol:

##### Annex B

##### CONTROLLED SUBSTANCES

Group	Substance	Ozone-depleting potential
<i>Group I</i>		
CF <sub>3</sub> Cl	(CFC-13)	1.0
C <sub>2</sub> FCl <sub>5</sub>	(CFC-111)	1.0
C <sub>2</sub> F <sub>2</sub> Cl <sub>4</sub>	(CFC-112)	1.0
C <sub>3</sub> FCl <sub>7</sub>	(CFC-211)	1.0
C <sub>3</sub> F <sub>2</sub> Cl <sub>6</sub>	(CFC-212)	1.0
C <sub>3</sub> F <sub>3</sub> Cl <sub>5</sub>	(CFC-213)	1.0
C <sub>3</sub> F <sub>4</sub> Cl <sub>4</sub>	(CFC-214)	1.0
C <sub>3</sub> F <sub>5</sub> Cl <sub>3</sub>	(CFC-215)	1.0
C <sub>3</sub> F <sub>6</sub> Cl <sub>2</sub>	(CFC-216)	1.0
C <sub>3</sub> F <sub>7</sub> Cl	(CFC-217)	1.0
<i>Group II</i>		
CCl <sub>4</sub>	carbon tetrachloride	1.1
<i>Group III</i>		
C <sub>2</sub> H <sub>3</sub> Cl <sub>3</sub> *	1,1,1-trichloroethane (methyl chloroform)	0.1

\* This formula does not refer to 1,1,2-trichloroethane.

## Annex C

## TRANSITIONAL SUBSTANCES

<i>Group</i>	<i>Substance</i>
<i>Group I</i>	
CHFCl <sub>2</sub>	(HCFC-21)
CHF <sub>2</sub> Cl	(HCFC-22)
CH <sub>2</sub> FCl	(HCFC-31)
C <sub>2</sub> HFCI <sub>4</sub>	(HCFC-121)
C <sub>2</sub> HF <sub>2</sub> Cl <sub>3</sub>	(HCFC-122)
C <sub>2</sub> HF <sub>3</sub> Cl <sub>2</sub>	(HCFC-123)
C <sub>2</sub> HF <sub>4</sub> Cl	(HCFC-124)
C <sub>2</sub> H <sub>2</sub> FCl <sub>3</sub>	(HCFC-131)
C <sub>2</sub> H <sub>2</sub> F <sub>2</sub> Cl <sub>2</sub>	(HCFC-132)
C <sub>2</sub> H <sub>2</sub> F <sub>3</sub> Cl	(HCFC-133)
C <sub>2</sub> H <sub>3</sub> FCl <sub>2</sub>	(HCFC-141)
C <sub>2</sub> H <sub>3</sub> F <sub>2</sub> Cl	(HCFC-142)
C <sub>2</sub> H <sub>4</sub> FCl	(HCFC-151)
C <sub>3</sub> HFCI <sub>6</sub>	(HCFC-221)
C <sub>3</sub> HF <sub>2</sub> Cl <sub>5</sub>	(HCFC-222)
C <sub>3</sub> HF <sub>3</sub> Cl <sub>4</sub>	(HCFC-223)
C <sub>3</sub> HF <sub>4</sub> Cl <sub>3</sub>	(HCFC-224)
C <sub>3</sub> HF <sub>5</sub> Cl <sub>2</sub>	(HCFC-225)
C <sub>3</sub> HF <sub>6</sub> Cl	(HCFC-226)
C <sub>3</sub> H <sub>2</sub> FCl <sub>5</sub>	(HCFC-231)
C <sub>3</sub> H <sub>2</sub> F <sub>2</sub> Cl <sub>4</sub>	(HCFC-232)
C <sub>3</sub> H <sub>2</sub> F <sub>3</sub> Cl <sub>3</sub>	(HCFC-233)
C <sub>3</sub> H <sub>2</sub> F <sub>4</sub> Cl <sub>2</sub>	(HCFC-234)
C <sub>3</sub> H <sub>2</sub> F <sub>5</sub> Cl	(HCFC-235)
C <sub>3</sub> H <sub>3</sub> FCl <sub>4</sub>	(HCFC-241)
C <sub>3</sub> H <sub>3</sub> F <sub>2</sub> Cl <sub>3</sub>	(HCFC-242)
C <sub>3</sub> H <sub>3</sub> F <sub>3</sub> Cl <sub>2</sub>	(HCFC-243)
C <sub>3</sub> H <sub>3</sub> F <sub>4</sub> Cl	(HCFC-244)
C <sub>3</sub> H <sub>4</sub> FCl <sub>3</sub>	(HCFC-251)
C <sub>3</sub> H <sub>4</sub> F <sub>2</sub> Cl <sub>2</sub>	(HCFC-252)
C <sub>3</sub> H <sub>4</sub> F <sub>3</sub> Cl	(HCFC-253)
C <sub>3</sub> H <sub>5</sub> FCl <sub>2</sub>	(HCFC-261)
C <sub>3</sub> H <sub>5</sub> F <sub>2</sub> Cl	(HCFC-262)
C <sub>3</sub> H <sub>6</sub> FCl	(HCFC-271)

## ARTICLE 2: ENTRY INTO FORCE

1. This Amendment shall enter into force on 1 January 1992, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has 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 Amendment as provided under paragraph 1, it shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of its instrument of ratification, acceptance or approval.

**CONVENTION FOR THE PROTECTION,  
MANAGEMENT AND DEVELOPMENT  
OF THE MARINE AND COASTAL  
ENVIRONMENT OF THE EASTERN  
AFRICAN REGION [36]**

**Nairobi, 21 June 1985**

The Contracting Parties,

Fully aware of the economic and social value of the marine and coastal environment of the Eastern African region,

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations,

Recognizing the special hydrographic and ecological characteristics of the region which require special care and responsible management,

Recognizing further the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the insufficient integration of an environmental dimension into the development process,

Seeking to ensure that resource development shall be in harmony with the maintenance of the environmental quality of the region and the evolving principles of rational environmental management,

Realizing fully the need for co-operation amongst themselves and with competent international and regional organizations in order to ensure a coordinated and comprehensive development of the natural resources of the region,

Recognizing the desirability of promoting the wider acceptance and national implementation of existing international environmental agreements,

Noting, however, that existing international conventions concerning the marine and coastal environment do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the Eastern African region,

Desirous to adopt a regional convention elaborated within the framework of the Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region adopted at Nairobi on 21 June 1985,

Have agreed as follows:

**Article 1**

**GEOGRAPHICAL COVERAGE**

1. This Convention shall apply to the Eastern African region, hereinafter referred to as "the Convention area" as defined in paragraph (a) of article 2.
2. Except as may be otherwise provided in any protocol to this Convention, the Convention area

shall not include internal waters of the Contracting Parties.

**Article 2**

**DEFINITIONS**

For the purposes of this Convention:

- (a) the "Convention area" shall be comprised of the marine and coastal environment of that part of the Indian Ocean situated within the Eastern African region and falling within the jurisdiction of the Contracting Parties to this Convention. The extent of the coastal environment to be included within the Convention area shall be indicated in each protocol to this Convention taking into account the objectives of the protocol concerned;
- (b) "pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, resulting in such deleterious effects as harm to living resources, hazards to human health, hindrance to marine activities, including fishing, impairment of quality for use of sea water and reduction of amenities;
- (c) "Organization" means the body designated as responsible for carrying out secretariat functions pursuant to article 16 of this Convention.

**Article 3**

**GENERAL PROVISIONS**

1. The Contracting Parties may enter into bilateral or multilateral agreements, including regional or subregional agreements, for the protection and management of the marine and coastal environment of the Convention area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organization and, through the Organization, to all Contracting Parties to this Convention.
2. Nothing in this Convention or its protocols shall be deemed to affect obligations assumed by a Contracting Party under agreements previously concluded.
3. This Convention and its protocols shall be construed in accordance with international law relating to their subject matter. Nothing in this Convention and its protocols shall prejudice the present or future claims and legal views of any Contracting Party concerning the nature and extent of its maritime jurisdiction.

**Article 4**

**GENERAL OBLIGATIONS**

1. The Contracting Parties shall, individually or jointly, take all appropriate measures in conformity with international law and in accordance with this Convention and those of its protocols in force to which they are party, to prevent, reduce and combat pollution of the Convention area and to ensure sound

environmental management of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities.

2. The Contracting Parties shall co-operate in the formulation and adoption of protocols to facilitate the effective implementation of this Convention.

3. The Contracting Parties shall take all appropriate measures in conformity with international law for the effective discharge of the obligations prescribed in this Convention and its protocols and shall endeavour to harmonize their policies in this regard.

4. The Contracting Parties shall co-operate with the competent international, regional and sub-regional organizations to ensure the effective implementation of this Convention and its protocols. They shall assist each other in fulfilling their obligations under this Convention and its protocols.

5. In taking the measures referred to in paragraph 1, the Contracting Parties shall ensure that the application of such measures does not cause pollution of the marine environment outside the Convention area.

#### *Article 5*

##### POLLUTION FROM SHIPS

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by discharges from ships and, for this purpose, to ensure the effective implementation of the applicable international rules and standards established by, or within the framework of, the competent international organization.

#### *Article 6*

##### POLLUTION CAUSED BY DUMPING

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by dumping of wastes and other matter at sea from ships, aircraft, or man-made structures at sea, taking into account applicable international rules and standards and recommended practices and procedures.

#### *Article 7*

##### POLLUTION FROM LAND-BASED SOURCES

The Contracting Parties shall endeavour to take all appropriate measures to prevent, reduce and combat pollution of the Convention area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources within their territories.

#### *Article 8*

##### POLLUTION FROM SEA-BED ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.

#### *Article 9*

##### AIRBORNE POLLUTION

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat pollution of the Convention area resulting from discharges into the atmosphere from activities under their jurisdiction.

#### *Article 10*

##### SPECIALLY PROTECTED AREAS

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems as well as rare, depleted, threatened or endangered species of wild fauna and flora and their habitats in the Convention area. To this end the Contracting Parties shall, in areas under their jurisdiction, establish protected areas, such as parks and reserves, and shall regulate and, where required and subject to the rules of international law, prohibit an activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are established to protect. The establishment of such areas shall not affect the rights of other Contracting Parties and third States and in particular other legitimate uses of the sea.

#### *Article 11*

##### CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Contracting Parties shall co-operate in taking all necessary measures to respond to pollution emergencies in the Convention area and to reduce or eliminate pollution or the threat of pollution resulting therefrom. To this end, the Contracting Parties shall, individually and jointly, develop and promote contingency plans for responding to incidents involving pollution or the threat thereof in the Convention area.

2. When a Contracting Party becomes aware of a case in which the Convention area is in imminent danger of being polluted or has been polluted, it shall immediately notify other States likely to be affected by such pollution, as well as competent international organizations. Furthermore, it shall inform, as soon as feasible, such other States and the Organization of any measures it has taken to minimize or reduce pollution or the threat thereof.

*Article 12*

## ENVIRONMENTAL DAMAGE FROM ENGINEERING ACTIVITIES

The Contracting Parties shall take all appropriate measures to prevent, reduce and combat environmental damage in the Convention area, in particular the destruction of marine and coastal ecosystems, caused by engineering activities such as land reclamation and dredging.

*Article 13*

## ENVIRONMENTAL IMPACT ASSESSMENT

1. As part of their environmental management policies, the Contracting Parties shall, in co-operation with competent regional and international organizations if necessary, develop technical and other guidelines to assist the planning of their major development projects in such a way as to prevent or minimize harmful impacts on the Convention area.
2. Each Contracting Party shall assess, within its capabilities, the potential environmental effects of major projects which it has reasonable grounds to expect may cause substantial pollution of, or significant and harmful changes to, the Convention area.
3. With respect to the assessments referred to in paragraph 2, the Contracting Parties shall, if appropriate in consultation with the Organization, develop procedures for the dissemination of information and, if necessary, for consultations among the Contracting Parties concerned.

*Article 14*

## SCIENTIFIC AND TECHNICAL CO-OPERATION

1. The Contracting Parties shall co-operate, directly or with the assistance of competent regional and international organizations, in scientific research, monitoring, and the exchange of data and other scientific information relating to the purposes of this Convention and its protocols.
2. To this end, the Contracting Parties shall develop and co-ordinate their research and monitoring programmes concerning pollution and natural resources in the Convention area and shall establish, in co-operation with competent regional and international organizations, a regional network of national research centres and institutes to ensure compatible results. With the aim of further protecting the Convention area, the Contracting Parties shall endeavour to participate in international arrangements for research and monitoring outside the Convention area.
3. The Contracting Parties shall co-operate, within their available capabilities, directly or through competent regional and international organizations, in the provision to other Contracting Parties of technical and other assistance in fields relating to

pollution and sound environmental management of the Convention area.

*Article 15*

## LIABILITY AND COMPENSATION

The Contracting Parties shall co-operate, directly or with the assistance of competent regional and international organizations, with a view to formulating and adopting appropriate rules and procedures which are in conformity with international law in the field of liability and compensation for damage resulting from pollution of the Convention area.

*Article 16*

## INSTITUTIONAL ARRANGEMENTS

1. The Contracting Parties designate the United Nations Environment Programme as the secretariat of the Convention to carry out the following functions:
  - (a) to prepare and convene the meetings of Contracting Parties and conferences provided for in articles 17, 18 and 19;
  - (b) to transmit to the Contracting Parties the information received in accordance with articles 3, 11, 13 and 23;
  - (c) to perform the functions assigned to it by protocols to this Convention;
  - (d) to consider enquiries by, and information from, the Contracting Parties and to consult with them on questions relating to this Convention and its protocols;
  - (e) to co-ordinate the implementation of co-operative activities agreed upon by the meetings of Contracting Parties;
  - (f) to ensure the necessary co-ordination with other regional and international bodies that the Contracting Parties consider competent;
  - (g) to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions.
2. Each Contracting Party shall designate an appropriate authority to serve as the channel of communication with the Organization for the purposes of this Convention and its protocols.

*Article 17*

## MEETINGS OF THE CONTRACTING PARTIES

1. The Contracting Parties shall hold ordinary meetings once every two years. It shall be the function of the ordinary meetings of the Contracting Parties to keep under review the implementation of this Convention and its protocols and, in particular:
  - (a) to consider information submitted by the Contracting Parties under article 23;

(b) to adopt, review and amend annexes to this Convention and to its related protocols, in accordance with the provisions of article 20;

(c) to make recommendations regarding the adoption of any additional protocols or amendments to this Convention or its protocols in accordance with the provisions of articles 18 and 19;

(d) to establish working groups as required to consider any matters concerning this Convention and its protocols;

(e) to assess periodically the state of the environment in the Convention area;

(f) to consider co-operative activities to be undertaken within the framework of this Convention and its protocols, including their financial and institutional implications, and to adopt decisions relating thereto;

(g) to consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its protocols.

2. The Organization shall convene the first ordinary meeting of the Contracting Parties within nine months of the date on which the Convention enters into force in accordance with article 29.

3. Extraordinary meetings shall be convened at the request of any Contracting Party or upon the request of the Organization, provided that such requests are supported by a two-thirds majority of the Contracting Parties. It shall be the function of the extraordinary meeting of the Contracting Parties to consider only those items proposed in the request for the holding of the extraordinary meeting.

#### Article 18

##### ADOPTION OF PROTOCOLS

1. The Contracting Parties, at a conference of plenipotentiaries, may adopt additional protocols to this Convention pursuant to paragraph 2 of article 4.

2. If so requested by a two-thirds majority of the Contracting Parties, the Organization shall convene a conference of plenipotentiaries for the purpose of adopting additional protocols to this Convention.

#### Article 19

##### AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Contracting Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a two-thirds majority of the Contracting Parties.

2. Any Contracting Party to this Convention may propose amendments to any protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organization at the request of a two-thirds majority of the Contracting Parties to the protocol concerned.

3. The text of any proposed amendment shall be communicated by the Organization to all Contracting Parties at least ninety days before the opening of the conference of plenipotentiaries.

4. Any amendment to this Convention shall be adopted by a two-thirds majority vote of the Contracting Parties to the Convention which are present and voting at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the Convention. Amendments to any protocol shall be adopted by a two-thirds majority vote of the Contracting Parties to the protocol which are present and voting at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Contracting Parties to the protocol.

5. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraph 4 shall enter into force between Contracting Parties having accepted such amendments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least six of the Contracting Parties to this Convention or to the protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Contracting Party on the thirtieth day after the date on which that Party deposits its instrument.

6. After the entry into force of an amendment to this Convention or to a protocol, any new Contracting Party to this Convention or such protocol shall become a Contracting Party to the Convention or protocol as amended.

#### Article 20

##### ANNEXES AND AMENDMENT OF ANNEXES

1. Annexes to this Convention or to a protocol shall form an integral part of the Convention or, as the case may be, such protocol.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the adoption and entry into force of amendments to annexes to this Convention or to annexes to a protocol:

(a) any Contracting Party may propose amendments to annexes to this Convention or annexes to any protocol at the meetings convened pursuant to article 17;

(b) such amendments shall be adopted by a two-thirds majority vote of the Contracting Parties to the instrument in question;

(c) the Depositary shall without delay communicate the amendments so adopted to all Contracting Parties to this Convention;

(d) any Contracting Party that is unable to accept an amendment to annexes to this Convention or to annexes to any protocol shall so notify the Depositary in writing within a period determined by

the Contracting Parties concerned when adopting the amendment;

(e) the Depositary shall without delay notify all Contracting Parties of notifications received pursuant to the preceding subparagraph;

(f) on expiry of the period determined in accordance with subparagraph (d) above, the amendment to the annex shall become effective for all Contracting Parties to this Convention or to the protocol concerned which have not submitted a notification in accordance with the provisions of that subparagraph;

(g) a Contracting Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party.

3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex, provided that, if it entails an amendment to the Convention or a protocol, the new annex shall not enter into force until such time as that amendment enters into force.

4. Any amendment to the Annex on Arbitration shall be proposed and adopted, and shall enter into force, in accordance with the procedures set out in article 19.

#### Article 21

##### RULES OF PROCEDURES AND FINANCIAL RULES

1. The Contracting Parties shall adopt rules of procedure for their meetings.

2. The Contracting Parties shall adopt financial rules, prepared in consultation with the Organization, to determine, in particular, their financial participation in the co-operative activities undertaken for the purposes of this Convention and of protocols to which they are parties.

#### Article 22

##### SPECIAL EXERCISE OF THE RIGHT TO VOTE

In their fields of competence, the regional inter-governmental integration organizations referred to in article 26 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 and to one or more protocols. Such organizations shall not exercise their rights to vote if the member States concerned exercise theirs and vice versa.

#### Article 23

##### TRANSMISSION OF INFORMATION

The Contracting Parties shall transmit regularly to the Organization information on the measures adopted by them in the implementation of this

Convention and of protocols to which they are parties, in such form as the meetings of Contracting Parties may determine.

#### Article 24

##### SETTLEMENT OF DISPUTES

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or its protocols, 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 shall, upon common agreement of the Parties concerned, be submitted to arbitration under the conditions set out in the Annex on Arbitration.

#### Article 25

##### RELATIONSHIP BETWEEN THE CONVENTION AND ITS PROTOCOLS

1. No State or regional intergovernmental integration organization may become a Contracting Party to this Convention unless it becomes at the same time a Contracting Party to at least one protocol to the Convention. No State or regional intergovernmental integration organization may become a Contracting Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.

2. Decisions concerning any protocol shall be taken only by the Contracting Parties to the protocol concerned.

#### Article 26

##### SIGNATURE

This Convention, the Protocol concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region and the Protocol concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region shall be open for signature at Nairobi from 21 June 1985 to 20 June 1986 by any State invited as a participant to the Conference of Plenipotentiaries on the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, held at Nairobi from 17 June 1985 to 21 June 1985. They shall also be open for signature between the same dates by any regional inter-governmental integration organization exercising competence in fields covered by the Convention and such protocols and having at least one member State which belongs to the Eastern African region, provided that such regional organization has been invited to participate in the Conference of Plenipotentiaries.

*Article 27*

## RATIFICATION, ACCEPTANCE AND APPROVAL

This Convention and its protocols shall be subject to ratification, acceptance or approval by the States and organizations referred to in article 26. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Republic of Kenya which will assume the functions of Depositary.

*Article 28*

## ACCESSION

1. This Convention and its protocols shall be open for accession by the States and organizations referred to in article 26 as from the day following the date on which the Convention or the protocol concerned is closed for signature.
2. After the entry into force of this Convention and of any protocol, any State or regional intergovernmental integration organization not referred to in article 26 may accede to the Convention and to any protocol, subject to prior approval by three-fourths of the Contracting Parties to the Convention or the protocol concerned.
3. Instruments of accession shall be deposited with the Depositary.

*Article 29*

## ENTRY INTO FORCE

1. This Convention shall enter into force on the same date as the first protocol entering into force.
2. Any protocol to this Convention, except as otherwise provided in such protocol, shall enter into force on the ninetieth day following the date of deposit of the sixth instrument of ratification, acceptance, or approval of, or accession to, such protocol by the States referred to in article 26.
3. Thereafter, this Convention and any protocol shall enter into force with respect to any State or organization referred to in article 26 or article 28 on the ninetieth day following the date of deposit of its instruments of ratification, acceptance, approval or accession.

*Article 30*

## WITHDRAWAL

1. At any time after three years from the date of entry into force of this Convention with respect to a Contracting Party, that Contracting Party may withdraw from this Convention by giving written notification to the Depositary.
2. Except as may be otherwise provided in any protocol to this Convention, any Contracting Party may, at any time after three years from the date of entry into force of such protocol with respect to that

Contracting Party, withdraw from such protocol by giving written notification to the Depositary.

3. Withdrawal shall take effect one year after the date on which notification of withdrawal is received by the Depositary.
4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Contracting Party.
5. Any Contracting Party which, upon its withdrawal from a protocol, is no longer a Contracting Party to any protocol to this Convention, shall be considered as also having withdrawn from the Convention itself.

*Article 31*

## RESPONSIBILITIES OF THE DEPOSITARY

1. The Depositary shall inform the signatories and the Contracting Parties, as well as the Organization, of:
  - (a) the signature of this Convention and of its protocols and the deposit of instruments of ratification, acceptance, approval or accession;
  - (b) the date on which the Convention or any protocol will come into force for each Contracting Party;
  - (c) notification of withdrawal and the date on which it will take effect;
  - (d) the amendments adopted with respect to the Convention or to any protocol, their acceptance by the Contracting Parties and the date of their entry into force;
  - (e) all matters relating to new annexes and to the amendment of any annex.
2. The original of this Convention and of any protocol shall be deposited with the Depositary, the Government of the Republic of Kenya, which shall send certified copies thereof to the Signatories, the Contracting Parties and the Organization.
3. As soon as the Convention or any protocol enters into force, the Depositary shall transmit a certified copy of the instrument concerned to the Secretary-General 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 by their respective Governments, have signed this Convention.

Done at Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in single copy in the English and French languages, the two texts being equally authentic.



## **Annex on arbitration**

### *Article 1*

Unless the agreement referred to in article 24 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with articles 2 to 10 below.

### *Article 2*

The claimant party shall notify the Organization that the parties agree to submit the dispute to arbitration pursuant to paragraph 2 of article 24 of the Convention. 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. The Organization shall forward the information thus received to all Contracting Parties to the Convention or to the protocol concerned.

### *Article 3*

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, nor have his 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.

### *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 Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months' 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 of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

### *Article 5*

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention and the protocol or protocols concerned.

2. Any arbitral tribunal constituted under the provisions of this annex shall draw up its own rules of procedure.

### *Article 6*

1. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

2. The arbitral tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.

3. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

4. The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

### *Article 7*

The arbitral tribunal may hear and determine counterclaims arising directly out of the subject-matter of the dispute.

### *Article 8*

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.

### *Article 9*

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 arbitral tribunal.

### *Article 10*

1. 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.

2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

3. 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 arbitral tribunal constituted for this purpose in the same manner as the first.

**PROTOCOL CONCERNING  
PROTECTED AREAS AND WILD FAUNA  
AND FLORA IN THE EASTERN  
AFRICAN REGION [37]**

Nairobi, 21 June 1985

The Contracting Parties to the present Protocol, Being Parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, done at Nairobi on 21 June 1985,

Conscious of the danger from increasing human activities which is threatening the environment of the Eastern African region,

Recognizing that natural resources constitute a heritage of scientific, cultural, educational, recreational and economic value that needs to be effectively protected,

Stressing the importance of protecting and, as appropriate, improving the state of the wild fauna and flora and natural habitats of the Eastern African region among other means by the establishment of specially protected areas in the marine and coastal environment,

Desirous of establishing close co-operation among themselves in order to achieve that objective,

Have agreed as follows:

*Article 1*

DEFINITIONS

For the purposes of this Protocol:

- (a) "Eastern African region" means the Convention area as defined in paragraph (a) of article 2 of the Convention. It shall also include the coastal areas of the Contracting Parties and their internal waters related to the marine and coastal environment.
- (b) "Convention" means the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region.
- (c) "Organization" means the body referred to in paragraph (c) of article 2 of the Convention.

*Article 2*

GENERAL UNDERTAKING

1. The Contracting Parties shall take all appropriate measures to maintain essential ecological processes and life support systems, to preserve genetic diversity, and to ensure the sustainable utilization of harvested natural resources under their jurisdiction. In particular, the Contracting Parties shall endeavour to protect and preserve rare or fragile ecosystems as well as rare, depleted, threatened or endangered species of wild fauna and flora and their habitats in the Eastern African region.
2. To this end, the Contracting Parties shall develop national conservation strategies and co-

ordinate, if appropriate, such strategies within the framework of regional conservation activities.

*Article 3*

PROTECTION OF WILD FLORA

The Contracting Parties shall take all appropriate measures to ensure the protection of the wild flora species specified in annex I. To this end, each Contracting Party shall, as appropriate, prohibit activities having adverse effects on the habitats of such species, as well as the uncontrolled picking, collecting, cutting or uprooting of such species. Each Contracting Party shall, as appropriate, prohibit the possession or sale of such species.

*Article 4*

SPECIES OF WILD FAUNA REQUIRING SPECIAL PROTECTION

The Contracting Parties shall take all appropriate measures to ensure the strictest protection of the endangered wild fauna species listed in annex II. To this end, each Contracting Party shall strictly regulate and, where required, prohibit activities having adverse effects on the habitats of such species. In particular, the following activities shall, where required, be prohibited with regard to such species:

- (a) all forms of capture, keeping or killing;
- (b) damage to, or destruction of, critical habitats;
- (c) disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation;
- (d) destruction or taking of eggs from the wild or keeping these eggs even if empty;
- (e) possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognizable part or derivative thereof.

*Article 5*

HARVESTABLE SPECIES OF WILD FAUNA

1. The Contracting Parties shall take all appropriate measures to ensure the protection of the depleted or threatened wild fauna species listed in annex III.
2. Any exploitation of such wild fauna species shall be regulated in order to restore and maintain the populations at optimum levels. Each Contracting Party shall develop, adopt and implement management plans for the exploitation of such species which may include:
  - (a) the prohibition of the use of all indiscriminate means of capture and killing and of the use of all means capable of causing local disappearance of, or serious disturbance to, populations of a species;
  - (b) closed seasons and other procedures regulating exploitation;
  - (c) the temporary or local prohibition of exploitation, as appropriate, in order to restore viable population levels;

- (d) the regulation, as appropriate, of sale, keeping for sale, transport for sale or offering for sale of live and dead wild animals;
- (e) the safeguarding of breeding stocks of such species and their critical habitats in protected areas designated in accordance with article 8 of this Protocol;
- (f) exploitation in captivity.

#### Article 6

##### MIGRATORY SPECIES

The Contracting Parties shall, in addition to the measures specified in articles 3, 4 and 5, co-ordinate their efforts for the protection of migratory species listed in annex IV whose range extends into their territories. To this end, each Contracting Party shall ensure that, where appropriate, the closed seasons and other measures referred to in paragraph 2 of article 5 are also applied with regard to such migratory species.

#### Article 7

##### INTRODUCTION OF ALIEN OR NEW SPECIES

The Contracting Parties shall take all appropriate measures to prohibit the intentional or accidental introduction of alien or new species which may cause significant or harmful changes to the Eastern African region.

#### Article 8

##### ESTABLISHMENT OF PROTECTED AREAS

1. The Contracting Parties shall, where necessary, establish protected areas in areas under their jurisdiction with a view to safeguarding the natural resources of the Eastern African region and shall take all appropriate measures to protect those areas.

2. Such areas shall be established in order to safeguard:

- (a) the ecological and biological processes essential to the functioning of the Eastern African region;
  - (b) representative samples of all types of ecosystems of the Eastern African region;
  - (c) populations of the greatest possible number of species of fauna and flora depending on these ecosystems;
  - (d) areas having a particular importance by reason of their scientific, aesthetic, cultural or educational purposes.
3. In establishing protected areas, the Contracting Parties shall take into account, *inter alia*, their importance as:
- (a) natural habitats, and in particular as critical habitats, for species of fauna and flora, especially those which are rare, threatened or endemic;
  - (b) migration routes or as wintering, staging, feeding or moulting sites for migratory species;

- (c) areas necessary for the maintenance of stocks of economically important marine species;
- (d) reserves of genetic resources;
- (e) rare or fragile ecosystems;
- (f) areas of interest for scientific research and monitoring.

#### Article 9

##### COMMON GUIDELINES, STANDARDS OR CRITERIA

The Contracting Parties shall, at their first meeting, and in co-operation with the competent regional and international organizations, formulate and adopt guidelines, standards or criteria concerning the identification, selection, establishment and management of protected areas.

#### Article 10

##### PROTECTION MEASURES

The Contracting Parties, taking into account the characteristics of each protected area, shall take, in conformity with international law, the measures required to achieve the objectives of protecting the area, which may include:

- (a) the organization of a planning and management system;
- (b) the prohibition of the dumping or discharge of wastes or other matter which may impair the protected areas;
- (c) the regulation of pleasure craft activities;
- (d) the regulation of fishing and hunting and of the capture of animals and harvesting of plants;
- (e) the prohibition of the destruction of plant life or animals;
- (f) the regulation of any activity likely to harm or disturb the fauna or flora, including the introduction of non-indigenous animal or plant species;
- (g) the regulation of any activity involving the exploration or exploitation of the sea-bed or its subsoil or a modification of the sea-bed profile;
- (h) the regulation of any activity involving a modification of the profile of the soil or the exploitation of the subsoil of the coastal area;
- (i) the regulation of any archaeological activity and of the removal of any object which may be considered as an archaeological object;
- (j) the regulation of trade in and import and export of animals, parts of animals, plants, parts of plants and archaeological objects which originate in protected areas and are subject to measures of protection;
- (k) any other measure aimed at safeguarding ecological and biological processes in protected areas.

*Article 11*

## BUFFER AREAS

The Contracting Parties may strengthen the protection of a protected area by establishing, within areas under their jurisdiction, one or more buffer areas in which activities are less severely restricted while remaining compatible with the purposes of the protected area.

*Article 12*

## TRADITIONAL ACTIVITIES

1. The Contracting Parties shall, in promulgating protective measures, take into account the traditional activities of their local populations in the areas to be protected. To the fullest extent possible, no exemption which is allowed for this reason shall be such as:

(a) to endanger either the maintenance of ecosystems protected under the terms of the present Protocol or the biological processes contributing to the maintenance of those ecosystems;

(b) to cause either the extinction of, or any substantial reduction in, the number of individuals making up the species of animal and plant populations within the protected ecosystems, or any ecologically connected species or populations, particularly migratory, endemic, rare, depleted, threatened or endangered species.

2. Contracting Parties which allow exemptions under paragraph 1 of this article with regard to protective measures shall inform the Organization accordingly.

*Article 13*

## FRONTIER PROTECTED AREAS

1. If a Contracting Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of another Contracting Party, the two Contracting Parties shall, as necessary, consult each other with a view to reaching agreement on the measures to be taken and shall, among other things, examine the possibility of the establishment by the other Party of a corresponding protected area or buffer area.

2. If a Contracting Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a State which is not a party to this Protocol, the Party shall endeavour to work together with that State with a view to holding consultations as referred to in the preceding paragraph.

3. If a State which is not a party to this Protocol intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a Contracting Party to this Protocol, the latter shall endeavour to work together with that State with a view to holding consultations.

*Article 14*

## PUBLICITY AND NOTIFICATION

The Contracting Parties shall give appropriate publicity to the establishment of protected areas, in particular to their boundaries and the regulations applying thereto. Such information shall be transmitted to the Organization which shall compile and maintain a current directory of protected areas in the Eastern African region. The Contracting Parties shall provide the Organization with all information necessary for that purpose.

*Article 15*

## PUBLIC INFORMATION AND EDUCATION

The Contracting Parties shall endeavour to inform the public as widely as possible of the significance and interest of protected areas and the protection of wild fauna and flora and the scientific knowledge which may be gained from them. Such information should have an appropriate place in education programmes concerning the environment, archaeology and history. The Contracting Parties should also endeavour to promote the participation of their public and their nature conservation organizations in the protection of the areas and wild fauna and flora concerned.

*Article 16*

## REGIONAL CO-OPERATION

The Contracting Parties shall establish a regional programme to co-ordinate the selection, establishment, and management of protected areas and the protection of wild fauna and flora with a view to creating a representative network of protected areas in the Eastern African region. There shall be regular exchanges of information concerning the characteristics of the protected areas and wild fauna and flora, the experience acquired and the problems encountered.

*Article 17*

## SCIENTIFIC AND TECHNICAL RESEARCH

1. The Contracting Parties shall encourage and develop scientific and technical research on their protected areas and on the ecosystems, wild fauna and flora, and archaeological heritage of the Eastern African region.

2. The Contracting Parties shall exchange scientific and technical information concerning current or planned research and their results. They shall, to the fullest extent possible, co-ordinate their research, and define jointly or standardize the scientific methods to be applied in the selection, management and monitoring of protected areas.

*Article 18*

## EXCHANGE OF INFORMATION

1. In applying the principles of co-operation set forth in articles 16 and 17, the Contracting Parties shall forward to the Organization:

(a) comparable information for monitoring the biological development of the Eastern African region,

(b) inventories, publications and information of a scientific, administrative and legal nature, in particular:

(i) on the measures taken by the Contracting Parties in pursuance of this Protocol for the protection of the protected areas and wild fauna and flora;

(ii) on the wild fauna and flora present in the protected areas or listed in the annexes to this Protocol;

(iii) on any threats to protected areas or wild fauna and flora, especially those threats which may come from sources outside their control;

(iv) on any changes in the delimitation or legal status of a protected area or the suppression of all or part of such an area.

2. The Contracting Parties shall designate persons responsible for protected areas. Those persons shall meet at least once every two years to discuss matters of joint interest and especially to propose to the Contracting Parties recommendations concerning scientific, administrative and legal measures to be adopted to improve the application of the provisions of this Protocol.

*Article 19*

## TECHNICAL CO-OPERATION

The Contracting Parties shall co-operate, directly or with the assistance of competent regional or international organizations, in the provision to other Contracting Parties of technical and other assistance in fields related to the selection, establishment and management of protected areas and the protection of wild fauna and flora. Such assistance should relate, in particular, to the training of scientific, technical and managerial personnel and scientific research.

*Article 20*ALTERATION OF THE BOUNDARIES OF, OR  
WITHDRAWAL OF PROTECTION FROM,  
PROTECTED AREAS

Changes in the delimitation or legal status of a protected area, or the suppression of all or part of such an area, shall not take place unless for significant reasons, taking into account the need to protect the environment and according to the rules and obligations provided in this Protocol.

*Article 21*

## MEETINGS OF THE PARTIES

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 17 of the Convention. The Contracting Parties to this Protocol may also hold extraordinary meetings as provided for in article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties to this Protocol, in particular:

(a) to keep under review the implementation of this Protocol;

(b) to consider the efficacy of the measures adopted and to examine the need for other measures, in particular in the form of annexes in conformity with the provisions of article 20 of the Convention;

(c) to adopt, review and amend as required any annex to this Protocol;

(d) to monitor the establishment and development of the network of protected areas referred to in article 16, to adopt guidelines to facilitate the establishment and development of that system and to increase co-operation among the Contracting Parties;

(e) to consider the recommendations made by the meetings of the persons responsible for the protected areas, as provided by article 18, paragraph 2;

(f) to consider, as appropriate, information transmitted by the Contracting Parties to this Protocol to the Organization under article 23 of the Convention.

*Article 22*RELATIONSHIP BETWEEN THIS PROTOCOL AND  
THE CONVENTION

1. The provisions of the Convention relating to its protocols shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 21 of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in a single copy in the English and French languages, the two texts being equally authentic.

**Annex I**

## PROTECTED SPECIES OF WILD FLORA

- Uvariadendron gorgonis* Verdc. (Kenya)  
*Grevia madagascariensis* Baill. Subsp. *keniensis* Verdc. (Kenya)  
*Saintpaulia rupicola* B.L. Burtt (Kenya)  
*Beccariophoenix madagascariensis* Jumelle & Perr. (Madagascar)  
*Crinum mauritianum* Lodd. (Mauritius)  
*Tetrataxis salicifolia* (Thouars ex Tul.) Baker (Mauritius)  
*Zanthoxylum paniculatum* Balf. f. (Mauritius, Rodrigues)  
*Hibiscus liliiflorus* Cav. (Mauritius, Rodrigues)  
*Lodoicea maldivica* (J.F. Gmelin) Pers. (Seychelles)  
*Toxocarpus schimperianus* Hemsley (Seychelles)  
*Peponium sublitorale* C. Jeffrey & J.S. Page (Seychelles, Aldabra)

**Annex II**

## SPECIES OF WILD FAUNA REQUIRING SPECIAL PROTECTION

## MAMMALS

- Zanzibar red colobus (*Colobus badius kirkii*)  
 Zanzibar suni (*Neotragus moschatus moschatus*)  
 Mauritius fruit bat (*Pteropus niger*)  
 Rodrigues fruit bat (*Pteropus rodricensis*)  
 Dugong (*Dugong dugon*)  
 Humpback whale (*Megaptera novaeangliae*)  
 Blue whale (*Balaenoptera musculus*)  
 Lemurs (*Lumur* spp.)  
 Nosy Bé sportive lemur (*Lepilemur dorsalis*)  
 Coquerel's mouse lemur (*Microcebus coquereli*)  
 Aye aye (*Daubentonia madagascariensis*)

## BIRDS

- Sokoke pipit (*Anthus sokokensis*)  
 Sokoke scops owl (*Otus ireneae*)  
 Amani sunbird (*Anthreptes pallidigaster*)  
 East coast akalat (*Sheppardia gunningi gunningi*)  
 Pemba scops owl (*Otus rutilus pembaensis*)  
 Wattled crane (*Bugeranus carunculatus*)  
 Clarke's weaver (*Ploceus golandi*)  
 Spotted ground thrush (*Turdus fisheri fisheri*)  
 Aldabra white-throated rail (*Dryolimnas cuvieri aldabranus*)  
 Aldabra brush warbler (*Nesillas aldabranus*)  
 Aldabra sacred ibis (*Threskiornis aethiopicus*)  
 Aldabra kestrel (*Falco newtoni aldabranus*)  
 Mauritius kestrel (*Falco punctatus*)  
 Seychelles magpie robin (*Copsychus sechellarum*)  
 Seychelles fody (*Foudia flavicans*)  
 Rodrigueze fody (*Foudia flavicans*)  
 Seychelles brush warbler (*Acrocephalus sechellensis*)  
 Seychelles turtle dove (*Streptopelia picturata rostrata*)  
 Madagascar fish eagle (*Haliaeetus vociferoides*)

- Reunion cuckoo-shrike (*Coracina newtoni*)  
 Madagascar heron (*Ardea humbloti*)  
 Grand Comoro scops owl (*Otus pauliani*)  
 Grand Comoro flycatcher (*Humblotia flavirostris*)  
 Mount Karthala white-eye (*Zosterops mouroniensis*)  
 Grand Comoro drongo (*Dicrurus fuscipennis*)  
 Mayotte drongo (*Dicrurus waldeni*)  
 Mascarene black petrel (*Pterodroma aterrima*)  
 Taita thrush (*Turdus helleri*)  
 Hinde's pied babbler (*Turdoides hindei*)  
 Papyrus yellow warbler (*Chloropeta gracilirostris*)  
 Tana river cisticola (*Cisticola restricta*)  
 Turner's eremomela (*Eremomela turneri*)  
 Chapin's flycatcher (*Muscicapa lendu*)  
 Madagascar little grebe (*Tachybaptus pelzelni*)  
 Alaotra grebe (*Tachybaptus rufolavatus*)  
 Madagascar teal (*Anas bernieri*)  
 Madagascar pochard (*Aythya innotata*)  
 Madagascar serpent eagle (*Euriochis astur*)  
 White-breasted mesite (*Mesoenas variegata*)  
 Brown mesite (*Mesoenas unicolor*)  
 Subdesert mesite (*Monias benschi*)  
 Slender-billed flufftail (*Sarothrura watersi*)  
 Sakalava rail (*Amaurornis olivieri*)  
 Madagascar plover (*Charadrius thoracicus*)  
 Snail-eating coua (*Coua delalandei*)  
 Madagascar red owl (*Tyto soumagnei*)  
 Short-legged ground-roller (*Brachypteracias leptosomus*)  
 Scaly ground-roller (*Brachypteracias squamiger*)  
 Roufous-headed ground-roller (*Atelornis crossleyi*)  
 Long-tailed ground-roller (*Uratelornis chimaera*)  
 Yellow-bellied sunbird-asisity (*Neodrepanis hypoxantha*)  
 Appert's greenbul (*Phyllastrephus apperti*)  
 Dusky greenbul (*Phyllastrephus tenebrosus*)  
 Grey-crowned greenbul (*Phyllastrephus cinereiceps*)  
 Van Dam's vanga (*Xenopirostris damii*)  
 Pollen's vanga (*Xenopirostris polleni*)  
 Benson's rockthrush (*Monticola bensoi*)  
 Madagascar yellowbrow (*Crossleyia xanthophrys*)  
 Red-tailed newtonia (*Newtonia fanovanae*)  
 Pink pigeon (*Nesoenas mayeri*)  
 Mauritius parakeet (*Psittacula eques*)  
 Mauritius cuckoo-shrike (*Coracina typica*)  
 Mauritius black bulbul (*Hypsipetes olivaceus*)  
 Rodrigues warbler (*Acrocephalus rodericanus*)  
 Mauritius olive white-eye (*Zosterops chloronothus*)  
 Mauritius fody (*Foudia rubra*)  
 Cape vulture (*Gyps coprotheres*)  
 Swynnerton's forest robin (*Swynnertonia swynnertonii*)  
 Dappled mountain robin (*Modulatrix orostruthus*)  
 Thyolo alethe (*Alethe choloensis*)  
 Long-billed apalis (*Apalis moreaui*)  
 Seychelles kestrel (*Falco araea*)  
 Seychelles scops owl (*Otus insularis*)  
 Seychelles swiftlet (*Collocalia elaphra*)  
 Seychelles black paradise flycatcher (*Terpsiphone corvina*)  
 Seychelles white-eye (*Zosterops modestus*)  
 Somalia pigeon (*Columba oliviae*)

Ash's lark (*Mirafraga asi*)  
 Somali long-clawed lark (*Heteromirafraga archeri*)  
 Warsangli linnet (*Acanthis johannis*)  
 Shoebill (*Balaeniceps rex*)  
 Ndak eagle owl (*Bubo vosseleri*)  
 Uluguru bush-shrike (*Malaconotus alius*)  
 Usambara ground robin (*Dryocichloides montanus*)  
 Iringa ground robin (*Dryocichloides lowei*)  
 Karamoja apalis (*Apalis karamojae*)  
 Kungwe apalis (*Apalis argentea*)  
 Mrs. Moreau's warbler (*Bathmocercus winifredae*)  
 Banded green sunbird (*Antheptes rubritorques*)  
 Rufous-winged sunbird (*Nectarinia rufipennis*)  
 Tanzanian mountain weaver (*Ploceus nicolli*)

## REPTILES

Olive ridley turtle (*Lepidochelys olivacea*)  
 Loggerhead turtle (*Caretta caretta*)  
 Leatherback turtle (*Dermochelys coriacea*)  
 Serpent island gecko (*Cyrtodactylus serpensin sula*)  
 Round island day gecko (*Phelsuma guentheri*)  
 Round island skink (*Leiolopisma telfairii*)  
 Skink (*Gongylomorphus bojerii*)  
 Round island boa (*Bolyeria multocarinata*)  
 Round island keel-scaled boa (*Casarea dussumieri*)  
 Aldabra giant tortoise (*Dipsosaurus elephantina*)  
 Madagascar tortoise (*Geochelone yniphora*)

## MOLLUSCS

Triton's trumpet (*Charonia tritonia*)  
 Commercial trochus (*Trochus niloticus*)  
 Fluted giant clam (*Tridacna squamosa*)  
 Small giant clam (*Tridacna maxima*)  
 Horse's hoof clam (*Hippopus hippopus*)  
 Pearl oyster (*Pinctada* spp.)

## CRUSTACEANS

Coconut crab (*Birgus latro*)

## CNIDARIANS

Black coral (*Antipathes dichotoma*)  
 Whip coral (*Cirripathes* spp.)

## INSECTS

Tenebrionid beetle (*Pulposipus herculeanus*)  
 Comoro graphium butterfly (*Graphium levassari*)

## Annex III

HARVESTABLE SPECIES OF WILD FAUNA  
REQUIRING PROTECTION

Cane rats (*Thryonomys* spp.)  
 African Elephant (*Loxodonta africana*)  
 Rock hyrax (*Procavia capensis*)  
 Yellow-spotted hyrax (*Heterohyrax brucei*)  
 Tree hyrax (*Dendrohyrax arboreus*)  
 Burchell's zebra (*Equus burchelli*)  
 Hippopotamus (*Hippopotamus amphibius*)  
 Warthog (*Phacochoerus aethiopicus*)

Bush pig (*Potamochoerus porcus*)  
 Lesser kudu (*Tragelaphus imberbis*)  
 Common waterbuck (*Kobus ellipsiprymnus*)  
 Topi (*Damaliscus korrigum*)  
 Lichtenstein's hartebeest (*Alcelaphus lichtensteini*)  
 Wildebeest (*Connochaetes taurinus*)  
 Impala (*Aepyceros melampus*)  
 Grimm's duiker (*Sylvicapra grimmia*)  
 Buffalo (*Syncerus caffer*)  
 Spiny lobsters (*Panulirus* spp.)  
 Green turtle (*Chelonia mydas*)  
 Hawksbill turtle (*Eretmochelys imbricata*)

## Annex IV

## PROTECTED MIGRATORY SPECIES

## MAMMALS

Dugong (*Dugong dugon*)  
 Humpback whale (*Megaptera novaeangliae*)  
 Blue whale (*Balaenoptera musculus*)

## REPTILES

Green turtle (*Chelonia mydas*)  
 Hawksbill turtle (*Eretmochelys imbricata*)  
 Olive ridley turtle (*Lepidochelys olivacea*)  
 Loggerhead turtle (*Caretta caretta*)  
 Leatherback turtle (*Dermochelys coriacea*)

**PROTOCOL CONCERNING  
CO-OPERATION IN COMBATING  
MARINE POLLUTION IN CASES OF  
EMERGENCY IN THE EASTERN  
AFRICAN REGION [38]**

**Nairobi, 21 June 1985**

The Contracting Parties to the present Protocol,

Being Contracting Parties to the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African region, done at Nairobi on 21 June 1985,

Conscious that the use of the Eastern African region and adjacent areas for vessel traffic, oil production and refining activities poses the risk of major spillages of oil and other harmful substances and the subsequent serious threat to the marine and coastal environment and related interests of the States of the region,

Noting the International Maritime Organization's Assembly Resolution A.448(XI) which recognizes that regional anti-pollution arrangements are a valuable and economical way of supplementing national arrangements for the effective combating of major spillages of oil and other harmful substances in cases of emergency,

Recognizing that in the event of major spillages of oil and other harmful substances or threat thereof, prompt and effective action should be taken, initially at the local level, to mitigate the effects or eliminate the threat,

Further recognizing that for major spillages mutual assistance, and in some cases, assistance from the international community at large will be required, and that such assistance should be organized in advance so as to be timely and effective,

Aware of existing agreements and arrangements which have already been concluded in other regions for co-operation in dealing with spillages of oil and other harmful substances,

Have agreed as follows:

**Article 1**

**DEFINITIONS**

For the purposes of this Protocol,

- (a) "Eastern African region" means the Convention area as defined in paragraph (a) of article 2 of the Convention. It shall also include the coastal areas of the Contracting Parties and their internal waters related to the marine and coastal environment;
- (b) "Convention" means the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region;
- (c) "Organization" means the body referred to in paragraph (c) of article 2 of the Convention;
- (d) "marine pollution incident" means a discharge or spillage of oil or other harmful substance into the

marine environment, or a significant threat of such a discharge or spillage, however caused, of a magnitude that requires emergency action or other immediate response for the purpose of minimizing its effects or eliminating the threat;

(e) "oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

(f) "harmful substance" means any substance other than oil which, if introduced into the sea, creates hazards to human health, harms living resources and marine life, damages amenities or interferes with other legitimate uses of the sea;

(g) "related interests" means the interests of a Contracting Party directly affected or threatened by oil or other harmful substances and concerning, among others:

- (i) the health of the coastal population,
- (ii) maritime, coastal, port or estuarine activities,
- (iii) fishing activities and the conservation of natural resources,
- (iv) the historical and tourist appeal of the area in question, including water sports and recreation.

**Article 2**

**APPLICATION**

This Protocol applies to marine pollution incidents which have resulted in or which pose a significant threat of, pollution to the marine and coastal environment of the Eastern African region or which adversely affect the related interests of one or more of the Contracting Parties.

**Article 3**

**GENERAL PROVISIONS**

1. The Contracting Parties shall, within their capabilities, co-operate in taking all necessary measures, both preventive and remedial, for the protection of the marine and coastal environment of the Eastern African region from marine pollution incidents.

2. The Contracting Parties shall, within their capabilities, establish and maintain the means of responding to marine pollution incidents and shall endeavour to reduce the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the identification and development of the capability to respond to marine pollution incidents and the designation of a national authority with overall responsibility for the implementation of this Protocol.

**Article 4**

**EXCHANGE OF INFORMATION**

Each Contracting Party shall periodically exchange with the other Contracting Parties up-to-date



information relating to the implementation of this Protocol, including the identity of the authorities responsible for such implementation, and information on their laws, regulations, institutions and operational procedures relating to the prevention of a marine pollution incident and to the means of reducing and combating the harmful effects of such incidents.

#### Article 5

##### COMMUNICATION OF INFORMATION CONCERNING, AND REPORTING OF, MARINE POLLUTION INCIDENTS

1. Each Contracting Party shall establish appropriate procedures to ensure that information regarding marine pollution incidents is reported as rapidly as possible, and shall, *inter alia*,

(a) require its appropriate officials, masters of ships flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it any marine pollution incident involving their ships or facilities,

(b) request masters of all ships and pilots of all aircraft operating in the vicinity of its coasts to report to it any marine pollution incident of which they are aware.

2. Guidelines to be followed in preparing this report to be made pursuant to paragraph 1 are given in the annex to this Protocol.

3. In the event of receiving a report regarding a marine pollution incident, a Contracting Party shall immediately notify all other Contracting Parties whose interests are likely to be affected by such an incident, as well as the flag State of any ship involved in it. The Contracting Party shall also inform the Organization and the competent international organizations. Furthermore, as soon as feasible, it shall inform such Contracting Parties, the Organization and competent international organizations of measures it has taken to minimize or reduce marine pollution or the threat thereof.

#### Article 6

##### MUTUAL ASSISTANCE

1. Each Contracting Party shall render assistance, within its available capabilities, to other Contracting Parties which request assistance of it in the event of a marine pollution incident, as appropriate, within the framework of joint response action agreed between or among the requesting and assisting Contracting Parties and taking into account, in the event of a marine pollution incident involving harmful substances other than oil, the available technology.

2. Each Contracting Party shall, subject to its laws and regulations, facilitate the movement into, through and out of its territory of technical personnel, equipment and material necessary for responding to a marine pollution incident.

#### Article 7

##### OPERATIONAL MEASURES

Each Contracting Party shall, within its capabilities, take all necessary steps, including those outlined below, to respond to a marine pollution incident:

(a) make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects,

(b) promptly communicate notification of the incident pursuant to article 5,

(c) promptly determine its ability to take effective measures to respond to the incident and the assistance that might be required,

(d) consult, as appropriate, with other Contracting Parties concerned in the process of determining the necessary response to the incident,

(e) take the measures necessary to prevent, reduce or eliminate the effects of the incident, including monitoring of the situation.

#### Article 8

##### SUBREGIONAL ARRANGEMENTS

1. With a view to facilitating the implementation of the provisions of this Protocol, and in particular articles 6 and 7, the Contracting Parties shall conclude appropriate bilateral or multilateral subregional arrangements.

2. Contracting Parties to this Protocol which enter into such subregional arrangements shall notify the other Contracting Parties, as well as the Organization, of the conclusion and the content of the arrangements.

#### Article 9

##### INSTITUTIONAL ARRANGEMENTS

The Contracting Parties designate the Organization to carry out, in co-operation with the International Maritime Organization, the following functions:

(a) assisting Contracting Parties, upon request, in the following areas:

(i) the preparation, periodic review and updating of the contingency plans referred to in paragraph 2 of article 3, with a view, *inter alia*, to promoting the compatibility of the plans of the Contracting Parties, and

(ii) publicizing training courses, programmes and material.

(b) assisting the Contracting Parties, upon request, on a regional basis, in the following areas:

(i) the co-ordination of regional emergency response activities, and

(ii) the provision of a forum for discussion of such activities and related topics.

(c) establishing and maintaining liaison with:

(i) competent regional and international organizations, and

(ii) appropriate entities conducting activities in the Eastern African region including major oil producers, refiners, clean-up contractors and co-operatives for marine pollution incidents, and transporters of oil and other harmful substances.

(d) maintaining a current inventory of equipment, materials and expertise readily available in the Eastern African region to deal with a marine pollution incident;

(e) disseminating information on the prevention and combating of marine pollution incidents;

(f) identifying or maintaining means for marine emergency response communications;

(g) encouraging research by the Contracting Parties, competent international organizations and appropriate entities on marine pollution-related matters, including the environmental impacts of spillages of oil and other harmful substances and materials and techniques used for combating such spillages;

(h) assisting the Contracting Parties in the exchange of information pursuant to article 4; and

(i) preparing reports and carrying out other duties assigned to it by the Contracting Parties.

#### Article 10

##### MEETINGS OF THE CONTRACTING PARTIES

1. Ordinary meetings of the Contracting Parties to this Protocol shall be held in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to article 17 of the Convention. The Contracting Parties to this Protocol may hold extraordinary meetings as provided for in article 17 of the Convention.

2. It shall be the function of the meetings of the Contracting Parties:

(a) to review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness; and

(b) to consider measures to improve co-operation under this Protocol including, in accordance with article 19 of the Convention, possible amendments to this Protocol.

#### Article 11

##### RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to its protocols shall apply to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 21 of the Convention shall apply to this Protocol, unless the Contracting Parties to this Protocol agree otherwise.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Nairobi this twenty-first day of June one thousand nine hundred and eighty-five in a single copy in the English and French languages, the two texts being equally authentic.

#### Annex

##### GUIDELINES FOR THE REPORT TO BE MADE PURSUANT TO ARTICLE 5, PARAGRAPH 1, OF THIS PROTOCOL

1. Each report shall, as far as possible, contain:

(a) the identification of the source of pollution (e.g. identity of the ship, fixed or floating platform or any other structure), where appropriate;

(b) the geographic position, time and date of the observation or of the occurrence of the incident; and

(c) the marine meteorological conditions prevailing in the sea.

2. Each report shall contain, whenever possible, in particular,

(a) a clear indication or description of oil or other harmful substances involved; and

(b) a statement or estimate of the quantities, concentrations, nature (oil or a noxious liquid, solid or gaseous substance) and likely conditions of oil or other harmful substances discharged or likely to be discharged into the sea.

3. Each report shall be supplemented, as necessary, by any relevant information requested by a recipient of the report or deemed appropriate by the person sending the report.

4. Any of the persons referred to in article 5, paragraph 1, of this Protocol shall:

(a) supplement as far as possible the initial report, as necessary, with information concerning further developments; and

(b) comply as fully as possible with requests from affected States for additional information.

## CONVENTION CONCERNING OCCUPATIONAL HEALTH SERVICES [39]

Geneva, 26 June 1985

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 Seventy-first Session on 7 June 1985, and

Noting that the protection of the worker against sickness, disease and injury arising out of his employment is one of the tasks assigned to the International Labour Organisation under its Constitution,

Noting the relevant international labour Conventions and Recommendations, and in particular the Protection of Workers' Health Recommendation, 1953, the Occupational Health Services Recommendation, 1959, the Workers' Representatives Convention, 1971, and the Occupational Safety and Health Convention and Recommendation, 1981, which establish the principles of national policy and action at the national level,

Having decided upon the adoption of certain proposals with regard to occupational health services, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

Adopts this twenty-sixth day of June of the year one thousand nine hundred and eighty-five the following Convention, which may be cited as the Occupational Health Services Convention, 1985:

### Part I

#### PRINCIPLES OF NATIONAL POLICY

##### Article 1

For the purpose of this Convention:

(a) the term "occupational health services" means services entrusted with essentially preventive functions and responsible for advising the employer, the workers and their representatives in the undertaking on:

(i) the requirements for establishing and maintaining a safe and healthy working environment which will facilitate optimal physical and mental health in relation to work;

(ii) the adaptation of work to the capabilities of workers in the light of their state of physical and mental health;

(b) the term "workers' representatives in the undertaking" means persons who are recognized as such under national law or practice.

##### Article 2

In the light of national conditions and practice and in consultation with the most representative organizations of employers and workers, where they exist, each Member shall formulate, implement and periodically review a coherent national policy on occupational health services.

##### Article 3

1. Each Member undertakes to develop progressively occupational health services for all workers, including those in the public sector and the members of production co-operatives, in all branches of economic activity and all undertakings. The provision made should be adequate and appropriate to the specific risks of the undertakings.

2. If occupational health services cannot be immediately established for all undertakings, each Member concerned shall draw up plans for the establishment of such services in consultation with the most representative organisations of employers and workers, where they exist.

3. Each Member concerned shall indicate, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation, the plans drawn up pursuant to paragraph 2 of this Article, and indicate in subsequent reports any progress in their application.

##### Article 4

The competent authority shall consult the most representative organisations of employers and workers, where they exist, on the measures to be taken to give effect to the provisions of this Convention.

### Part II

#### FUNCTIONS

##### Article 5

Without prejudice to the responsibility of each employer for the health and safety of the workers in his employment, and with due regard to the necessity for the workers to participate in matters of occupational health and safety, occupational health services shall have such of the following functions as are adequate and appropriate to the occupational risks of the undertaking:

(a) identification and assessment of the risks from health hazards in the workplace;

(b) surveillance of the factors in the working environment and working practices which may affect workers' health, including sanitary installations, canteens and housing where these facilities are provided by the employer;

- (c) advice on planning and organisation of work, including the design of workplaces, on the choice, maintenance and condition of machinery and other equipment and on substances used in work;
- (d) participation in the development of programmes for the improvement of working practices as well as testing and evaluation of health aspects of new equipment;
- (e) advice on occupational health, safety and hygiene and on ergonomics and individual and collective protective equipment;
- (f) surveillance of workers' health in relation to work;
- (g) promoting the adaptation of work to the worker;
- (h) contribution to measures of vocational rehabilitation;
- (i) collaboration in providing information, training and education in the fields of occupational health and hygiene and ergonomics;
- (j) organising of first aid and emergency treatment;
- (k) participation in analysis of occupational accidents and occupational diseases.

### Part III

#### ORGANISATION

##### Article 6

Provision shall be made for the establishment of occupational health services:

- (a) by laws or regulations; or
- (b) by collective agreements or as otherwise agreed upon by the employers and workers concerned; or
- (c) in any other manner approved by the competent authority after consultation with the representative organisations of employers and workers concerned.

##### Article 7

1. Occupational health services may be organised as a service for a single undertaking or as a service common to a number of undertakings, as appropriate.
2. In accordance with national conditions and practice, occupational health services may be organised by:
  - (a) the undertakings or groups of undertakings concerned;
  - (b) public authorities or official services;
  - (c) social security institutions;
  - (d) any other bodies authorised by the competent authority;
  - (e) a combination of any of the above.

##### Article 8

The employer, the workers and their representatives, where they exist, shall co-operate and participate in the implementation of the organisational and other measures relating to occupational health services on an equitable basis.

### Part IV

#### CONDITIONS OF OPERATION

##### Article 9

1. In accordance with national law and practice, occupational health services should be multi-disciplinary. The composition of the personnel shall be determined by the nature of the duties to be performed.
2. Occupational health services shall carry out their functions in co-operation with the other services in the undertaking.
3. Measures shall be taken, in accordance with national law and practice, to ensure adequate co-operation and co-ordination between occupational health services and, as appropriate, other bodies concerned with the provision of health services.

##### Article 10

The personnel providing occupational health services shall enjoy full professional independence from employers, workers, and their representatives, where they exist, in relation to the functions listed in Article 5.

##### Article 11

The competent authority shall determine the qualifications required for the personnel providing occupational health services, according to the nature of the duties to be performed and in accordance with national law and practice.

##### Article 12

The surveillance of workers' health in relation to work shall involve no loss of earnings for them, shall be free of charge and shall take place as far as possible during working hours.

##### Article 13

All workers shall be informed of health hazards involved in their work.

##### Article 14

Occupational health services shall be informed by the employer and workers of any known factors and any suspected factors in the working environment which may affect the workers' health.

*Article 15*

Occupational health services shall be informed of occurrences of ill health amongst workers and absence from work for health reasons, in order to be able to identify whether there is any relation between the reasons for ill health or absence and any health hazards which may be present at the workplace. Personnel providing occupational health services shall not be required by the employer to verify the reasons for absence from work.

**Part V**

## GENERAL PROVISIONS

*Article 16*

National laws or regulations shall designate the authority or authorities responsible both for supervising the operation of and for advising occupational health services once they have been established.

*Article 17*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 18*

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 ratification has been registered.

*Article 19*

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 shall 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 20*

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 21*

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 22*

At such times as it 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 23*

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 19 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 24*

The English and French versions of the text of this Convention are equally authoritative.

## ASEAN AGREEMENT ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES [40]

**Kuala Lumpur, 9 July 1985**

The Government of Negara Brunei Darussalam, The Government of the Republic of Indonesia, The Government of Malaysia, The Government of the Republic of the Philippines, The Government of the Republic of Singapore and The Government of the Kingdom of Thailand, Member States of the Association of South East Asian Nations (ASEAN),

Recognizing the importance of natural resources for present and future generations;

Conscious of their ever-growing value from a scientific, cultural, social and economic point of view;

Conscious also that the interrelationship between conservation and socio-economic development implies both that conservation is necessary to ensure sustainability of development, and that socio-economic development is necessary for the achievement of conservation on a lasting basis;

Recognizing the interdependence of living resources, between them and with other natural resources, within ecosystems of which they are part;

Wishing to undertake individual and joint action for the conservation and management of their living resources and the other natural elements on which they depend;

Recognizing that international co-operation is essential to attain many of these goals;

Convinced that an essential means to achieve such concerted action is the conclusion and implementation of an Agreement;

Have agreed as follows:

### Chapter 1

#### CONSERVATION AND DEVELOPMENT

##### Article 1

###### FUNDAMENTAL PRINCIPLE

1. The Contracting Parties, within the framework of their respective national laws, undertake to adopt singly, or where necessary and appropriate through concerted action, the measures necessary to maintain essential ecological processes and life-support systems, to preserve genetic diversity, and to ensure the sustainable utilization of harvested natural resources under their jurisdiction in accordance with scientific principles and with a view to attaining the goal of sustainable development.

2. To this end they shall develop national conservation strategies, and shall co-ordinate such strategies within the framework of a conservation strategy for the Region.

##### Article 2

###### DEVELOPMENT PLANNING

1. The Contracting Parties shall take all necessary measures, within the framework of their respective national laws, to ensure that conservation and management of natural resources are treated as an integral part of development planning at all stages and at all levels.

2. To that effect they shall, in the formulation of all development plans, give as full consideration to ecological factors as to economic and social ones.

3. The Contracting Parties shall, where necessary, take appropriate action with a view to conserving and managing natural resources of significant importance for two or several Contracting Parties.

### Chapter II

#### CONSERVATION OF SPECIES AND ECOSYSTEMS

##### Article 3

###### SPECIES – GENETIC DIVERSITY

1. The Contracting Parties shall, wherever possible, maintain maximum genetic diversity by taking action aimed at ensuring the survival and promoting the conservation of all species under their jurisdiction and control.

2. To that end, they shall adopt appropriate measures to conserve animal and plant species whether terrestrial, marine and freshwater, and more specifically:

- (a) conserve natural, terrestrial, freshwater and coastal or marine habitats;
- (b) ensure sustainable use of harvested species;
- (c) protect endangered species;
- (d) conserve endemic species; and
- (e) take all measures in their power to prevent the extinction of any species or sub-species.

3. In order to fulfil the aims of the preceding paragraph of this Article the Contracting Parties shall, in particular, endeavour to:

- (a) create and maintain protected areas;
- (b) regulate the taking of species and prohibit unselective taking methods;
- (c) regulate and, where necessary, prohibit the introduction of exotic species;
- (d) promote and establish gene banks and other documented collections of animal and plant genetic resources.

##### Article 4

###### SPECIES – SUSTAINABLE USE

The Contracting Parties shall pay special attention to harvested species, and, to that effect, shall endeavour to:

1. Develop, adopt and implement management plans for those species, based on scientific studies and aiming at:

- (a) preventing decrease in the size of any harvested population to levels below those which ensure its stable recruitment and the stable recruitment of those species which are dependent upon, or related to them;
- (b) maintaining the ecological relationship between harvested, dependent and related populations of living resources of the ecosystem considered;
- (c) restoring depleted populations to at least the levels referred to in sub-paragraph (a) of this paragraph;
- (d) preventing changes or minimizing risk of changes in the ecosystem considered which are not reversible over a reasonable period of time.

2. Take the appropriate and necessary legislative and administrative measures on harvesting activities in the light of their national interest whereby:

- (a) such activities must conform to the management plans referred to above;
- (b) the conduct of such activities is controlled by a permit system;
- (c) all indiscriminate means of taking and the use of all means capable of causing local extinction of, or serious disturbance to, populations of a species or related species are prohibited;
- (d) such activities are prohibited or strictly regulated at certain periods, seasons or places of importance in the life cycle of the species;
- (e) such activities may be regulated more strictly, temporarily or locally in order to assist restoration of population levels or counterbalance any threat caused by special circumstances;
- (f) special measures, such as restocking, are provided for whenever the conservation status of a species so warrants;
- (g) trade and possession of specimens or products of specimens are regulated whenever such regulations meaningfully contribute to the implementation of the harvesting regulations.

#### Article 5

##### SPECIES – ENDANGERED AND ENDEMIC

1. Appendix 1 to this Agreement shall list endangered species recognized by the Contracting Parties as of prime importance to the Region and deserving special attention. The Appendix shall be adopted by a meeting of the Contracting Parties.

Accordingly, Contracting Parties shall, wherever possible:

- (a) prohibit the taking of these species, except for exceptional circumstances by special allowance from the designated authorities of the Contracting Parties;
- (b) regulate the trade in and possession of specimens and products of those species accordingly;

(c) especially protect habitat of those species by ensuring that sufficient portions are included in protected areas.

(d) take all other necessary measures to improve their conservation status, and restore their populations to the highest possible level.

2. Each Contracting Party shall, wherever possible, apply the above measures to species endangered at national level.

3. The Contracting Parties recognize their special responsibility in respect of species that are endemic to areas under their jurisdiction and shall undertake accordingly to take, wherever possible, all the necessary measures to maintain the population of such species at the highest possible level.

#### Article 6

##### VEGETATION COVER AND FOREST RESOURCES

1. The Contracting Parties shall, in view of the role of vegetation and forest cover in the functioning of natural ecosystems, take all necessary measures to ensure the conservation of the vegetation cover and in particular of the forest cover on lands under their jurisdiction.

2. They shall, in particular, endeavour to:

- (a)— control clearance of vegetation;
  - prevent bush and forest fires;
  - prevent overgrazing by, *inter alia*, limiting grazing activities to periods and intensities that will not prevent regeneration of the vegetation;
- (b) regulate mining and mineral exploration operations with a view to minimizing disturbance of vegetation and to requiring the rehabilitation of vegetation after such operations;
- (c) set aside areas as forest reserves, *inter alia*, with a view to conserve the natural forest genetic resources;
- (d) in reforestation and afforestation planning avoid as far as possible monoculture causing ecological imbalance;
- (e) designate areas whose primary function shall be the maintenance of soil quality in the catchment considered and the regulation of the quantity and quality of the water delivered from it;
- (f) ensure, to the maximum extent possible, the conservation of their natural forests, particularly mangroves, with a view, *inter alia*, to maintaining maximum forest species diversity;
- (g) develop their forestry management plans on the basis of ecological principles with a view to maintaining potential for optimum sustained yield and avoiding depletion of the resource capital.

#### Article 7

##### SOIL

1. The Contracting Parties shall, in view of the role of soil in the functioning of natural ecosystems, take

measures, wherever possible towards soil conservation, improvement and rehabilitation; they shall, in particular, endeavour to take steps to prevent soil erosion and other forms of degradation, and promote measures which safeguard the processes of organic decomposition and thereby its continuing fertility.

2. To that effect, they shall, in particular, endeavour to:

(a) establish land use policies aimed at avoiding losses of vegetation cover, substantial soil losses, and damages to the structure of the soil;

(b) take all necessary measures to control erosion, especially as it may affect coastal or freshwater ecosystems, lead to siltation of downstream areas such as lakes or vulnerable ecosystems such as coral reefs, or damage critical habitats, in particular that of endangered or endemic species;

(c) take appropriate measures to rehabilitate eroded or degraded soils including rehabilitation of soil affected by mineral exploitation.

#### Article 8

##### WATER

1. The Contracting Parties shall, in view of the role of water in the functioning of natural ecosystems, take all appropriate measures towards the conservation of their underground and surface water resources.

2. They shall, to that effect, in particular, endeavour to:

(a) undertake and promote the necessary hydrological research especially with a view to ascertaining the characteristics of each watershed;

(b) regulate and control water utilization with a view to achieving sufficient and continuous supply of water for, *inter alia*, the maintenance of natural life supporting systems and aquatic fauna and flora;

(c) when planning and carrying out water resource development projects take fully into account possible effects of such projects on natural processes or on other renewable natural resources and prevent or minimize such effects.

#### Article 9

##### AIR

The Contracting Parties shall, in view of the role of air in the functioning of natural ecosystems, endeavour to take all appropriate measures towards air quality management compatible with sustainable development.

### Chapter III

#### CONSERVATION OF ECOLOGICAL PROCESSES

#### Article 10

##### ENVIRONMENTAL DEGRADATION

The Contracting Parties, with a view to maintaining the proper functioning of ecological

processes, undertake, wherever possible, to prevent, reduce and control degradation of the natural environment and, to this end, shall endeavour to undertake, in addition to specific measures referred to in the following article:

(a) to promote environmentally sound agricultural practice by, *inter alia*, controlling the application of pesticides, fertilizers and other chemical products for agricultural use, and by ensuring that agricultural development schemes, in particular for wetland drainage or forest clearance, pay due regard to the need to protect critical habitats as well as endangered and economically important species;

(b) to promote pollution control and the development of environmentally sound industrial processes and products;

(c) to promote adequate economic or fiscal incentives for the purposes of sub-paragraphs (a) and (b) above;

(d) as far as possible to consider the originator of the activity which may lead to environmental degradation responsible for its prevention, reduction and control as well as, wherever possible, for rehabilitation and remedial measures required;

(e) to take into consideration, when authorizing activities likely to affect the natural environment, the foreseeable interactions between the new activities proposed and those already taking place in the same area, and the result of such interactions on the air, waters and soils of the area;

(f) to pay particular attention to the regulation of activities which may have adverse effects on processes which are ecologically essential or on areas which are particularly important or sensitive from an ecological point of view, such as the breeding and feeding grounds of harvested species.

#### Article 11

##### POLLUTION

The Contracting Parties, recognizing the adverse effect that polluting discharges or emissions may have on natural processes and the functioning of natural ecosystems as well as on each of the individual ecosystem components, especially animal and plants species, shall endeavour to prevent, reduce and control such discharges, emissions or applications in particular by:

(a) submitting activities likely to cause pollution of the air, soil, freshwater, or the marine environment, to controls which shall take into consideration both the cumulative effects of the pollutants concerned and the self-purificating aptitude of the recipient natural environment;

(b) making such controls conditional on, *inter alia*, appropriate treatment of polluting emissions; and

(c) establishing national environmental quality monitoring programmes, particular attention being paid to the effects of pollution on natural ecosystems, and co-operation in such programmes for the Region as a whole.



## Chapter IV

### ENVIRONMENTAL PLANNING MEASURES

#### Article 12

##### LAND USE PLANNING

1. The Contracting Parties shall, wherever possible in the implementation of their development planning, give particular attention to the national allocation of land usage. They shall endeavour to take the necessary measures to ensure the integration of natural resource conservation into the land use planning process and shall, in the preparation and implementation of specific land use plans at all levels, give as full consideration as possible to ecological factors as to economic and social ones. In order to achieve optimum sustainable land use, they undertake to base their land use plans as far as possible on the ecological capacity of the land.
2. The Contracting Parties shall, in carrying out the provisions of paragraph 1 above, particularly consider the importance of retaining the naturally high productivity of areas such as coastal zones and wetlands.
3. They shall, where appropriate, co-ordinate their land use planning with a view to conserving and managing natural resources of significant importance for two or several Contracting Parties.

#### Article 13

##### PROTECTED AREAS

1. The Contracting Parties shall as appropriate establish, in areas under their jurisdiction, terrestrial, freshwater, coastal or marine protection areas for the purpose of safeguarding:

- the ecological and biological processes essential to the functioning of the ecosystems of the Region;
- representative samples of all types of ecosystem of the Region;
- satisfactory population levels for the largest possible number of species of fauna and flora belonging to those ecosystems;
- areas of particular importance because of their scientific, educational, aesthetic, or cultural interest;

and taking into account their importance in particular as:

- the natural habitat of species of fauna and flora, particularly rare or endangered or endemic species;
- zones necessary for the maintenance of exploitable stocks of economically important species;
- pools of genetic material and safe refuges for species, especially endangered ones;
- sites of ecological, aesthetic or cultural interest;
- reference sources for scientific research;
- areas for environmental education.

They shall, in particular, take all measures possible in their power to preserve those areas which are of an exceptional character and are peculiar to their country or the Region as well as those which constitute the critical habitats of endangered or rare species, of species that are endemic to a small area and of species that migrate between countries of Contracting Parties.

2. Protected areas established pursuant to this Agreement shall be regulated and managed in such a way as to further the objectives for the purpose of which they have been created. Contracting Parties shall, wherever possible, prohibit within such protected areas activities which are inconsistent with such objectives.

3. Protected areas shall include:

(a) *National Parks*:

(i) This expression denotes natural areas that are sufficiently large to allow for ecological self-regulation of one or several ecosystems, and which have not been substantially altered by human occupation or exploitation.

(ii) National Parks shall be placed under public control, their boundaries shall not be altered nor shall any portion of any National Park be alienated except by the highest competent authority.

(iii) National Parks shall be dedicated to conservation and to scientific, educational and recreational uses and the common welfare of the people.

(b) *Reserves*:

(i) This expression denotes areas set aside for the purpose of preserving a specific ecosystem, the critical habitat of certain species of fauna or flora, a water catchment area or for any other specific purpose relating to the conservation of natural resources or objects or areas of scientific, aesthetic, cultural, educational or recreational interest.

(ii) After reserves have been established their boundaries shall not be altered nor shall any portion of such reserves be alienated except by the authority establishing them or by higher authority.

(iii) Reserves shall be dedicated to the purposes for which they have been created and, in the light of the national interests of the Contracting Parties, any activity inconsistent with such purposes shall be prohibited.

4. Contracting Parties shall, in respect of any protected area established pursuant to this Agreement:

(a) prepare a management plan and manage the area on the basis of this plan;

(b) establish, wherever appropriate, terrestrial or aquatic buffer zones that shall be located around protected areas and which, in the case of marine areas, may include coastal land areas or watersheds of rivers flowing into the protected area; in such buffer zones all activities that may have harmful consequences on the ecosystems that such areas

purport to protect shall be prohibited or regulated and activities which are consistent with the purpose of the protected area shall be promoted.

5. Contracting Parties shall, in respect of any protected area established pursuant to this Agreement, endeavour to:

(a) prohibit the introduction of exotic animal or plant species;

(b) prohibit the use or release of toxic substances or pollutants which could cause disturbance or damage to protected ecosystems or to the species they contain;

(c) to the maximum extent possible, prohibit or control any activity exercised outside protected areas when such an activity is likely to cause disturbance or damage to the ecosystems or species that such protected areas purport to protect.

6. Contracting Parties shall co-operate in the development of principles, objectives, criteria and guidelines for the selection, establishment and management of protected areas in the Region with a view to establishing a co-ordinated network of protected areas throughout the Region, giving particular attention to those of regional importance. An Appendix containing such principles, objectives, criteria and guidelines shall be drawn up in the light of the best scientific evidence as adapted to the conservation requirements of the Region and shall be adopted by a meeting of Contracting Parties.

7. In addition to the establishment of the protected areas referred to in paragraph 3 of this Article, Contracting Parties shall promote, through the adoption of appropriate measures, the conservation of natural areas by private owners, community or local authorities.

#### *Article 14*

##### IMPACT ASSESSMENT

1. The Contracting Parties undertake that proposals for any activity which may significantly affect the natural environment shall as far as possible be subjected to an assessment of their consequences before they are adopted, and they shall take into consideration the results of this assessment in their decision-making process.

2. In those cases where any such activities are undertaken, the Contracting Parties shall plan and carry them out so as to overcome or minimize any assessed adverse effects and shall monitor such effects with a view to taking remedial action as appropriate.

## **Chapter V**

### NATIONAL SUPPORTING MEASURES

#### *Article 15*

##### SCIENTIFIC RESEARCH

The Contracting Parties shall individually or in co-operation with other Contracting Parties or appropriate international organizations, promote and, whenever possible, support scientific and technical programmes of relevance to the conservation and management of natural resources, including monitoring research, the exchange of technical information and the evaluation of results.

#### *Article 16*

##### EDUCATION, INFORMATION AND PARTICIPATION OF THE PUBLIC, TRAINING

1. The Contracting Parties shall endeavour to promote adequate coverage of conservation and management of natural resources in education programmes at all levels.

2. They shall circulate as widely as possible information on the significance of conservation measures and their relationship with sustainable development objectives, and shall, as far as possible, organize participation of the public in the planning and implementation of conservation measures.

3. Contracting Parties shall endeavour to, individually or in co-operation with other Contracting Parties or appropriate international organizations, develop the programmes and facilities necessary to train adequate and sufficient scientific and technical personnel to fulfil the aims of this Agreement.

#### *Article 17*

##### ADMINISTRATIVE MACHINERY

1. The Contracting Parties shall identify or maintain the administrative machinery necessary to implement the provisions of this Agreement, and, where several governmental institutions are involved, create the necessary co-ordinating mechanism for the authorities dealing with designated aspects of the environment.

2. They shall endeavour to allocate sufficient funds to the task necessary for the implementation of this Agreement, as well as sufficient qualified personnel with adequate enforcement powers.

## **Chapter VI**

### INTERNATIONAL CO-OPERATION

#### *Article 18*

##### CO-OPERATIVE ACTIVITIES

1. The Contracting Parties shall co-operate together and with the competent international

organizations, with a view to co-ordinating their activities in the field of conservation of nature and management of natural resources and assisting each other in fulfilling their obligations under this Agreement.

2. To that effect, they shall endeavour:

- (a) to collaborate in monitoring activities;
- (b) to the greatest extent possible, co-ordinate their research activities;
- (c) to use comparable or standardized research techniques and procedures with a view to obtaining comparable data;
- (d) to exchange appropriate scientific and technical data, information and experience, on a regular basis;
- (e) whenever appropriate, to consult and assist each other with regard to measures for the implementation of this Agreement.

3. In applying the principles of co-operation and co-ordination set forth above, the Contracting Parties shall forward to the Secretariat:

- (a) information of assistance in the monitoring of the biological status of the natural living resources of the Region;
- (b) information, including reports and publications of a scientific, administrative or legal nature, and in particular information on:
  - measures taken by the Parties in pursuance of the provisions of this Agreement;
  - the status of species included in Appendix 1;
  - any other matter to which the Conference of the Parties may give special priority.

#### Article 19

##### SHARED RESOURCES

1. Contracting Parties that share natural resources shall co-operate concerning their conservation and harmonious utilization, taking into account the sovereignty, rights and interests of the Contracting Parties concerned in accordance with generally accepted principles of international law.

2. To that end, they shall, in particular:

- (a) co-operate with a view to controlling, preventing, reducing or eliminating adverse environmental effects which may result in one Contracting Party from the utilization of such resources in another Party;
- (b) endeavour to conclude bilateral or multilateral agreements in order to secure specific regulation of their conduct in respect of the resources concerned;
- (c) as far as possible, make environmental assessments prior to engaging in activities with respect of shared natural resources which may create a risk of significantly affecting the environment of another sharing Contracting Party or other sharing Contracting Parties;

- (d) notify in advance the other sharing Contracting Party or the other sharing Contracting Parties of pertinent details of plans to initiate, or make a change in, the conservation or utilization of the resource which can reasonably be expected to affect significantly the environment in the territory of the other Contracting Party or Contracting Parties;

- (e) upon request of the other sharing Contracting Party or sharing Contracting Parties, enter into consultation concerning the above-mentioned plans;

- (f) inform the other sharing Contracting Party or other sharing Contracting Parties of emergency situations or sudden grave natural events which may have repercussions on their environment;

- (g) whenever appropriate, engage in joint scientific studies and assessments with a view to facilitating co-operation with regard to environmental problems related to a shared resource, on the basis of agreed data.

3. Contracting Parties shall especially co-operate together and, where appropriate, shall endeavour to co-operate with other Contracting Parties, with a view to:

- (a) the conservation and management of:
  - border or contiguous protected areas;
  - shared habitats of species listed in Appendix 1;
  - shared habitats of any other species of common concern;
- (b) the conservation, management and, where applicable, regulation of the harvesting of species which constitute shared resources:
  - by virtue of their migratory character, or
  - because they inhabit shared habitats.

#### Article 20

##### TRANSFRONTIER ENVIRONMENTAL EFFECTS

1. Contracting Parties have in accordance with generally accepted principles of international law the responsibility of ensuring that activities under their jurisdiction or control do not cause damage to the environment or the natural resources under the jurisdiction of other Contracting Parties or of areas beyond the limits of national jurisdiction.

2. In order to fulfil this responsibility, Contracting Parties shall avoid to the maximum extent possible and reduce to the minimum extent possible adverse environmental effects of activities under their jurisdiction or control, including effects on natural resources, beyond the limits of their national jurisdiction.

3. To that effect, they shall endeavour:

- (a) to make environmental impact assessment before engaging in any activity that may create a risk of significantly affecting the environment or the natural resources of another Contracting Party or the environment or natural resources beyond national jurisdiction;

(b) to notify in advance the other Contracting Party or Contracting Parties concerned of pertinent details of plans to initiate, or make a change in, activities which can reasonably be expected to have significant effects beyond the limits of national jurisdiction;

(c) to enter into consultation concerning the above-mentioned plans upon request of the Contracting Party or Contracting Parties in question;

(d) to inform the Contracting Party or Contracting Parties in question of emergency situations or sudden grave natural events which may have repercussion beyond national jurisdiction.

4. Contracting Parties shall, in particular, endeavour to refrain from actions which might directly or indirectly adversely affect wildlife habitats situated beyond the limits of national jurisdiction, especially habitats of species listed in Appendix 1 or habitats included in protected areas.

## Chapter VII

### INTERNATIONAL SUPPORTING MEASURES

#### Article 21

##### MEETING OF THE CONTRACTING PARTIES

1. Ordinary meetings of the Contracting Parties shall be held at least once in three years, in as far as possible in conjunction with appropriate meetings of ASEAN, and extraordinary meetings shall be held at any other time, upon the request of one Contracting Party provided that such request is supported by at least one other Party.

2. It shall be the function of the meetings of the Contracting Parties, in particular:

(a) to keep under review the implementation of this Agreement and the need for other measures, in particular the Appendices;

(b) to adopt, review and amend as required any Appendix to this Agreement;

(c) to consider reports submitted by the Contracting Parties in accordance with Article 28 or any other information which may be submitted by a Party, directly or through the Secretariat;

(d) to make recommendations regarding the adoption of any Protocol or any amendment to this Agreement;

(e) to establish working groups or any other subsidiary body as required to consider any matter related to this Agreement;

(f) to consider and undertake any additional action, including the adoption of financial rules, that may be required for the achievement of the purposes of this Agreement.

#### Article 22

##### SECRETARIAT

On the coming into force of this Agreement the Contracting Parties shall designate the Secretariat responsible for carrying out the following functions:

(a) to convene and prepare the meetings of Contracting Parties;

(b) to convene diplomatic conferences for the purpose of adopting Protocols;

(c) to transmit to Contracting Parties notifications, reports and other information received in accordance with this Agreement;

(d) to consider inquiries by, and information from, the Contracting Parties, and to consult with them on questions relating to this Agreement;

(e) to perform such other functions as may be assigned to it by the Contracting Parties;

(f) to ensure the necessary co-ordination with other competent international bodies and in particular to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions.

#### Article 23

##### NATIONAL FOCAL POINTS

In order to facilitate communications with other Parties and the Secretariat, the Contracting Parties shall designate an appropriate national agency or institution responsible for co-ordinating matters arising from consultations and channelling communications between Contracting Parties or with the Secretariat.

## Chapter VIII

### FINAL CLAUSES

#### Article 24

##### ADOPTION OF PROTOCOLS

1. The Contracting 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 Contracting Parties, at a diplomatic conference, may adopt Protocols to this Agreement.

3. The Protocols of this Agreement shall be subject to acceptance and shall enter into force on the thirtieth day after the deposit with the Depositary of the instruments of Acceptance of all the Contracting Parties.

#### Article 25

##### AMENDMENT OF THE AGREEMENT

1. Any Contracting Party to this Agreement may propose amendments to the Agreement. Amendments shall be adopted by a diplomatic conference which shall be convened at the request of the majority of the Contracting Parties.

2. Amendments to this Agreement shall be adopted by a consensus of the Contracting Parties.

3. Acceptance of amendments shall be notified to the Depositary in writing and shall enter into force on the thirtieth day following the receipt by the Depositary of notification of the acceptance by all the Contracting Parties.

4. After the entry into force of an amendment to this Agreement any new Contracting Party to this Agreement shall become a Contracting Party to this Agreement as amended.

#### Article 26

##### APPENDICES AND AMENDMENTS TO APPENDICES

1. Appendices to this Agreement shall form an integral part of the Agreement.

2. Amendments to an Appendix:

(a) Any Contracting Party may propose amendments to an Appendix at a meeting of the Contracting Parties.

(b) Such amendments shall be adopted by a consensus of the Contracting Parties.

(c) The Depositary shall without delay communicate the amendment so adopted to all Contracting Parties.

3. The adoption and entry into force of a new Appendix to this Agreement shall be subject to the same procedure as for the adoption and entry into force of an amendment to an Appendix as provided for in paragraph 2 of this Article, provided that the new Appendix shall not enter into force until such time as the amendment to the Agreement enters into force.

#### Article 27

##### RULES OF PROCEDURE

The Contracting Parties shall adopt rules of procedure for their meetings.

#### Article 28

##### REPORTS

The Contracting Parties shall transmit to the Secretariat reports on the measures adopted in implementation of this Agreement in such form and at such intervals as the meetings of Contracting Parties may determine.

#### Article 29

##### RELATIONSHIPS WITH OTHER AGREEMENTS

The provisions of this Agreement shall in no way affect the rights and obligations of any Contracting Party with regard to any existing treaty, convention or agreement.

#### Article 30

##### SETTLEMENT AND DISPUTES

Any dispute between the Contracting Parties arising out of the interpretation or implementation of this Agreement shall be settled amicably by consultation or negotiation.

#### Article 31

##### RATIFICATION

This Agreement shall be subject to ratification by the Contracting Parties. The instruments of Ratification shall be deposited with the Secretary-General of the ASEAN Secretariat, who shall assume the functions of Depositary.

#### Article 32

##### ACCESSION

1. After the entry into force of the Agreement, any Member State may accede to this Agreement, subject to prior approval by the Contracting Parties to this Agreement.

2. Instruments of accession shall be deposited with the Depositary.

#### Article 33

##### ENTRY INTO FORCE

1. This Agreement shall enter into force on the thirtieth day after the deposit of the sixth instrument of Ratification.

2. Thereafter, this Agreement shall enter into force with respect to any Contracting Party on the thirtieth day following the date of deposit of the instrument of accession by that Contracting Party.

#### Article 34

##### RESPONSIBILITY OF THE DEPOSITARY

The Depositary shall inform the Governments which have signed this Agreement:

(a) of the deposit of instruments of ratification, acceptance or accession;

(b) of the date on which the Agreement will come into force.

#### Article 35

##### DEPOSIT AND REGISTRATION

1. The present Agreement shall be deposited with the Depositary who shall transmit certified true copies thereof to the Governments of all Contracting Parties which have signed the present Agreement or acceded to it.

2. As soon as the present Agreement enters into force, the text shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

## List of Species for Appendix 1 A

NO.	SCIENTIFIC NAME	COMMON NAME
FAUNA		
1.	<i>Babyrousa babyrussa</i>	Babirusa
2.	<i>Balaenoptera musculus</i>	Blue whale
3.	<i>Balaenoptera physalis</i>	Fin whale
4.	<i>Batagur baska</i>	River terrapin
5.	<i>Bos gaurus</i>	Gaur
6.	<i>Bos sauveli</i>	Kouprey
7.	<i>Bubalus mindorensis</i>	Tamaraw
8.	<i>Cairina scutulata</i>	White-winged wood duck
9.	<i>Capricornis sumatraensis</i>	Serow
10.	<i>Cervus eldi</i>	Eld's deer
11.	<i>Dermochelys coriacea</i>	Leatherback turtle
12.	<i>Dicerorhinus sumatrensis</i>	Sumatran rhinoceros
13.	<i>Ducula mindorensis</i>	Mindoro imperial pigeon
14.	<i>Felis temmincki</i>	Golden cat
15.	<i>Helarctos malayanus</i>	Malayan honey bear
16.	<i>Hylobates agilis</i>	Agile gibbon
17.	<i>Hylobates lar</i>	White-handed gibbon
18.	<i>Hylobates syndactylus</i>	Siamang
19.	<i>Nasalis larvatus</i>	Proboscis monkey
20.	<i>Neofelis nebulosa</i>	Clouded leopard
21.	<i>Panthera pardus</i>	Leopard
22.	<i>Panthera tigris</i>	Sumatran & Indochinese tiger
23.	<i>Pithecopnaga jefferyi</i>	Philippine eagle
24.	<i>Pitta kochi</i>	Koch's pitta
25.	<i>Polyplectron emphanum</i>	Palawan peacock pheasant
26.	<i>Pongo pygmaeus</i>	Orang-utan
27.	<i>Presbytis potenziani</i>	Mentawai langur
28.	<i>Rhinoceros sondaicus</i>	Javan rhinoceros
29.	<i>Rhinoplax vigil</i>	Helmeted hornbill
30.	<i>Simias concolor</i>	Snub-nosed monkey
31.	<i>Sotalia sinensis</i>	Chinese white dolphin
32.	<i>Sousa borneensis</i>	Indonesian white dolphin
33.	<i>Sula abbotti</i>	Abbott's booby
34.	<i>Tapirus indicus</i>	Tapir
35.	<i>Varanus komodoensis</i>	Komodo dragon

## FLORA

1. *Rafflesia* spp. Rafflesia

## List of Species for Appendix 1 B

NO.	SCIENTIFIC NAME	COMMON NAME
FAUNA		
1.	<i>Accipiter gularis</i>	Japanese lesser sparrow hawk
2.	<i>Accipiter nisus</i>	European sparrow hawk
3.	<i>Chilasa agestor agestor</i>	
4.	<i>Felis chaus</i>	Jungle cat
5.	<i>Felis minuta</i>	Leopard cat
6.	<i>Felis viverrina</i>	Fishing cat
7.	<i>Geomyda spinosa</i>	
8.	<i>Hylobates muelleri</i>	Grey gibbon
9.	<i>Hylobates lepidus</i>	Grey-cheeked flying squirrel
10.	<i>Ichthyophaga ichtyaetus</i>	Grey-headed fishing eagle
11.	<i>Macaca fascicularis</i>	Long-tailed or crab-eating macaque
12.	<i>Macaca nemestrina</i>	Pig-tailed macaque
13.	<i>Macaca philippinensis</i>	
14.	<i>Microhierax caerulescers</i>	Common falconet
15.	<i>Mimizuki gurneyi</i>	Giant scops owl
16.	<i>Otus brookei</i>	Rajah's scops owl
17.	<i>Otus spilocephalus</i>	Mountain scops owl
18.	<i>Presbytis cristata</i>	Silvered leaf-monkey
19.	<i>Presbytis melalophos</i>	Banded leaf-monkey
20.	<i>Presbytis obscura</i>	Dusky leaf-monkey
21.	<i>Prionodon pardicolor</i>	Spotted linsang
22.	<i>Pseudochelidon sirintarae</i>	White-eyed river martin
23.	<i>Ptrgonoptera brookiana</i>	Raja brooke's birdwing
24.	<i>Rafuta affinis</i>	Common giant squirrel
25.	<i>Ratufa bicolor</i>	Black giant squirrel
26.	<i>Sarkidiornis melanotos</i>	Comb duck
27.	<i>Selenarctos thibetanus</i>	Asiatic black bear
28.	<i>Spizaetus philippinensis</i>	Philippine hawk eagle
29.	<i>Testudo elongata</i>	Elongated tortoise
30.	<i>Testudo emys</i>	Giant asiatic tortoise
31.	<i>Testudo impressa</i>	Impressed tortoise
32.	<i>Troides aeacus</i>	Birdwing butterfly
33.	<i>Troides cuneifer</i>	Birdwing butterfly
34.	<i>Troides helena</i>	Common birdwing
35.	<i>Tyto alba</i>	Common barn owl
36.	<i>Varanus dumerili</i>	Dumeril's monitor
37.	<i>Varanus rudicollis</i>	Harlequin monitor
38.	<i>Zeuxidia aurelius</i>	Satyr butterfly

## SOUTH PACIFIC NUCLEAR FREE ZONE TREATY [41]

Rarotonga, 6 August 1985

The Parties to this Treaty

United in their commitment to a world at peace;

Gravely concerned that the continuing nuclear arms race presents the risk of nuclear war which would have devastating consequences for all people;

Convinced that all countries have an obligation to make every effort to achieve the goal of eliminating nuclear weapons, the terror which they hold for humankind and the threat which they pose to life on earth;

Believing that regional arms control measures can contribute to global efforts to reverse the nuclear arms race and promote the national security of each country in the region and the common security of all;

Determined to ensure, so far as lies within their power, that the bounty and beauty of the land and sea in their region shall remain the heritage of their peoples and their descendants in perpetuity to be enjoyed by all in peace;

Reaffirming the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in preventing the proliferation of nuclear weapons and in contributing to world security;

Noting in particular, that Article VII of the NPT recognises the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories;

Noting that the prohibitions of emplantation and emplacement of nuclear weapons on the seabed and the ocean floor and in the subsoil thereof contained in the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed and the Ocean Floor and in the Subsoil hereof apply in the South Pacific;

Noting also that the prohibition of testing of nuclear weapons in the atmosphere or under water, including territorial waters or high seas, contained in the Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Under Water applies in the South Pacific;

Determined to keep the region free of environmental pollution by radioactive wastes and other radioactive matter;

Guided by the decision of the Fifteenth South Pacific Forum at Tuvalu that a nuclear free zone should be established in the region at the earliest possible opportunity in accordance with the principles set out in the communiqué of that meeting;

Have agreed as follows:

### Article 1

#### USAGE OF TERMS

For the purposes of this Treaty and its Protocols:

(a) "South Pacific Nuclear Free Zone" means the areas described in Annex 1 as illustrated by the map attached to that Annex;

(b) "territory" means internal waters, territorial sea and archipelagic waters, the seabed and subsoil beneath, the land territory and the airspace above them;

(c) "nuclear explosive device" means any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used. The term includes such a weapon or device in unassembled and partly assembled forms, but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it;

(d) "stationing" means emplantation, emplacement, transportation on land or inland waters, stockpiling, storage, installation and deployment.

### Article 2

#### APPLICATION OF THE TREATY

1. Except where otherwise specified, this Treaty and its Protocols shall apply to territory within the South Pacific Nuclear Free Zone.

2. Nothing in this 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 freedom of the seas.

### Article 3

#### RENUNCIATION OF NUCLEAR EXPLOSIVE DEVICES

Each Party undertakes:

(a) not to manufacture or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere inside or outside the South Pacific Nuclear Free Zone;

(b) not to seek or receive any assistance in the manufacture or acquisition of any nuclear explosive device;

(c) not to take any action to assist or encourage the manufacture or acquisition of any nuclear explosive device by any State.

### Article 4

#### PEACEFUL NUCLEAR ACTIVITIES

Each Party undertakes:

(a) not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material for peaceful purposes to:

(i) any non-nuclear-weapon State unless subject to the safeguards required by Article III.I of the NPT, or

(ii) any nuclear-weapon State unless subject to applicable safeguards agreements with the International Atomic Energy Agency (IAEA).

Any such provision shall be in accordance with strict non-proliferation measures to provide assurance of exclusively peaceful non-explosive use; (b) to support the continued effectiveness of the international non-proliferation system based on the NPT and the IAEA safeguards system.

#### Article 5

##### PREVENTION OF STATIONING OF NUCLEAR EXPLOSIVE DEVICES

1. Each Party undertakes to prevent in its territory the stationing of any nuclear explosive device.
2. Each Party in the exercise of its sovereign rights remains free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage or transit passage of straits.

#### Article 6

##### PREVENTION OF TESTING OF NUCLEAR EXPLOSIVE DEVICES

Each Party undertakes:

- (a) to prevent in its territory the testing of any nuclear explosive device;
- (b) not to take any action to assist or encourage the testing of any nuclear explosive device by any State.

#### Article 7

##### PREVENTION OF DUMPING

1. Each Party undertakes:
  - (a) not to dump radioactive wastes and other radioactive matter at sea anywhere within the South Pacific Nuclear Free Zone;
  - (b) to prevent the dumping of radioactive wastes and other radioactive matter by anyone in its territorial sea;
  - (c) not to take any action to assist or encourage the dumping by anyone of radioactive wastes and other radioactive matter at sea anywhere within the South Pacific Nuclear Free Zone;
  - (d) to support the conclusion as soon as possible of the proposed Convention relating to the protection of the natural resources and environment of the South Pacific region and its Protocol for the prevention of pollution of the South Pacific region by dumping, with the aim of precluding dumping at sea of radioactive wastes and other radioactive matter by anyone anywhere in the region.
2. Paragraphs 1(a) and 1(b) of this Article shall not apply to areas of the South Pacific Nuclear Free Zone

in respect of which such a Convention and Protocol have entered into force.

#### Article 8

##### CONTROL SYSTEM

1. The Parties hereby establish a control system for the purpose of verifying compliance with their obligations under this Treaty.
2. The control system shall comprise:
  - (a) reports and exchange of information as provided for in Article 9;
  - (b) consultations as provided for in Article 10 and Annex 4(1);
  - (c) the application to peaceful nuclear activities of safeguards by the IAEA as provided for in Annex 2;
  - (d) a complaints procedure as provided for in Annex 4.

#### Article 9

##### REPORTS AND EXCHANGES OF INFORMATION

1. Each Party shall report to the Director of the South Pacific Bureau for Economic Co-operation (the Director) as soon as possible any significant event within its jurisdiction affecting the implementation of this Treaty. The Director shall circulate such reports promptly to all Parties.
2. The Parties shall endeavour to keep each other informed on matters arising under or in relation to this Treaty. They may exchange information by communicating it to the Director, who shall circulate it to all Parties.
3. The Director shall report annually to the South Pacific Forum on the status of this Treaty and matters arising under or in relation to it, incorporating reports and communications made under paragraphs 1 and 2 of this Article and matters arising under Articles 8(2)(d) and 10 and Annex 2(4).

#### Article 10

##### CONSULTATIONS AND REVIEW

Without prejudice to the conduct of consultations among Parties by other means, the Director, at the request of any Party, shall convene a meeting of the Consultative Committee established by Annex 3 for consultation and co-operation on any matter arising in relation to this Treaty or for reviewing its operation.

#### Article 11

##### AMENDMENT

The Consultative Committee shall consider proposals for amendment of the provisions of this Treaty proposed by any Party and circulated by the Director to all Parties not less than three months prior to the convening of the Consultative Committee for this purpose. Any proposal agreed



upon by consensus by the Consultative Committee shall be communicated to the Director who shall circulate it for acceptance to all Parties. An amendment shall enter into force thirty days after receipt by the depositary of acceptances from all Parties.

#### *Article 12*

##### SIGNATURE AND RATIFICATION

1. This Treaty shall be open for signature by any Member of the South Pacific Forum.
2. This Treaty shall be subject to ratification. Instruments of ratification shall be deposited with the Director who is hereby designated depositary of this Treaty and its Protocols.
3. If a Member of the South Pacific Forum whose territory is outside the South Pacific Nuclear Free Zone becomes a Party to this Treaty, Annex 1 shall be deemed to be amended so far as is required to enclose at least the territory of that Party within the boundaries of the South Pacific Nuclear Free Zone. The delineation of any area added pursuant to this paragraph shall be approved by the South Pacific Forum.

#### *Article 13*

##### WITHDRAWAL

1. This Treaty is of a permanent nature and shall remain in force indefinitely, provided that in the event of a violation by any Party of a provision of this Treaty essential to the achievement of the objectives of the Treaty or of the spirit of the Treaty, every other Party shall have the right to withdraw from the Treaty.
2. Withdrawal shall be effected by giving notice twelve months in advance to the Director who shall circulate such notice to all other Parties.

#### *Article 14*

##### RESERVATIONS

This Treaty shall not be subject to reservations.

#### *Article 15*

##### ENTRY INTO FORCE

1. This Treaty shall enter into force on the date of deposit of the eighth instrument of ratification.
2. For a signatory which ratifies this Treaty after the date of deposit of the eighth instrument of ratification, the Treaty shall enter into force on the date of deposit of its instrument of ratification.

#### *Article 16*

##### DEPOSITARY FUNCTIONS

The depositary shall register this Treaty and its Protocols pursuant to Article 102 of the Charter of

the United Nations and shall transmit certified copies of the Treaty and its Protocols to all Members of the South Pacific Forum and all States eligible to become Party to the Protocols to the Treaty and shall notify them of signatures and ratifications of the Treaty and its Protocols.

In witness whereof the undersigned, being duly authorised by their Governments, have signed this Treaty.

Done at Rarotonga, this sixth day of August, one thousand nine hundred and eighty-five, in a single original in the English language.

#### **Annex 1**

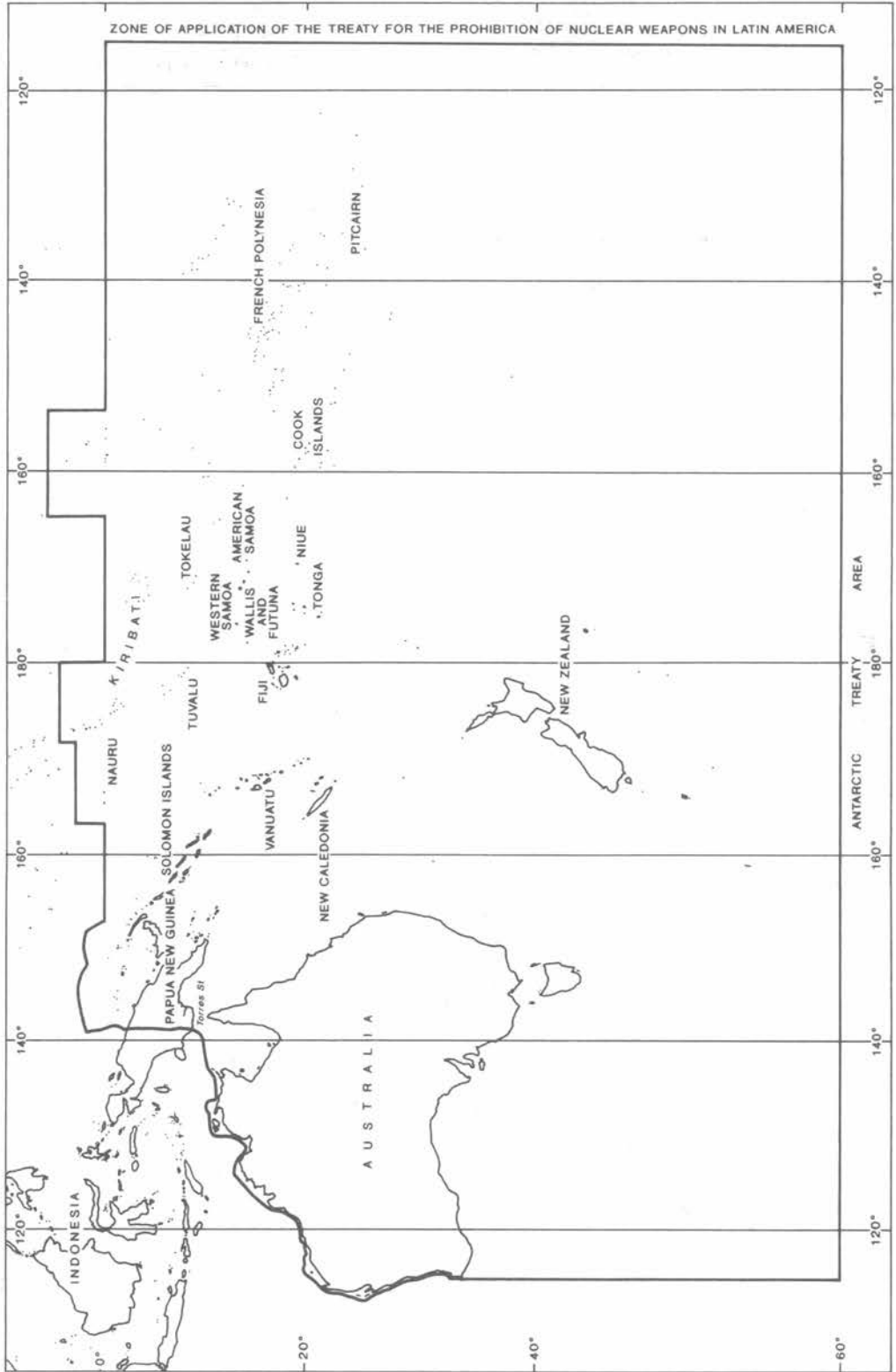
##### SOUTH PACIFIC NUCLEAR FREE ZONE

A. The area bounded by a line:

- (1) commencing at the point of intersection of the Equator by the maritime boundary between Indonesia and Papua New Guinea;
- (2) running thence northerly along that maritime boundary to its intersection by the outer limit of the Exclusive Economic Zone of Papua New Guinea;
- (3) thence generally north-easterly, easterly and south-easterly along that outer limit to its intersection by the Equator;
- (4) thence east along the Equator to its intersection by the meridian of Longitude 163 degrees East;
- (5) thence north along that meridian to its intersection by the parallel of Latitude 3 degrees North;
- (6) thence east along that parallel to its intersection by the meridian of Longitude 171 degrees East;
- (7) thence north along that meridian to its intersection by the parallel of Latitude 4 degrees North;
- (8) thence east along that parallel to its intersection by the meridian of Longitude 180 degrees East;
- (9) thence south along that meridian to its intersection by the Equator;
- (10) thence east along the Equator to its intersection by the meridian of Longitude 165 degrees West;
- (11) thence north along that meridian to its intersection by the parallel of Latitude 5 degrees 30 minutes North;
- (12) thence east along that parallel to its intersection by the meridian of Longitude 154 degrees West;
- (13) thence south along that meridian to its intersection by the Equator;
- (14) thence east along the Equator to its intersection by the meridian of Longitude 115 degrees West;

ATTACHMENT TO ANNEX 1 TO THE SOUTH PACIFIC NUCLEAR FREE ZONE TREATY:-  
ILLUSTRATIVE MAP

(Australian islands in the Indian Ocean, which are also part of the South Pacific Nuclear Free Zone, are not shown)



(15) thence south along that meridian to its intersection by the parallel of Latitude 60 degrees South;

(16) thence west along that parallel to its intersection by the meridian of Longitude 115 degrees East;

(17) thence north along that meridian to its southernmost intersection by the outer limit of the territorial sea of Australia;

(18) thence generally northerly and easterly along the outer limit of the territorial sea of Australia to its intersection by the meridian of Longitude 136 degrees 45 minutes East;

(19) thence north-easterly along the geodesic to the point of Latitude 10 degrees 50 minutes South, Longitude 139 degrees 12 minutes East;

(20) thence north-easterly along the maritime boundary between Indonesia and Papua New Guinea to where it joins the land border between those two countries;

(21) thence generally northerly along that land border to where it joins the maritime boundary between Indonesia and Papua New Guinea, on the northern coastline of Papua New Guinea; and

(22) thence generally northerly along that boundary to the point of commencement.

B. The areas within the outer limits of the territorial seas of all Australian islands lying westward of the area described in paragraph A and north of Latitude 60 degrees South, provided that any such areas shall cease to be part of the South Pacific Nuclear Free Zone upon receipt by the depositary of written notice from the Government of Australia stating that the areas have become subject to another treaty having an object and purpose substantially the same as that of this Treaty.

## Annex 2

### IAEA SAFEGUARDS

1. The safeguards referred to in Article 8 shall in respect of each Party be applied by the IAEA as set forth in an agreement negotiated and concluded with the IAEA on all source or special fissionable material in all peaceful nuclear activities within the territory of the Party, under its jurisdiction or carried out under its control anywhere.

2. The agreement referred to in paragraph 1 shall be, or shall be equivalent in its scope and effect to, an agreement required in connection with the NPT on the basis of the material reproduced in document INFCIRC/153 (Corrected) of the IAEA. Each Party shall take all appropriate steps to ensure that such an agreement is in force for it not later than eighteen months after the date of entry into force for that Party of this Treaty.

3. For the purposes of this Treaty, the safeguards referred to in paragraph 1 shall have as their purpose

the verification of the non-diversion of nuclear material from peaceful nuclear activities to nuclear explosive devices.

4. Each Party agrees upon the request of any other Party to transmit to that Party and to the Director for the information of all Parties a copy of the overall conclusions of the most recent report by the IAEA on its inspection activities in the territory of the Party concerned, and to advise the Director promptly of any subsequent findings of the Board of Governors of the IAEA in relation to those conclusions for the information of all Parties.

## Annex 3

### CONSULTATIVE COMMITTEE

1. There is hereby established a Consultative Committee which shall be convened by the Director from time to time pursuant to articles 10 and 11 and Annex 4 (2). The Consultative Committee shall be constituted of representatives of the Parties, each Party being entitled to appoint one representative who may be accompanied by advisers. Unless otherwise agreed, the Consultative Committee shall be chaired at any given meeting by the representative of the Party which last hosted the meeting of Heads of Government of Members of the South Pacific Forum. A quorum shall be constituted by representatives of half the Parties. Subject to the provisions of Article 11, decisions of the Consultative Committee shall be taken by consensus or, failing consensus, by a two-thirds majority of those present and voting. The Consultative Committee shall adopt such other rules of procedure as it sees fit.

2. The costs of the Consultative Committee, including the costs of special inspections pursuant to Annex 4, shall be borne by the South Pacific Bureau for Economic Co-operation. It may seek special funding should this be required.

## Annex 4

### COMPLAINTS PROCEDURE

1. A Party which considers that there are grounds for a complaint that another Party is in breach of its obligations under this Treaty shall, before bringing such a complaint to the Director, bring the subject matter of the complaint to the attention of the Party complained of and shall allow the latter reasonable opportunity to provide it with an explanation and to resolve the matter.

2. If the matter is not so resolved, the complainant Party may bring the complaint to the Director with a request that the Consultative Committee be convened to consider it. Complaints shall be supported by an account of evidence of breach of obligations known to the complainant Party. Upon receipt of a complaint the Director shall convene the Consultative Committee as quickly as possible to consider it.

3. The Consultative Committee, taking account of efforts made under paragraph 1, shall afford the Party complained of a reasonable opportunity to provide it with an explanation of the matter.

4. If, after considering any explanation given to it by the representatives of the Party complained of, the Consultative Committee decides that there is sufficient substance in the complaint to warrant a special inspection in the territory of that Party or elsewhere, the Consultative Committee shall direct that such special inspection be made as quickly as possible by a special inspection team of three suitably qualified special inspectors appointed by the Consultative Committee in consultation with the complained of and complainant Parties, provided that no national of either Party shall serve on the special inspection team. If so requested by the Party complained of, the special inspection team shall be accompanied by representatives of that Party. Neither the right of consultation on the appointment of special inspectors, nor the right to accompany special inspectors, shall delay the work of the special inspection team.

5. In making a special inspection, special inspectors shall be subject to the direction only of the Consultative Committee and shall comply with such directives concerning tasks, objectives, confidentiality and procedures as may be decided upon by it. Directives shall take account of the legitimate interests of the Party complained of in complying with its other international obligations and commitments and shall not duplicate safeguards procedures to be undertaken by the IAEA pursuant to agreements referred to in Annex 2(1). The special inspectors shall discharge their duties with due respect for the laws of the Party complained of.

6. Each Party shall give to special inspectors full and free access to all information and places within its territory which may be relevant to enable the special inspectors to implement the directives given to them by the Consultative Committee.

7. Each Party complained of shall take all appropriate steps to facilitate the special inspection, and shall grant to special inspectors privileges and immunities necessary for the performance of their functions, including inviolability for all papers and documents and immunity from arrest, detention and legal process for acts done and words spoken and written, for the purpose of the special inspection.

8. The special inspectors shall report in writing as quickly as possible to the Consultative Committee, outlining their activities, setting out relevant facts and information as ascertained by them, with supporting evidence and documentation as appropriate, and stating their conclusions. The Consultative Committee shall report fully to all Members of the South Pacific Forum, giving its decision as to whether the Party complained of is in breach of its obligations under this Treaty.

9. If the Consultative Committee has decided that the Party complained of is in breach of its obligations under this Treaty, or that the above provisions have not been complied with, or at any time at the request of either the complainant or complained of Party, the Parties shall meet promptly at a meeting of the South Pacific Forum.

### Protocol 1

The Parties to this Protocol

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty)

Have agreed as follows:

#### Article 1

Each Party undertakes to apply, in respect of the territories for which it is internationally responsible situated within the South Pacific Nuclear Free Zone, the prohibitions contained in Articles 3, 5 and 6, insofar as they relate to the manufacture, stationing and testing of any nuclear explosive device within those territories, and the safeguards specified in Article 8(2)(c) and Annex 2 of the Treaty.

#### Article 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligations under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty.

#### Article 3

This Protocol shall be open for signature by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

#### Article 4

This Protocol shall be subject to ratification.

#### Article 5

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

In witness whereof the undersigned, being duly authorised by their Governments, have signed this Protocol.

Done at Rarotonga this sixth day of August one thousand nine hundred and eighty-five, in a single original in the English language.

**Protocol 2**

The Parties to this Protocol

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty)

Have agreed as follows:

*Article 1*

Each Party undertakes not to contribute to any act which constitutes a violation of the Treaty or its Protocols by Parties to them.

*Article 2*

Each Party further undertakes not to use or threaten to use any nuclear explosive device against:

- (a) Parties to the Treaty; or
- (b) any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol I is internationally responsible.

*Article 3*

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligations under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

*Article 4*

This Protocol shall be open for signature by France, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

*Article 5*

This Protocol shall be subject to ratification.

*Article 6*

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

In witness whereof the undersigned, being duly authorised by their Governments, have signed this Protocol.

Done at Rarotonga this sixth day of August one thousand nine hundred and eighty-five, in a single original in the English language.

**Protocol 3**

The Parties to this Protocol

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty)

Have agreed as follows:

*Article 1*

Each Party undertakes not to test any nuclear explosive device anywhere within the South Pacific Nuclear Free Zone.

*Article 2*

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

*Article 3*

This Protocol shall be open for signature by France, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

*Article 4*

This Protocol shall be subject to ratification.

## CONVENTION CONCERNING SAFETY IN THE USE OF ASBESTOS [42]

Geneva, 24 June 1986

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 Seventy-second Session on 4 June 1986, and

Noting the relevant international labour Conventions and Recommendations, and in particular the Occupational Cancer Convention and Recommendation, 1974, the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977, the Occupational Safety and Health Convention and Recommendation, 1981, the Occupational Health Services Convention and Recommendation, 1985, the list of occupational diseases as revised in 1980 appended to the Employment Injury Benefits Convention, 1964, as well as the *Code of practice on safety in the use of asbestos*, published by the International Labour Office in 1984, which establish the principles of national policy and action at the national level,

Having decided upon the adoption of certain proposals with regard to safety in the use of asbestos, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

Adopts this twenty-fourth day of June of the year one thousand nine hundred and eighty-six the following Convention, which may be cited as the Asbestos Convention, 1986:

### Part I

#### SCOPE AND DEFINITIONS

##### Article 1

1. This Convention applies to all activities involving exposure of workers to asbestos in the course of work.
2. A Member ratifying this Convention may, after consultation with the most representative organisations of employers and workers concerned, and on the basis of an assessment of the health hazards involved and the safety measures applied, exclude particular branches of economic activity or particular undertakings from the application of certain provisions of the Convention when it is satisfied that their application to these branches or undertakings is unnecessary.
3. The competent authority, when deciding on the exclusion of particular branches of economic activity or particular undertakings, shall take into account the frequency, duration and level of exposure, as well

as the type of work and the conditions at the workplace.

##### Article 2

For the purpose of this Convention:

- (a) the term "asbestos" means the fibrous form of mineral silicates belonging to rock-forming minerals of the serpentine group, i.e. chrysotile (white asbestos), and of the amphibole group, i.e. actinolite, amosite (brown asbestos, cummingtonite-grunerite), anthophyllite, crocidolite (blue asbestos), tremolite, or any mixture containing one or more of these;
- (b) the term "asbestos dust" means airborne particles of asbestos or settled particles of asbestos which are liable to become airborne in the working environment;
- (c) the term "airborne asbestos dust" means, for purposes of measurement, dust particles measured by gravimetric assessment or other equivalent method;
- (d) the term "respirable asbestos fibres" means asbestos fibres having a diameter of less than 3  $\mu\text{m}$  and a length-to-diameter ratio greater than 3:1. Only fibres of a length greater than 5  $\mu\text{m}$  shall be taken into account for purposes of measurement;
- (e) the term "exposure to asbestos" means exposure at work to airborne respirable asbestos fibres or asbestos dust, whether originating from asbestos or from minerals, materials or products containing asbestos;
- (f) the term "workers" includes the members of production co-operatives;
- (g) the term "workers' representatives" means the workers' representatives recognised as such by national law or practice, in conformity with the Workers' Representatives Convention, 1971.

### Part II

#### GENERAL PRINCIPLES

##### Article 3

1. National laws or regulations shall prescribe the measures to be taken for the prevention and control of, and protection of workers against, health hazards due to occupational exposure to asbestos.
2. National laws and regulations drawn up in pursuance of paragraph 1 of this Article shall be periodically reviewed in the light of technical progress and advances in scientific knowledge.
3. The competent authority may permit temporary derogations from the measures prescribed pursuant to paragraph 1 of this Article, under conditions and within limits of time to be determined after consultation with the most representative organisations of employers and workers concerned.

4. In granting derogations in pursuance of paragraph 3 of this Article, the competent authority shall ensure that the necessary precautions are taken to protect the workers' health.

#### Article 4

The competent authority shall consult the most representative organisations of employers and workers concerned on the measures to be taken to give effect to the provisions of this Convention.

#### Article 5

1. The enforcement of the laws and regulations adopted pursuant to Article 3 of this Convention shall be secured by an adequate and appropriate system of inspection.

2. National laws or regulations shall provide for the necessary measures, including appropriate penalties, to ensure effective enforcement of and compliance with the provisions of this Convention.

#### Article 6

1. Employers shall be made responsible for compliance with the prescribed measures.

2. Whenever two or more employers undertake activities simultaneously at one workplace, they shall co-operate in order to comply with the prescribed measures, without prejudice to the responsibility of each employer for the health and safety of the workers he employs. The competent authority shall prescribe the general procedures of this co-operation when it is necessary.

3. Employers shall, in co-operation with the occupational safety and health services, and after consultation with the workers' representatives concerned, prepare procedures for dealing with emergency situations.

#### Article 7

Workers shall be required, within the limits of their responsibility, to comply with prescribed safety and hygiene procedures relating to the prevention and control of, and protection against, health hazards due to occupational exposure to asbestos.

#### Article 8

Employers and workers or their representatives shall co-operate as closely as possible at all levels in the undertaking in the application of the measures prescribed pursuant to this Convention.

### Part III

#### PROTECTIVE AND PREVENTIVE MEASURES

#### Article 9

The national laws or regulations adopted pursuant to Article 3 of this Convention shall provide that exposure to asbestos shall be prevented or controlled by one or more of the following measures:

(a) making work in which exposure to asbestos may occur subject to regulations prescribing adequate engineering controls and work practices, including workplace hygiene;

(b) prescribing special rules and procedures, including authorisation, for the use of asbestos or of certain types of asbestos or products containing asbestos or for certain work processes.

#### Article 10

Where necessary to protect the health of workers and technically practicable, national laws or regulations shall provide for one or more of the following measures:

(a) replacement of asbestos or of certain types of asbestos or products containing asbestos by other materials or products or the use of alternative technology, scientifically evaluated by the competent authority as harmless or less harmful, whenever this is possible;

(b) total or partial prohibition of the use of asbestos or of certain types of asbestos or products containing asbestos in certain work processes.

#### Article 11

1. The use of crocidolite and products containing this fibre shall be prohibited.

2. The competent authority shall be empowered, after consultation with the most representative organisations of employers and workers concerned, to permit derogations from the prohibition contained in paragraph 1 of this Article when replacement is not reasonably practicable, provided that steps are taken to ensure that the health of workers is not placed at risk.

#### Article 12

1. Spraying of all forms of asbestos shall be prohibited.

2. The competent authority shall be empowered, after consultation with the most representative organisations of employers and workers concerned, to permit derogations from the prohibition contained in paragraph 1 of this Article when alternative methods are not reasonably practicable, provided that steps are taken to ensure that the health of workers is not placed at risk.

*Article 13*

National laws and regulations shall provide that employers shall notify to the competent authority, in a manner and to the extent prescribed by it, certain types of work involving exposure to asbestos.

*Article 14*

Producers and suppliers of asbestos and manufacturers and suppliers of products containing asbestos shall be made responsible for adequate labelling of the container and, where appropriate, the product, in a language and manner easily understood by the workers and the users concerned, as prescribed by the competent authority.

*Article 15*

1. The competent authority shall prescribe limits for the exposure of workers to asbestos or other exposure criteria for the evaluation of the working environment.

2. The exposure limits or other exposure criteria shall be fixed and periodically reviewed and updated in the light of technological progress and advances in technological and scientific knowledge.

3. In all workplaces where workers are exposed to asbestos, the employer shall take all appropriate measures to prevent or control the release of asbestos dust into the air, to ensure that the exposure limits or other exposure criteria are complied with and also to reduce exposure to as low a level as is reasonably practicable.

4. When the measures taken in pursuance of paragraph 3 of this Article do not bring exposure to asbestos within the exposure limits or do not comply with the other exposure criteria specified in pursuance of paragraph 1 of this Article, the employer shall provide, maintain and replace, as necessary, at no cost to the workers, adequate respiratory protective equipment and special protective clothing as appropriate. Respiratory protective equipment shall comply with standards set by the competent authority, and be used only as a supplementary, temporary, emergency or exceptional measure and not as an alternative to technical control.

*Article 16*

Each employer shall be made responsible for the establishment and implementation of practical measures for the prevention and control of the exposure of the workers he employs to asbestos and for their protection against the hazards due to asbestos.

*Article 17*

1. Demolition of plants or structures containing friable asbestos insulation materials, and removal of

asbestos from buildings or structures in which asbestos is liable to become airborne, shall be undertaken only by employers or contractors who are recognised by the competent authority as qualified to carry out such work in accordance with the provisions of this Convention and who have been empowered to undertake such work.

2. The employer or contractor shall be required before starting demolition work to draw up a work plan specifying the measures to be taken, including measures to:

- (a) provide all necessary protection to the workers;
- (b) limit the release of asbestos dust into the air; and
- (c) provide for the disposal of waste containing asbestos in accordance with Article 19 of this Convention.

3. The workers or their representatives shall be consulted on the work plan referred to in paragraph 2 of this Article.

*Article 18*

1. Where workers' personal clothing may become contaminated with asbestos dust, the employer, in accordance with national laws or regulations and in consultation with the workers' representatives, shall provide appropriate work clothing, which shall not be worn outside the workplace.

2. The handling and cleaning of used work clothing and special protective clothing shall be carried out under controlled conditions, as required by the competent authority, to prevent the release of asbestos dust.

3. National laws or regulations shall prohibit the taking home of work clothing and special protective clothing and of personal protective equipment.

4. The employer shall be responsible for the cleaning, maintenance and storage of work clothing, special protective clothing and personal protective equipment.

5. The employer shall provide facilities for workers exposed to asbestos to wash, take a bath or shower at the workplace, as appropriate.

*Article 19*

1. In accordance with national law and practice, employers shall dispose of waste containing asbestos in a manner that does not pose a health risk to the workers concerned, including those handling asbestos waste, or to the population in the vicinity of the enterprise.

2. Appropriate measures shall be taken by the competent authority and by employers to prevent pollution of the general environment by asbestos dust released from the workplace.



**Part IV****SURVEILLANCE OF THE WORKING  
ENVIRONMENT AND WORKERS' HEALTH***Article 20*

1. Where it is necessary for the protection of the health of workers, the employer shall measure the concentrations of airborne asbestos dust in workplaces, and shall monitor the exposure of workers to asbestos at intervals and using methods specified by the competent authority.
2. The records of the monitoring of the working environment and of the exposure of workers to asbestos shall be kept for a period prescribed by the competent authority.
3. The workers concerned, their representatives and the inspection services shall have access to these records.
4. The workers or their representatives shall have the right to request the monitoring of the working environment and to appeal to the competent authority concerning the results of the monitoring.

*Article 21*

1. Workers who are or have been exposed to asbestos shall be provided, in accordance with national law and practice, with such medical examinations as are necessary to supervise their health in relation to the occupational hazard, and to diagnose occupational diseases caused by exposure to asbestos.
2. The monitoring of workers' health in connection with the use of asbestos shall not result in any loss of earnings for them. It shall be free of charge and, as far as possible, shall take place during working hours.
3. Workers shall be informed in an adequate and appropriate manner of the results of their medical examinations and receive individual advice concerning their health in relation to their work.
4. When continued assignment to work involving exposure to asbestos is found to be medically inadvisable, every effort shall be made, consistent with national conditions and practice, to provide the workers concerned with other means of maintaining their income.
5. The competent authority shall develop a system of notification of occupational diseases caused by asbestos.

**Part V****INFORMATION AND EDUCATION***Article 22*

1. The competent authority shall make appropriate arrangements, in consultation and collaboration with the most representative organisations of employers and workers concerned, to promote the dissemination of information and the education of all concerned with regard to health hazards due to exposure to asbestos and to methods of prevention and control.
2. The competent authority shall ensure that employers have established written policies and procedures on measures for the education and periodic training of workers on asbestos hazards and methods of prevention and control.
3. The employer shall ensure that all workers exposed or likely to be exposed to asbestos are informed about the health hazards related to their work, instructed in preventive measures and correct work practices and receive continuing training in these fields.

**Part VI****FINAL PROVISIONS***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 ratification 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 shall 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 it 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, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the 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.

## CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT [43]

Vienna, 26 September 1986

The States Parties to this Convention,

Aware that nuclear activities are being carried out in a number of States,

Noting that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

Desiring to strengthen further international co-operation in the safe development and use of nuclear energy,

Convinced of the need for States to provide relevant information about nuclear accidents as early as possible in order that transboundary radiological consequences can be minimized,

Noting the usefulness of bilateral and multilateral arrangements on information exchange in this area,

Have agreed as follows:

#### Article 1

##### SCOPE OF APPLICATION

1. This Convention shall apply in the event of any accident involving facilities or activities of a State Party or of persons or legal entities under its jurisdiction or control, referred to in paragraph 2 below, from which a release of radioactive material occurs or is likely to occur and which has resulted or may result in an international transboundary release that could be of radiological safety significance for another State.

2. The facilities and activities referred to in paragraph 1 are the following:

- (a) any nuclear reactor wherever located;
- (b) any nuclear fuel cycle facility;
- (c) any radioactive waste management facility;
- (d) the transport and storage of nuclear fuels or radioactive wastes;
- (e) the manufacture, use, storage, disposal and transport of radioisotopes for agricultural, industrial, medical and related scientific and research purposes; and
- (f) the use of radioisotopes for power generation in space objects.

#### Article 2

##### NOTIFICATION AND INFORMATION

In the event of an accident specified in article 1 (hereinafter referred to as a "nuclear accident"), the State Party referred to in that article shall:

- (a) forthwith notify, directly or through the International Atomic Energy Agency (hereinafter

referred to as the "Agency"), those States which are or may be physically affected as specified in article 1 and the Agency of the nuclear accident, its nature, the time of its occurrence and its exact location where appropriate; and

(b) promptly provide the States referred to in subparagraph (a), directly or through the Agency, and the Agency with such available information relevant to minimizing the radiological consequences in those States, as specified in article 5.

### Article 3

#### OTHER NUCLEAR ACCIDENTS

With a view to minimizing the radiological consequences, States Parties may notify in the event of nuclear accidents other than those specified in article 1.

### Article 4

#### FUNCTIONS OF THE AGENCY

The Agency shall:

(a) forthwith inform States Parties, other States which are or may be physically affected as specified in article 1 and relevant international intergovernmental organizations (hereinafter referred to as "international organizations") of a notification received pursuant to subparagraph (a) of article 2; and

(b) promptly provide any State Party, Member State or relevant international organization, upon request, with the information received pursuant to subparagraph (b) of article 2.

### Article 5

#### INFORMATION TO BE PROVIDED

1. The information to be provided pursuant to subparagraph (b) of article 2 shall comprise the following data as then available to the notifying State Party:

(a) the time, exact location where appropriate, and the nature of the nuclear accident;

(b) the facility or activity involved;

(c) the assumed or established cause and the foreseeable development of the nuclear accident relevant to the transboundary release of the radioactive materials;

(d) the general characteristics of the radioactive release, including, as far as is practicable and appropriate, the nature, probable physical and chemical form and the quantity, composition and effective height of the radioactive release;

(e) information on current and forecast meteorological and hydrological conditions, necessary for forecasting the transboundary release of the radioactive materials;

(f) the results of environmental monitoring relevant to the transboundary release of the radioactive materials;

(g) the off-site protective measures taken or planned;

(h) the predicted behaviour over time of the radioactive release.

2. Such information shall be supplemented at appropriate intervals by further relevant information on the development of the emergency situation, including its foreseeable or actual termination.

3. Information received pursuant to subparagraph (b) of article 2 may be used without restriction, except when such information is provided in confidence by the notifying State Party.

### Article 6

#### CONSULTATIONS

A State Party providing information pursuant to subparagraph (b) of article 2 shall, as far as is reasonably practicable, respond promptly to a request for further information or consultations sought by an affected State Party with a view to minimizing the radiological consequences in that State.

### Article 7

#### COMPETENT AUTHORITIES AND POINTS OF CONTACT

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact responsible for issuing and receiving the notification and information referred to in article 2. Such points of contact and a focal point within the Agency shall be available continuously.

2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.

3. The Agency shall maintain an up-to-date list of such national authorities and points of contact as well as points of contact of relevant international organizations and shall provide it to States Parties and Member States and to relevant international organizations.

### Article 8

#### ASSISTANCE TO STATES PARTIES

The Agency shall, in accordance with its Statute and upon a request of a State Party which does not have nuclear activities itself and borders on a State having an active nuclear programme but not Party, conduct investigations into the feasibility and establishment of an appropriate radiation monitoring system in order to facilitate the achievement of the objectives of this Convention.

*Article 9*BILATERAL AND MULTILATERAL  
ARRANGEMENTS

In furtherance of their mutual interests, States Parties may consider, where deemed appropriate, the conclusion of bilateral or multilateral arrangements relating to the subject matter of this Convention.

*Article 10*RELATIONSHIP TO OTHER INTERNATIONAL  
AGREEMENTS

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

*Article 11*

## SETTLEMENT OF DISPUTES

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

*Article 12*

## ENTRY INTO FORCE

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfil the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

*Article 13*

## PROVISIONAL APPLICATION

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

*Article 14*

## AMENDMENTS

1. A State Party may propose amendments to this Convention. The proposed amendment shall be

submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

#### *Article 15*

##### DENUNCIATION

1. A State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

#### *Article 16*

##### DEPOSITARY

1. The Director General of the Agency shall be the depositary of this Convention.

2. The Director General of the Agency shall promptly notify States Parties and all other States of:

- (a) each signature of this Convention or any protocol of amendment;
- (b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;
- (c) any declaration or withdrawal thereof in accordance with article 11;
- (d) any declaration of provisional application of this Convention in accordance with article 13;
- (e) the entry into force of this Convention and of any amendment thereto; and
- (f) any denunciation made under article 15.

#### *Article 17*

##### AUTHENTIC TEXTS AND CERTIFIED COPIES

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

In witness whereof the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 12.

Adopted by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.

## CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY [44]

Vienna, 26 September 1986

The States Parties to this Convention,

Aware that nuclear activities are being carried out in a number of States,

Noting that comprehensive measures have been and are being taken to ensure a high level of safety in nuclear activities, aimed at preventing nuclear accidents and minimizing the consequences of any such accident, should it occur,

Desiring to strengthen further international co-operation in the safe development and use of nuclear energy,

Convinced of the need for an international framework which will facilitate the prompt provision of assistance in the event of a nuclear accident or radiological emergency to mitigate its consequences,

Noting the usefulness of bilateral and multilateral arrangements on mutual assistance in this area,

Noting the activities of the International Atomic Energy Agency in developing guidelines for mutual emergency assistance arrangements in connection with a nuclear accident or radiological emergency,

Have agreed as follows:

### Article 1

#### GENERAL PROVISIONS

1. The States Parties shall cooperate between themselves and with the International Atomic Energy Agency (hereinafter referred to as the "Agency") in accordance with the provisions of this Convention to facilitate prompt assistance in the event of a nuclear accident or radiological emergency to minimize its consequences and to protect life, property and the environment from the effects of radioactive releases.

2. To facilitate such cooperation States Parties may agree on bilateral or multilateral arrangements or, where appropriate, a combination of these, for preventing or minimizing injury and damage which may result in the event of a nuclear accident or radiological emergency.

3. The States Parties request the Agency, acting within the framework of its Statute, to use its best endeavours in accordance with the provisions of this Convention to promote, facilitate and support the cooperation between States Parties provided for in this Convention.

### Article 2

#### PROVISION OF ASSISTANCE

1. If a State Party needs assistance in the event of a nuclear accident or radiological emergency, whether or not such accident or emergency originates within

its territory, jurisdiction or control, it may call for such assistance from any other State Party, directly or through the Agency, and from the Agency; or, where appropriate, from other international inter-governmental organizations (hereinafter referred to as "international organizations").

2. A State Party requesting assistance 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 State Party to specify the scope and type of assistance required, the requesting State Party and the assisting party shall, in consultation, decide upon the scope and type of assistance required.

3. Each State Party to which a request for such assistance is directed shall promptly decide and notify the requesting State Party, directly or through the Agency, whether it is in a position to render the assistance requested, and the scope and terms of the assistance that might be rendered.

4. States Parties shall, within the limits of their capabilities, identify and notify the Agency of experts, equipment and materials which could be made available for the provision of assistance to other States Parties in the event of a nuclear accident or radiological emergency as well as the terms, especially financial, under which such assistance could be provided.

5. Any State Party may request assistance relating to medical treatment or temporary relocation into the territory of another State Party of people involved in a nuclear accident or radiological emergency.

6. The Agency shall respond, in accordance with its Statute and as provided for in this Convention, to a requesting State Party's or a Member State's request for assistance in the event of a nuclear accident or radiological emergency by:

(a) making available appropriate resources allocated for this purpose;

(b) transmitting promptly the request to other States and international organizations which, according to the Agency's information, may possess the necessary resources; and

(c) if so requested by the requesting State, co-ordinating the assistance at the international level which may thus become available.

### Article 3

#### DIRECTION AND CONTROL OF ASSISTANCE

Unless otherwise agreed:

(a) the overall direction, control, coordination and supervision of the assistance shall be the responsibility within its territory of the requesting State. The assisting party should, where the assistance involves personnel, designate in consul-

tation with the requesting State, the person who should be in charge of and retain immediate operational supervision over the personnel and the equipment provided by it. The designated person should exercise such supervision in cooperation with the appropriate authorities of the requesting State;

(b) the requesting State shall provide, to the extent of its capabilities, 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 purpose;

(c) ownership of equipment and materials provided by either party during the periods of assistance shall be unaffected, and their return shall be ensured;

(d) a State Party providing assistance in response to a request under paragraph 5 of article 2 shall coordinate that assistance within its territory.

#### Article 4

##### COMPETENT AUTHORITIES AND POINTS OF CONTACT

1. Each State Party shall make known to the Agency and to other States Parties, directly or through the Agency, its competent authorities and point of contact authorized to make and receive requests for and to accept offers of assistance. Such points of contact and a focal point within the Agency shall be available continuously.

2. Each State Party shall promptly inform the Agency of any changes that may occur in the information referred to in paragraph 1.

3. The Agency shall regularly and expeditiously provide to States Parties, Member States and relevant international organizations the information referred to in paragraphs 1 and 2.

#### Article 5

##### FUNCTIONS OF THE AGENCY

The States Parties request the Agency, in accordance with paragraph 3 of article 1 and without prejudice to other provisions of this Convention, to:

(a) collect and disseminate to States Parties and Member States information concerning:

(i) experts, equipment and materials which could be made available in the event of nuclear accidents or radiological emergencies;

(ii) methodologies, techniques and available results of research relating to response to nuclear accidents or radiological emergencies;

(b) assist a State Party or a Member State when requested in any of the following or other appropriate matters:

(i) preparing both emergency plans in the case of nuclear accidents and radiological emergencies and the appropriate legislation;

(ii) developing appropriate training programmes for personnel to deal with nuclear accidents and radiological emergencies;

(iii) transmitting requests for assistance and relevant information in the event of a nuclear accident or radiological emergency;

(iv) developing appropriate radiation monitoring programmes, procedures and standards;

(v) conducting investigations into the feasibility of establishing appropriate radiation monitoring systems;

(c) make available to a State Party or a Member State requesting assistance in the event of a nuclear accident or radiological emergency appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency;

(d) offer its good offices to the States Parties and Member States in the event of a nuclear accident or radiological emergency;

(e) establish and maintain liaison with relevant international organizations for the purposes of obtaining and exchanging relevant information and data, and make a list of such organizations available to States Parties, Member States and the aforementioned organizations.

#### Article 6

##### CONFIDENTIALITY AND PUBLIC STATEMENTS

1. The requesting State and the assisting party shall protect the confidentiality of any confidential information that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such information shall be used exclusively for the purpose of the assistance agreed upon.

2. The assisting party shall make every effort to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a nuclear accident or radiological emergency.

#### Article 7

##### REIMBURSEMENT OF COSTS

1. An assisting party may offer assistance without costs to the requesting State. When considering whether to offer assistance on such a basis, the assisting party shall take into account:

(a) the nature of the nuclear accident or radiological emergency;

(b) the place of origin of the nuclear accident or radiological emergency;

(c) the needs of developing countries;

(d) the particular needs of countries without nuclear facilities; and

(e) any other relevant factors.

2. When assistance is provided wholly or partly on a reimbursement basis, the requesting State shall

reimburse the assisting party for the costs incurred for the services rendered by persons or organizations acting on its behalf, and for all expenses in connection with the assistance to the extent that such expenses are not directly defrayed by the requesting State. Unless otherwise agreed, reimbursement shall be provided promptly after the assisting party has presented its request for reimbursement to the requesting State, and in respect of costs other than local costs, shall be freely transferable.

3. Notwithstanding paragraph 2, the assisting party may at any time waive, or agree to the postponement of, the reimbursement in whole or in part. In considering such waiver or postponement, assisting parties shall give due consideration to the needs of developing countries.

#### Article 8

##### PRIVILEGES, IMMUNITIES AND FACILITIES

1. The requesting State shall afford to personnel of the assisting party and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their assistance functions.

2. The requesting State shall afford the following privileges and immunities to personnel of the assisting party or personnel acting on its behalf who have been duly notified to and accepted by the requesting State:

(a) immunity from arrest, detention and legal process, including criminal, civil and administrative jurisdiction, of the requesting State, in respect of acts or omissions in the performance of their duties; and

(b) exemption from taxation, duties or other charges except those which are normally incorporated in the price of goods or paid for services rendered, in respect of the performance of their assistance functions.

3. The requesting State shall:

(a) afford the assisting party exemption from taxation, duties or other charges on the equipment and property brought into the territory of the requesting State by the assisting party for the purpose of the assistance; and

(b) provide immunity from seizure, attachment or requisition of such equipment and property.

4. The requesting State shall ensure the return of such equipment and property. If requested by the assisting party, the requesting State shall arrange, to the extent it is able to do so, for the necessary decontamination of recoverable equipment involved in the assistance before its return.

5. The requesting State shall facilitate the entry into, stay in and departure from its national territory of personnel notified pursuant to paragraph 2 and of equipment and property involved in the assistance.

6. Nothing in this article shall require the requesting State to provide its nationals or

permanent residents with the privileges and immunities provided for in the foregoing paragraphs.

7. Without prejudice to the privileges and immunities, all beneficiaries enjoying such privileges and immunities under this article have a duty to respect the laws and regulations of the requesting State. They shall also have the duty not to interfere in the domestic affairs of the requesting State.

8. Nothing in this article shall prejudice rights and obligations with respect to privileges and immunities afforded pursuant to other international agreements or the rules of customary international law.

9. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound in whole or in part by paragraphs 2 and 3.

10. A State Party which has made a declaration in accordance with paragraph 9 may at any time withdraw it by notification to the depositary.

#### Article 9

##### TRANSIT OF PERSONNEL, EQUIPMENT AND PROPERTY

Each State Party shall, at the request of the requesting State or the assisting party, seek to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance to and from the requesting State.

#### Article 10

##### CLAIMS AND COMPENSATION

1. The States Parties shall closely cooperate in order to facilitate the settlement of legal proceedings and claims under this article.

2. Unless otherwise agreed, a requesting State shall in respect of death or of injury to persons, damage to or loss of property, or damage to the environment caused within its territory or other area under its jurisdiction or control in the course of providing the assistance requested:

(a) not bring any legal proceedings against the assisting party or persons or other legal entities acting on its behalf;

(b) assume responsibility for dealing with legal proceedings and claims brought by third parties against the assisting party or against persons or other legal entities acting on its behalf;

(c) hold the assisting party or persons or other legal entities acting on its behalf harmless in respect of legal proceedings and claims referred to in subparagraph (b); and

(d) compensate the assisting party or persons or other legal entities acting on its behalf for:

(i) death of or injury to personnel of the assisting party or persons acting on its behalf;



(ii) loss of or damage to non-consumable equipment or materials related to the assistance; except in cases of wilful misconduct by the individuals who caused the death, injury, loss or damage.

3. This article shall not prevent compensation or indemnity available under any applicable international agreement or national law of any State.

4. Nothing in this article shall require the requesting State to apply paragraph 2 in whole or in part to its nationals or permanent residents.

5. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare:

(a) that it does not consider itself bound in whole or in part by paragraph 2;

(b) that it will not apply paragraph 2 in whole or in part in cases of gross negligence by the individuals who caused the death, injury, loss or damage.

6. A State Party which has made a declaration in accordance with paragraph 5 may at any time withdraw it by notification to the depositary.

#### Article 11

##### TERMINATION OF ASSISTANCE

The requesting State or the assisting party may at any time, after appropriate consultations and by notification in writing, request the termination of assistance received or provided under this Convention. Once such a request has been made, the parties involved shall consult with each other to make arrangements for the proper conclusion of the assistance.

#### Article 12

##### RELATIONSHIP TO OTHER INTERNATIONAL AGREEMENTS

This Convention shall not affect the reciprocal rights and obligations of States Parties under existing international agreements which relate to the matters covered by this Convention, or under future international agreements concluded in accordance with the object and purpose of this Convention.

#### Article 13

##### SETTLEMENT OF DISPUTES

1. In the event of a dispute between States Parties, or between a State Party and the Agency, concerning the interpretation or application of this Convention, the parties to the dispute shall consult with a view to the settlement of the dispute by negotiation or by any other peaceful means of settling disputes acceptable to them.

2. If a dispute of this character between States Parties cannot be settled within one year from the request for consultation pursuant to paragraph 1, it shall, at the request of any party to such dispute, be

submitted to arbitration or referred to the International Court of Justice for decision. Where a dispute is submitted to arbitration, if, within six months from the date of the request, the parties to the dispute are unable to agree on the organization of the arbitration, a party may request the President of the International Court of Justice or the Secretary-General of the United Nations to appoint one or more arbitrators. In cases of conflicting requests by the parties to the dispute, the request to the Secretary-General of the United Nations shall have priority.

3. When signing, ratifying, accepting, approving or acceding to this Convention, a State may declare that it does not consider itself bound by either or both of the dispute settlement procedures provided for in paragraph 2. The other States Parties shall not be bound by a dispute settlement procedure provided for in paragraph 2 with respect to a State Party for which such a declaration is in force.

4. A State Party which has made a declaration in accordance with paragraph 3 may at any time withdraw it by notification to the depositary.

#### Article 14

##### ENTRY INTO FORCE

1. This Convention shall be open for signature by all States and Namibia, represented by the United Nations Council for Namibia, at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York, from 26 September 1986 and 6 October 1986 respectively, until its entry into force or for twelve months, whichever period is longer.

2. A State and Namibia, represented by the United Nations Council for Namibia, may express its consent to be bound by this Convention either by signature, or by deposit of an instrument of ratification, acceptance or approval following signature made subject to ratification, acceptance or approval, or by deposit of an instrument of accession. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. This Convention shall enter into force thirty days after consent to be bound has been expressed by three States.

4. For each State expressing consent to be bound by this Convention after its entry into force, this Convention shall enter into force for that State thirty days after the date of expression of consent.

5. (a) This Convention shall be open for accession, as provided for in this article, by international organizations and regional integration organizations constituted by sovereign States, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention.

(b) In matters within their competence such organizations shall, on their own behalf, exercise the rights and fulfil the obligations which this Convention attributes to States Parties.

(c) When depositing its instrument of accession, such an organization shall communicate to the depositary a declaration indicating the extent of its competence in respect of matters covered by this Convention.

(d) Such an organization shall not hold any vote additional to those of its Member States.

#### Article 15

##### PROVISIONAL APPLICATION

A State may, upon signature or at any later date before this Convention enters into force for it, declare that it will apply this Convention provisionally.

#### Article 16

##### AMENDMENTS

1. A State Party may propose amendments to this Convention. The proposed amendment shall be submitted to the depositary who shall circulate it immediately to all other States Parties.

2. If a majority of the States Parties request the depositary to convene a conference to consider the proposed amendments, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment adopted at the conference by a two-thirds majority of all States Parties shall be laid down in a protocol which is open to signature in Vienna and New York by all States Parties.

3. The protocol shall enter into force thirty days after consent to be bound has been expressed by three States. For each State expressing consent to be bound by the protocol after its entry into force, the protocol shall enter into force for that State thirty days after the date of expression of consent.

#### Article 17

##### DENUNCIATION

1. A State Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date on which the notification is received by the depositary.

#### Article 18

##### DEPOSITARY

1. The Director General of the Agency shall be the depositary of this Convention.

2. The Director General of the Agency shall promptly notify States Parties and all other States of:

(a) each signature of this Convention or any protocol of amendment;

(b) each deposit of an instrument of ratification, acceptance, approval or accession concerning this Convention or any protocol of amendment;

(c) any declaration or withdrawal thereof in accordance with articles 8, 10 and 13;

(d) any declaration of provisional application of this Convention in accordance with article 15;

(e) the entry into force of this Convention and of any amendment thereto; and

(f) any denunciation made under article 17.

#### Article 19

##### AUTHENTIC TEXTS AND CERTIFIED COPIES

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Director General of the International Atomic Energy Agency who shall send certified copies to States Parties and all other States.

In witness whereof the undersigned, being duly authorized, have signed this Convention, open for signature as provided for in paragraph 1 of article 14.

Adopted by the General Conference of the International Atomic Energy Agency meeting in special session at Vienna on the twenty-sixth day of September one thousand nine hundred and eighty-six.

## CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION [45]

Noumea, 24 November 1986

The Parties,

Fully aware of the economic and social value of the natural resources of the environment of the South Pacific Region;

Taking into account the traditions and cultures of the Pacific people as expressed in accepted customs and practices;

Conscious of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations;

Recognizing the special hydrological, geological and ecological characteristics of the region which requires special care and responsible management;

Recognizing further the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the insufficient integration of an environmental dimension into the development process;

Seeking to ensure that resource development shall be in harmony with the maintenance of the unique environmental quality of the region and the evolving principles of sustained resource management;

Realizing fully the need for co-operation amongst themselves and with competent international, regional and sub-regional organizations in order to ensure a co-ordinated and comprehensive development of the natural resources of the region;

Recognizing the desirability for the wider acceptance and national implementation of international agreements already in existence concerning the marine and coastal environment;

Noting, however, that existing international agreements concerning the marine and coastal environment do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the South Pacific Region;

Desirous to adopt the regional convention to strengthen the implementation of the general objective of the Action Plan for Managing the Natural Resources and Environment of the South Pacific Region adopted at Rarotonga, Cook Islands, on 11 March 1982;

Have agreed as follows:

### Article 1

#### GEOGRAPHICAL COVERAGE

1. This Convention shall apply to the South Pacific Region, hereinafter referred to as "the Convention Area" as defined in paragraph (a) of Article 2.

2. Except as may be otherwise provided in any Protocol to this Convention, the Convention Area shall not include internal waters or archipelagic waters of the Parties as defined in accordance with international law.

### Article 2

#### DEFINITIONS

For the purposes of this Convention and its Protocols unless otherwise defined in any such Protocol:

(a) the "Convention Area" shall comprise:

(i) the 200 nautical mile zones established in accordance with international law off:

American Samoa  
Australia (East coast and Islands to eastward including Macquarie Island)  
Cook Islands  
Federated States of Micronesia  
French Polynesia  
Guam  
Kiribati  
Marshall Islands  
Nauru  
New Caledonia and Dependencies  
New Zealand  
Niue  
Northern Mariana Islands  
Palau  
Papua New Guinea  
Pitcairn Islands  
Solomon Islands  
Tokelau  
Tonga  
Tuvalu  
Vanuatu  
Wallis and Futuna  
Western Samoa

(ii) those areas of high seas which are enclosed from all sides by the 200 nautical mile zones referred to in sub-paragraph (i);

(iii) areas of the Pacific Ocean which have been included in the Convention Area pursuant to Article 3;

(b) "dumping" means:

- any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;
- any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea;

"dumping" does not include:

- the disposal 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;  
 — 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;

(c) "wastes or other matter" means material and substances of any kind, form or description;

(d) the following wastes or other matter shall be considered to be non-radioactive: sewage sludge, dredge spoil, fly ash, agricultural wastes, construction materials, vessels, artificial reef building materials and other such materials provided that they have not been contaminated with radio nuclides of anthropogenic origin (except dispersed global fallout from nuclear weapons testing), nor are potential sources of naturally occurring radio nuclides for commercial purposes, nor have been enriched in natural or artificial radio nuclides;

If there is a question as to whether the material to be dumped should be considered non-radioactive, for the purposes of this Convention, such material shall not be dumped unless the appropriate national authority of the proposed dumper confirms that such dumping would not exceed the individual and collective dose limits of the International Atomic Energy Agency general principles for the exemption of radiation sources and practices from regulatory control. The national authority shall also take into account the relevant recommendations, standards and guidelines developed by the International Atomic Energy Agency.

(e) "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;

(f) "pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

In applying this definition to the Convention obligations, the Parties shall use their best endeavours to comply with the appropriate standards and recommendations established by competent international organizations, including the International Atomic Energy Agency;

(g) "Organisation" means the South Pacific Commission;

(h) "Director" means the Director of the South Pacific Bureau for Economic Co-operation.

### Article 3

#### ADDITION TO THE CONVENTION AREA

Any Party may add areas under its jurisdiction within the Pacific Ocean between the Tropic of Cancer and 60 degrees South latitude and between 130 degrees East longitude and 120 degrees West longitude to the Convention Area. Such addition shall be notified to the Depositary who shall promptly notify the other Parties and the Organisation. Such areas shall be incorporated within the Convention Area ninety days after notification to the Parties by the Depositary, provided there has been no objection to the proposal to add new areas by any Party affected by that proposal. If there is any such objection the Parties concerned will consult with a view to resolving the matter.

### Article 4

#### GENERAL PROVISIONS

1. The Parties shall endeavour to conclude bilateral or multilateral agreements, including regional or sub-regional agreements, for the protection, development and management of the marine and coastal environment of the Convention Area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organisation and through it to all Parties to this Convention.

2. Nothing in this Convention or its Protocols shall be deemed to affect obligations assumed by a Party under agreements previously concluded.

3. Nothing in this Convention and its Protocols shall be construed to prejudice or affect the interpretation and application of any provision or term in the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

4. This Convention and its Protocols shall be construed in accordance with international law relating to their subject matter.

5. Nothing in this Convention and its Protocols shall prejudice the present or future claims and legal views of any Party concerning the nature and extent of maritime jurisdiction.

6. Nothing in this Convention shall affect the sovereign right of States to exploit, develop and manage their own natural resources pursuant to their own policies, taking into account their duty to protect and preserve the environment. Each Party shall ensure that activities within its jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of its national jurisdiction.

*Article 5*

## GENERAL OBLIGATIONS

1. The Parties shall endeavour, either individually or jointly, to take all appropriate measures in conformity with international law and in accordance with this Convention and those Protocols in force to which they are party to prevent, reduce and control pollution of the Convention Area, from any source, and to ensure sound environmental management and development of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities. In doing so the Parties shall endeavour to harmonize their policies at the regional level.

2. The Parties shall use their best endeavours to ensure that the implementation of this Convention shall not result in an increase in pollution in the marine environment outside the Convention Area.

3. In addition to the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping and the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, the Parties shall co-operate in the formulation and adoption of other Protocols prescribing agreed measures, procedures and standards to prevent, reduce and control pollution from all sources or in promoting environmental management in conformity with the objectives of this Convention.

4. The Parties shall, taking into account existing internationally recognized rules, standards, practices and procedures, co-operate with competent global, regional and sub-regional organisations to establish and adopt recommended practices, procedures and measures to prevent, reduce and control pollution from all sources and to promote sustained resource management and to ensure the sound development of natural resources in conformity with the objectives of this Convention and its Protocols, and to assist each other in fulfilling their obligations under this Convention and its Protocols.

5. The Parties shall endeavour to establish laws and regulations for the effective discharge of the obligations prescribed in this Convention. Such laws and regulations shall be no less effective than international rules, standards and recommended practices and procedures.

*Article 6*

## POLLUTION FROM VESSELS

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by discharges from vessels, and to ensure the effective application in the Convention Area of the generally accepted international rules and standards established through the competent international organisation or general diplomatic conference relating to the control of pollution from vessels.

*Article 7*

## POLLUTION FROM LAND-BASED SOURCES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources in their territory.

*Article 8*

## POLLUTION FROM SEABED ACTIVITIES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting directly or indirectly from exploration and exploitation of the seabed and its subsoil.

*Article 9*

## AIRBORNE POLLUTION

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from discharges into the atmosphere from activities under their jurisdiction.

*Article 10*

## DISPOSAL OF WASTES

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by dumping from vessels, aircraft, or man-made structures at sea, including the effective application of the relevant internationally recognized rules and procedures relating to the control of dumping of wastes and other matter. The Parties agree to prohibit the dumping of radioactive wastes or other radioactive matter in the Convention Area. Without prejudice to whether or not disposal into the seabed and subsoil of wastes or other matter is "dumping", the Parties agree to prohibit the disposal into the seabed and subsoil of the Convention Area of radioactive wastes or other radioactive matter.

2. This article shall also apply to the continental shelf of a Party where it extends, in accordance with international law, outward beyond the Convention Area.

*Article 11*

## STORAGE OF TOXIC AND HAZARDOUS WASTES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from the storage of toxic and hazardous wastes. In particular, the Parties shall prohibit the storage of radioactive wastes or other radioactive matter in the Convention Area.

*Article 12*

## TESTING OF NUCLEAR DEVICES

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area which might result from the testing of nuclear devices.

*Article 13*

## MINING AND COASTAL EROSION

The Parties shall take all appropriate measures to prevent, reduce and control environmental damage in the Convention Area, in particular coastal erosion caused by coastal engineering, mining activities, sand removal, land reclamation and dredging.

*Article 14*

## SPECIALLY PROTECTED AREAS AND PROTECTION OF WILD FLORA AND FAUNA

The Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems and depleted, threatened or endangered flora and fauna as well as their habitat in the Convention Area. To this end, the Parties shall, as appropriate, establish protected areas, such as parks and reserves, and prohibit or regulate any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are designed to protect. The establishment of such areas shall not affect the rights of other Parties or third States under international law. In addition, the Parties shall exchange information concerning the administration and management of such areas.

*Article 15*

## CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY

1. The Parties shall co-operate in taking all necessary measures to deal with pollution emergencies in the Convention Area, whatever the cause of such emergencies, and to prevent, reduce and control pollution or the threat of pollution resulting therefrom. To this end, the Parties shall develop and promote individual contingency plans and joint contingency plans for responding to incidents involving pollution or the threat thereof in the Convention Area.

2. When a Party becomes aware of a case in which the Convention Area is in imminent danger of being polluted or has been polluted, it shall immediately notify other countries and territories it deems likely to be affected by such pollution, as well as the Organisation. Furthermore it shall inform, as soon as feasible, such other countries and territories and the Organisation of any measures it has itself taken to reduce or control pollution or the threat thereof.

*Article 16*

## ENVIRONMENTAL IMPACT ASSESSMENT

1. The Parties agree to develop and maintain, with the assistance of competent global, regional and sub-regional organisations as requested, technical guidelines and legislation giving adequate emphasis to environmental and social factors to facilitate balanced development of their natural resources and planning of their major projects which might affect the marine environment in such a way as to prevent or minimise harmful impacts on the Convention Area.

2. Each Party shall, within its capabilities, assess the potential effects of such projects on the marine environment, so that appropriate measures can be taken to prevent any substantial pollution of, or significant and harmful changes within, the Convention Area.

3. With respect to the assessment referred to in paragraph 2, each Party shall, where appropriate, invite:

- (a) public comment according to its national procedures;
- (b) other Parties that may be affected to consult with it and submit comments.

The results of these assessments shall be communicated to the Organisation, which shall make them available to interested Parties.

*Article 17*

## SCIENTIFIC AND TECHNICAL CO-OPERATION

1. The Parties shall co-operate, either directly or with the assistance of competent global, regional and sub-regional organisations, in scientific research, environmental monitoring, and the exchange of data and other scientific and technical information related to the purposes of the Convention.

2. In addition, the Parties shall, for the purposes of this Convention, develop and co-ordinate research and monitoring programmes relating to the Convention Area and co-operate, as far as practicable, in the establishment and implementation of regional, sub-regional and international research programmes.

*Article 18*

## TECHNICAL AND OTHER ASSISTANCE

The Parties undertake to co-operate, directly and when appropriate through the competent global, regional and sub-regional organisations, in the provision to other Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention Area, taking into account the special needs of the island developing countries and territories.

*Article 19*

## TRANSMISSION OF INFORMATION

The Parties shall transmit to the Organisation information on the measures adopted by them in the implementation of this Convention and of Protocols to which they are Parties, in such form and at such intervals as the Parties may determine.

*Article 20*

## LIABILITY AND COMPENSATION

The Parties shall co-operate in the formulation and adoption of appropriate rules and procedures in conformity with international law in respect of liability and compensation for damage resulting from pollution of the Convention Area.

*Article 21*

## INSTITUTIONAL ARRANGEMENTS

1. The Organisation shall be responsible for carrying out the following secretariat functions:

- (a) to prepare and convene the meetings of Parties;
- (b) to transmit to the Parties notifications, reports and other information received in accordance with this Convention and its Protocols;
- (c) to perform the functions assigned to it by the Protocols to this Convention;
- (d) to consider enquiries by, and information from, the Parties and to consult with them on questions relating to this Convention and the Protocols;
- (e) to co-ordinate the implementation of co-operative activities agreed upon by the Parties;
- (f) to ensure the necessary co-ordination with other competent global, regional and sub-regional bodies;
- (g) to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions;
- (h) to perform such other functions as may be assigned to it by the Parties; and
- (i) to transmit to the South Pacific Conference and the South Pacific Forum the reports of ordinary and extraordinary meetings of the Parties.

2. Each Party shall designate an appropriate national authority to serve as the channel of communication with the Organisation for the purposes of this Convention.

*Article 22*

## MEETINGS OF THE PARTIES

1. The Parties shall hold ordinary meetings once every two years. Ordinary meetings shall review the implementation of this Convention and its Protocols and, in particular, shall:

- (a) assess periodically the state of the environment in the Convention Area;

- (b) consider the information submitted by the Parties under Article 19;

- (c) adopt, review and amend as required annexes to this Convention and to its Protocols, in accordance with the provisions of Article 25;

- (d) make recommendations regarding the adoption of any Protocols or any amendments to this Convention or its Protocols in accordance with the provisions of Articles 23 and 24;

- (e) establish working groups as required to consider any matters concerning this Convention and its Protocols;

- (f) consider co-operative activities to be undertaken within the framework of this Convention and its Protocols, including their financial and institutional implications and to adopt decisions relating thereto;

- (g) consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its Protocols; and

- (h) adopt by consensus financial rules and budget, prepared in consultation with the Organisation, to determine, *inter alia*, the financial participation of the Parties under this Convention and those Protocols to which they are party.

2. The Organisation shall convene the first ordinary meeting of the Parties not later than one year after the date on which the Convention enters into force in accordance with Article 31.

3. Extraordinary meetings shall be convened at the request of any Party or upon the request of the Organisation, provided that such requests are supported by at least two-thirds of the Parties. It shall be the function of an extraordinary meeting of the Parties to consider those items proposed in the request for the holding of the extraordinary meeting and any other items agreed to by all the Parties attending the meeting.

4. The Parties shall adopt by consensus at their first ordinary meeting, rules of procedure for their meetings.

*Article 23*

## ADOPTION OF PROTOCOLS

1. The Parties may, at a conference of plenipotentiaries, adopt Protocols to this Convention pursuant to paragraph 3 of Article 5.

2. If so requested by a majority of the Parties, the Organisation shall convene a conference of plenipotentiaries for the purpose of adopting Protocols to this Convention.

*Article 24*

## AMENDMENT OF THE CONVENTION AND ITS PROTOCOLS

1. Any Party may propose amendments to this Convention. Amendments shall be adopted by a

conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties.

2. Any Party to this Convention may propose amendments to any Protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties to the Protocol concerned.

3. A proposed amendment to the Convention or any Protocol shall be communicated to the Organisation, which shall promptly transmit such proposal for consideration to all the other Parties.

4. A conference of plenipotentiaries to consider a proposed amendment to the Convention or any Protocol shall be convened not less than ninety days after the requirements for the convening of the Conference have been met pursuant to paragraphs 1 or 2, as the case may be.

5. Any amendment to this Convention shall be adopted by a three-fourths majority vote of the Parties to the Convention which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Convention. Amendments to any Protocol shall be adopted by a three-fourths majority vote of the Parties to the Protocol which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Protocol.

6. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments shall enter into force between Parties having accepted such amendments of the instruments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least three-fourths of the Parties to this Convention or to the Protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Party on the thirtieth day after the date on which that Party deposits its instrument.

7. After the entry into force of an amendment to this Convention or to a Protocol, any new Party to the Convention or such Protocol shall become a Party to the Convention or Protocol as amended.

#### Article 25

##### ANNEXES AND AMENDMENT OF ANNEXES

1. Annexes to this Convention or to any Protocol shall form an integral part of the Convention or such Protocol respectively.

2. Except as may be otherwise provided in any Protocol with respect to its annexes, the following procedures shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to annexes to any Protocol:

(a) any Party may propose amendments to the annexes to this Convention or annexes to any Protocol;

(b) any proposed amendment shall be notified by the Organisation to the Parties not less than sixty days before the convening of a meeting of the Parties unless this requirement is waived by the meeting;

(c) such amendments shall be adopted at a meeting of the Parties by a three-fourths majority vote of the Parties to the instrument in question;

(d) the Depositary shall without delay communicate the amendments so adopted to all Parties;

(e) any Party that is unable to approve an amendment to the annexes to this Convention or to annexes to any Protocol shall so notify in writing to the Depositary within one hundred days from the date of the communication of the amendment by the Depositary. A Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party;

(f) the Depositary shall without delay notify all Parties of any notification received pursuant to the preceding sub-paragraph; and

(g) on expiry of the period referred to in sub-paragraph (e) above, the amendment to the annex shall become effective for all Parties to this Convention or to the Protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph.

3. The adoption and entry into force of a new annex shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex as set out in the provisions of paragraph 2, provided that, if any amendment to the Convention or the Protocol concerned is involved, the new annex shall not enter into force until such time as that amendment enters into force.

4. Amendments to the Annex on Arbitration shall be considered to be amendments to this Convention or its Protocols and shall be proposed and adopted in accordance with the procedures set out in Article 24.

#### Article 26

##### SETTLEMENT OF DISPUTES

1. In case of a dispute between Parties as to the interpretation or application of this Convention or its Protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. If the Parties concerned cannot reach agreement, they should seek the good offices of, or jointly request mediation by, a third Party.

2. If the Parties concerned cannot settle their dispute through the means mentioned in paragraph 1, the dispute shall, upon common agreement, except as may be otherwise provided in any Protocol to this Convention, be submitted to arbitration under conditions laid down in the Annex on Arbitration to



this Convention. However, failure to reach common agreement on submission of the dispute to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by means referred to in paragraph 1.

3. A Party may at any time declare that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other Party accepting the same obligation, the application of the arbitration procedure set out in the Annex on Arbitration. Such declaration shall be notified in writing to the Depository who shall promptly communicate it to the other Parties.

#### Article 27

##### RELATIONSHIP BETWEEN THIS CONVENTION AND ITS PROTOCOLS

1. No State may become a Party to this Convention unless it becomes at the same time a Party to one or more Protocols. No State may become a Party to a Protocol unless it is, or becomes at the same time, a Party to this Convention.

2. Decisions concerning any Protocol pursuant to Articles 22, 24 and 25 of this Convention shall be taken only by the Parties to the Protocol concerned.

#### Article 28

##### SIGNATURE

This Convention, the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping shall be open for signature at the South Pacific Commission Headquarters in Noumea, New Caledonia on 25 November 1986 and at the South Pacific Bureau for Economic Co-operation Headquarters, Suva, Fiji from 26 November 1986 to 25 November 1987 by States which were invited to participate in the Plenipotentiary Meeting of the High Level Conference on the Protection of the Natural Resources and Environment of the South Pacific Region held at Noumea, New Caledonia from 24 November 1986 to 25 November 1986.

#### Article 29

##### RATIFICATION, ACCEPTANCE OR APPROVAL

This Convention and any Protocol thereto shall be subject to ratification, acceptance or approval by States referred to in Article 28. Instruments of ratification, acceptance or approval shall be deposited with the Director who shall be the Depository.

#### Article 30

##### ACCESSION

1. This Convention and any Protocol hereto shall be open to accession by the States referred to in Article 28 as from the day following the date on

which the Convention or Protocol concerned was closed for signature.

2. Any State not referred to in paragraph 1 may accede to the Convention and to any Protocol subject to prior approval by three-fourths of the Parties to the Convention or the Protocol concerned.

3. Instruments of accession shall be deposited with the Depository.

#### Article 31

##### ENTRY INTO FORCE

1. This Convention shall enter into force on the thirtieth day following the date of deposit of at least ten instruments of ratification, acceptance, approval or accession.

2. Any Protocol to this Convention, except as otherwise provided in such Protocol, shall enter into force on the thirtieth day following the date of deposit of at least five instruments of ratification, acceptance or approval of such Protocol, or of accession thereto, provided that no Protocol shall enter into force before the Convention. Should the requirements for entry into force of a Protocol be met prior to those for entry into force of the Convention pursuant to paragraph 1, such Protocol shall enter into force on the same date as the Convention.

3. Thereafter, this Convention and any Protocol shall enter into force with respect to any State referred to in Articles 28 or 30 on the thirtieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

#### Article 32

##### DENUNCIATION

1. At any time after two years from the date of entry into force of this Convention with respect to a Party, that Party may denounce the Convention by giving written notification to the Depository.

2. Except as may be otherwise provided in any Protocol to this Convention, any Party may, at any time after two years from the date of entry into force of such Protocol with respect to that Party, denounce the Protocol by giving written notification to the Depository.

3. Denunciation shall take effect ninety days after the date on which notification of denunciation is received by the Depository.

4. Any Party which denounces this Convention shall be considered as also having denounced any Protocol to which it was a Party.

5. Any Party which, upon its denunciation of a Protocol, is no longer a Party to any Protocol to this Convention, shall be considered as also having denounced this Convention.

**Article 33****RESPONSIBILITIES OF THE DEPOSITARY**

1. The Depositary shall inform the Parties, as well as the Organisation:

(a) of the signature of this Convention and of any Protocol thereto and of the deposit of instruments of ratification, acceptance, approval, or accession in accordance with Articles 29 and 30;

(b) of the date on which the Convention and any Protocol will come into force in accordance with the provisions of Article 31;

(c) of notification of denunciation made in accordance with Article 32;

(d) of notification of any addition to the Convention Area in accordance with Article 3;

(e) of the amendments adopted with respect to the Convention and to any Protocol, their acceptance by the Parties and the date of their entry into force in accordance with the Provisions of Article 24; and

(f) of the adoption of new annexes and of the amendments of any annex in accordance with Article 25.

2. The original of this Convention and of any Protocol thereto shall be deposited with the Depositary who shall send certified copies thereof to the Signatories, the Parties, to the Organisation and to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed this Convention.

Done at Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six in a single copy in the English and French languages, the two texts being equally authentic.

**Annex on arbitration****Article 1**

Unless the agreement referred to in Article 26 of the Convention provides otherwise, the arbitration procedure shall be in accordance with the rules set out in this Annex.

**Article 2**

The claimant Party shall notify the Organisation that the Parties have agreed to submit the dispute to arbitration pursuant to paragraph 2, or that paragraph 3 of Article 26 of the Convention is applicable. The notification shall state the subject matter of the arbitration and include the provisions of the Convention or any Protocol thereto, the interpretation or application of which is the subject of disagreement. The Organisation shall transmit this

information to all Parties to the Convention or Protocol concerned.

**Article 3**

1. The Tribunal shall consist of a single arbitrator if so agreed between the Parties to the dispute within thirty days from the date of receipt of the notification for arbitration.

2. In the case of the death, disability or default of the arbitrator, the Parties to a dispute may agree upon a replacement within thirty days of such death, disability or default.

**Article 4**

1. Where the Parties to a dispute do not agree upon a Tribunal in accordance with Article 3 of this Annex, the Tribunal shall consist of three members:

(i) one arbitrator nominated by each Party to the dispute,

(ii) a third arbitrator who shall be nominated by agreement between the two first named and who shall act as its Chairman.

2. If the Chairman of a Tribunal is not nominated within thirty days of nomination of the second arbitrator, the Parties to a dispute shall, upon the request of one Party, submit to the Secretary-General of the Organisation within a further period of thirty days, an agreed list of qualified persons. The Secretary-General shall select the Chairman from such list as soon as possible. He shall not select a Chairman who is, or has been, a national of one Party to the dispute except with the consent of the other Party to the dispute.

3. If one Party to a dispute fails to nominate an arbitrator as provided in subparagraph 1(i) within sixty days from the date of receipt of the notification for arbitration, the other Party may request the submission to the Secretary-General of the Organisation within a period of thirty days of an agreed list of qualified persons. The Secretary-General shall select the Chairman of the Tribunal from such list as soon as possible. The Chairman shall then request the Party which has not nominated an arbitrator to do so. If this Party does not nominate an arbitrator within fifteen days of such request, the Secretary-General shall, upon request of the Chairman, nominate the arbitrator from the agreed list of qualified persons.

4. In the case of the death, disability or default of an arbitrator, the Party to the dispute who nominated him shall nominate a replacement within thirty days of such death, disability or default. If the Party does not nominate a replacement, the arbitration shall proceed with the remaining arbitrators. In the case of the death, disability or default of the Chairman, a replacement shall be nominated in accordance with paragraphs 1(ii) and 2 within ninety days of such death, disability or default.

5. A list of arbitrators shall be maintained by the Secretary-General of the Organisation and composed of qualified persons nominated by the Parties. Each Party may designate for inclusion in the list four persons who shall not necessarily be its nationals. If the Parties to the dispute have failed within the specified time limits to submit to the Secretary-General an agreed list of qualified persons as provided for in paragraphs 2, 3 and 4, the Secretary-General shall select from the list maintained by him the arbitrator or arbitrators not yet nominated.

#### *Article 5*

The Tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

#### *Article 6*

The Tribunal may, at the request of one of the Parties to the dispute, recommend interim measures of protection.

#### *Article 7*

Each Party to the dispute shall be responsible for the costs entailed by the preparation of its own case. The remuneration of the members of the Tribunal and of all general expenses incurred by the arbitration shall be borne equally by the Parties to the dispute. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the Parties.

#### *Article 8*

Any Party which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the Parties to the dispute which have originally initiated the procedure, intervene in the arbitration procedure with the consent of the Tribunal which should be freely given. Any intervenor shall participate at its own expense. Any such intervenor shall have the right to present evidence, briefs and oral arguments on the matter giving rise to its intervention, in accordance with procedures established pursuant to Article 9 of this Annex but shall have no rights with respect to the composition of the Tribunal.

#### *Article 9*

A Tribunal established under the provisions of this Annex shall decide its own rules of procedure.

#### *Article 10*

1. Unless a Tribunal consists of a single arbitrator, decisions of the Tribunal as to its procedure, its place of meeting, and any question related to the dispute laid before it, shall be taken by majority vote of its members. However, the absence or abstention of any member of the Tribunal who was nominated by a

Party to the dispute shall not constitute an impediment to the Tribunal reaching a decision. In case of equal voting, the vote of the Chairman shall be decisive.

2. The Parties to the dispute shall facilitate the work of the Tribunal and in particular shall, in accordance with their legislation and using all means at their disposal:

(i) provide the Tribunal with all necessary documents and information; and

(ii) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene of the subject matter of the arbitration.

3. The failure of a Party to the dispute to comply with the provisions of paragraph 2 or to defend its case shall not preclude the Tribunal from reaching a decision and rendering an award.

#### *Article 11*

The Tribunal shall render its award within five months from the time it is established unless it finds it necessary to extend that time limit for a period not to exceed five months. The award of the Tribunal shall be accompanied by a statement of reasons for the decision. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organisation who shall inform the Parties. The Parties to the dispute shall immediately comply with the award.

## PROTOCOL FOR THE PREVENTION OF POLLUTION OF THE SOUTH PACIFIC REGION BY DUMPING [46]

Noumea, 25 November 1986

The Parties to the Protocol,

Being Parties to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

Recognizing the danger posed to the marine environment by pollution caused by the dumping of waste or other matter;

Considering that they have a common interest to protect the South Pacific Region from this danger, taking into account the unique environmental quality of the region;

Desiring to enter into a regional agreement consistent with the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 as provided in Article VIII thereof according to which the Contracting Parties to that Convention have undertaken to endeavour to act consistently with the objectives and provisions of such regional agreement;

Have agreed as follows:

### Article 1

#### DEFINITIONS

For the purpose of this Protocol "Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six.

### Article 2

#### GEOGRAPHICAL COVERAGE

The area to which this Protocol applies, hereinafter referred to as the "Protocol Area", shall be the Convention Area as defined in Article 2 of the Convention together with the continental shelf of a Party where it extends, in accordance with international law, outward beyond the Convention Area.

### Article 3

#### GENERAL OBLIGATIONS

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Protocol Area by dumping.
2. Dumping within the territorial sea and the exclusive economic zone or onto the continental shelf of a Party as defined in international law shall not be carried out without the express prior approval of that Party, which has the right to permit, regulate and

control such dumping taking fully into account the provisions of this Protocol, and after due consideration of the matter with other Parties which by reason of their geographical situation may be adversely affected thereby.

3. National laws, regulations and measures adopted by the Parties shall be no less effective in preventing, reducing and controlling pollution by dumping than the relevant internationally recognized rules and procedures relating to the control of dumping established within the framework of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

### Article 4

#### PROHIBITED SUBSTANCES

1. The dumping in the Protocol Area of wastes or other matter listed in Annex I to this Protocol is prohibited except as provided in this Protocol.
2. No provision of this Protocol is to be interpreted as preventing a 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 Organisation.

### Article 5

#### SPECIAL PERMITS

The dumping in the Protocol Area of wastes or other matter listed in Annex II to this Protocol requires, in each case, a prior special permit.

### Article 6

#### GENERAL PERMITS

The dumping in the Protocol Area of all wastes or other matter not listed in Annexes I and II to this Protocol requires a prior general permit.

### Article 7

#### FACTORS GOVERNING THE ISSUE OF PERMITS

The permits referred to in Articles 5 and 6 shall be issued only after careful consideration of all the factors set forth in Annex III to this Protocol. The Organisation shall receive records of such permits.

### Article 8

#### ALLOCATION OF SUBSTANCES TO ANNEXES

Substances are allocated to Annexes I and II of this Protocol in accordance with Annex IV.

### Article 9

#### FORCE MAJEURE

The provisions of Articles 4, 5 and 6 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 minimise the likelihood of damage to human or marine life. Such dumping shall immediately be reported to the Organisation and, either through the Organisation or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and of the nature and quantities of the wastes or other matter dumped.

#### *Article 10*

##### EMERGENCIES

1. A Party may issue a special permit as an exception to Article 4, in emergencies arising in the Protocol Area, 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 Organisation which, after consulting other Parties, and international organisations as appropriate, shall in accordance with Article 15 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 Organisation of the action it takes. The Parties pledge themselves to assist one another in such situations.

2. This article does not apply with respect to materials in whatever form produced for biological and chemical warfare referred to in paragraph 6 of Section A of Annex I.

3. Any Party may waive its rights under paragraph 1 at the time of, or subsequent to, ratification, acceptance or approval of, or accession to this Protocol.

#### *Article 11*

##### ISSUANCE OF PERMITS

1. Each Party shall designate an appropriate authority or authorities to:

(a) issue the special permits provided for in Article 5 and in the emergency circumstances provided for in Article 10;

(b) issue the general permits provided for in Article 6;

(c) keep records of the nature and quantities of the wastes or other matter permitted to be dumped and of the location, date and method of dumping; and

(d) monitor individually, or in collaboration with other Parties, and competent international organisations, the condition of the Protocol Area for the purposes of this Protocol.

2. The appropriate authority or authorities of each Party shall issue the permits provided for in Articles 5 and 6 and in the emergency circumstances provided for in Article 10 in respect of the wastes or other matter intended for dumping:

(a) loaded in its territory or at its offshore terminals; or

(b) loaded by vessels flying its flag or vessels or aircraft of its registry when the loading occurs in the territory or at the offshore terminals of a State not Party to this Protocol.

3. In issuing permits under paragraphs 1 (a) and (b) the appropriate authority or authorities shall comply with Annex III together with such additional criteria, measures and requirements as they may consider relevant.

#### *Article 12*

##### IMPLEMENTATION AND ENFORCEMENT

1. Each Party shall apply the measures required to implement this Protocol to all:

(a) vessels flying its flag and vessels and aircraft of its registry;

(b) vessels and aircraft loading in its territory or at its offshore terminals wastes or other matter which are to be dumped; and

(c) vessels, aircraft and fixed or floating platforms believed to be engaged in dumping in areas under its jurisdiction.

2. Each Party shall take in its territory appropriate measures to prevent and punish conduct in contravention of the provisions of this Protocol.

3. The Parties agree to co-operate in the development of procedures for the effective application of this Protocol particularly on the high seas, including procedures for the reporting of vessels and aircraft observed dumping in contravention of the Protocol.

4. This Protocol 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 Protocol and shall inform the Organisation accordingly.

#### *Article 13*

##### ADOPTION OF OTHER MEASURES

Nothing in this Protocol shall affect the right of each Party to adopt other measures, in accordance with the principles of international law, to prevent dumping.

*Article 14*

## REPORTING OF DUMPING INCIDENTS

Each Party undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the Protocol Area which give rise to suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur. That Party shall, if it considers it appropriate, report accordingly to the Organisation and to any other Party concerned.

*Article 15*

## INSTITUTIONAL ARRANGEMENTS

The Parties designate the Organisation to carry out the following functions:

- (a) to assist the Parties, upon request, in the communication of reports in accordance with Articles 9 and 14;
- (b) to convey to the Parties concerned all notifications received by the Organisation in accordance with Articles 4(2) and 10;
- (c) to transmit to the International Maritime Organisation as the organisation responsible for the secretariat functions under the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 records and any other information received in accordance with Article 7;
- (d) to keep itself informed on evolving international standards and the results of research and investigation, and to advise meetings of Parties to this Protocol of such developments and any modification of the Annexes which may become desirable; and
- (e) to carry out other duties assigned to it by the Parties.

*Article 16*

## MEETING OF THE PARTIES

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Parties to the Convention held pursuant to Article 22 of the Convention. The Parties to this Protocol may also hold extraordinary meetings in conformity with Article 22 of the Convention.

2. It shall be the function of the meetings of the Parties to this Protocol to:

- (a) keep under review the implementation of this Protocol, and to consider the efficacy of the measures adopted and the need for any other measures, in particular in the form of Annexes.
- (b) study and consider the records of the permits issued in accordance with Articles 5, 6, 7 and the emergency situation in Article 10, and of the dumping which has taken place;

(c) review and amend as required any Annex to this Protocol taking into account Annex IV;

(d) adopt as necessary guidelines for the preparation of records and procedures to be followed in submitting such records for the purposes of Article 7;

(e) develop, adopt and implement in consultation with the Organisation and other competent international organisations procedures pursuant to Article 10 including basic criteria for determining emergency circumstances and procedures for consultative advice and the safe disposal, storage or destruction of matter in such circumstances.

(f) invite, as necessary, the appropriate scientific body or bodies to collaborate with and to advise the Parties and the Organisation on any scientific or technical aspects relevant to this Protocol, including particularly the content and applicability of the Annexes; and

(g) perform such other functions as may be appropriate for the implementation of this Protocol.

3. The adoption of amendments to the Annexes to this Protocol pursuant to Article 25 of the Convention shall require a three-fourths majority vote of the Parties to this Protocol.

*Article 17*

## RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present Protocol.

2. The rules of procedures and the financial rules adopted pursuant to Article 22 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed this Protocol.

Done at Noumea, New Caledonia on the twenty-fifth day of November in the year one thousand nine hundred and eighty-six, in a single copy in the English and French languages, the two texts being equally authentic.

**Annex I**

A.

The following substances and materials are listed for the purposes of Article 4 of this Protocol:

- 1. Organohalogen compounds.
- 2. Mercury and mercury compounds.
- 3. Cadmium and cadmium compounds.

4. Persistent plastics and other persistent synthetic materials, for example, netting and ropes, which may remain in suspension in the sea in such a manner as to interfere materially with fishing, navigation or other legitimate uses of the sea.

5. Crude oil and its wastes, refined petroleum products, petroleum distillate residues and any mixtures containing any of these taken on board for the purpose of dumping.

6. Materials in whatever form (e.g. solids, liquids, semi-liquids, gases, or in a living state) produced for biological and chemical warfare.

7. Organosphosphorous compounds.

B.

Section A does not apply to substances, other than substances produced for biological or chemical warfare, which are rapidly rendered harmless by physical, chemical or biological processes in the sea provided they do not:

- make edible marine organisms unpalatable; or
- endanger human health or that of marine biota.

The consultative procedure provided for under Article 10 shall be followed by a Party if there is doubt about the harmlessness of the substance.

C.

This Annex does not apply to wastes or other materials, such as sewage sludges and dredged spoils, containing the matters referred to in paragraphs 1-5 of Section A as trace contaminants. The dumping of such wastes shall be subject to the provisions of Annexes II and III as appropriate.

## Annex II

The following substances and materials requiring special care are listed for the purposes of Article 5 of this Protocol.

A.

Wastes containing a significant amount of the matters listed below:

arsenic	}	and their compounds
lead		
copper		
zinc		

organosilicon compounds  
cyanides  
fluorides  
pesticides and their by-products not covered in Annex I.

B.

In the issue of permits for the dumping of acids and alkalis, consideration shall be given to the possible

presence in such wastes of the substances listed in section A and to the following additional substances:

beryllium	}	and their compounds
chromium		
nickel		
vanadium		

C.

Containers, scrap metal and other bulky wastes liable to sink to the sea bottom which may present a serious obstacle to fishing or navigation.

D.

Substances which, though of a non-toxic nature, may become harmful due to the quantities in which they are dumped, or which are liable to seriously reduce amenities.

## Annex III

Provisions to be considered in establishing criteria governing the issue of permits for the dumping of matter at sea, taking into account Article 7 of this Protocol, include:

### A. CHARACTERISTICS AND COMPOSITION OF THE MATTER

1. Total amount and average composition of matter dumped (e.g. per year).
2. Form (e.g. solid, sludge, liquid, or gaseous).
3. Properties: physical (e.g. solubility and density), chemical and biochemical (e.g. oxygen demand, nutrients) and biological (e.g. presence of viruses, bacteria, yeasts, parasites).
4. Toxicity.
5. Persistence: physical, chemical and biological.
6. Accumulation and biotransformation in biological materials or sediments.
7. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other dissolved organic and inorganic materials.
8. Probability of production of taints or other changes reducing marketability of resources (e.g. fish, shellfish, etc.).
9. In issuing a permit for dumping, Parties should consider whether an adequate scientific basis and sufficient knowledge of the composition and characteristics of the wastes or other matter proposed for dumping exist for assessing the impact of such material on the marine environment and human health.

## B. CHARACTERISTICS OF DUMPING SITE AND METHOD OF DEPOSIT

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast), location in relation to other areas (e.g. amenity areas, spawning, nursery and fishing areas and exploitable resources).
2. Rate of disposal per specific period (e.g. quantity per day, per week, per month).
3. Methods of packaging and containment, if any.
4. Initial dilution achieved by proposed methods of release.
5. Dispersal characteristics (e.g. effects of currents, tides and wind on horizontal transport and vertical mixing).
6. Water characteristics (e.g. temperature, pH, salinity, stratification, oxygen indices of pollution, dissolved oxygen (DO), chemical oxygen demand (COD), biochemical oxygen demand (BOD), nitrogen present in organic and mineral form including ammonia, suspended matter, other nutrients and productivity).
7. Bottom characteristics (e.g. topography, geochemical and geological characteristics and biological productivity).
8. Existence and effects of other dumpings which have been made in the dumping area (e.g. heavy metal background reading and organic carbon content).
9. In issuing a permit for dumping, Parties should consider whether an adequate scientific basis exists for assessing the consequences of such dumping, as outlined in this Annex taking into account seasonal variations.

## C. GENERAL CONSIDERATIONS AND CONDITIONS

1. Possible effects on amenities (e.g. presence of floating or stranded materials, turbidity, objectionable odour, discolouration and foaming).
2. Possible effects on marine life, fish and shellfish culture, fish stocks and fisheries, seaweed harvesting and culture.
3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of structure, interference with ship operations from floating materials, interference with fishing or navigation through deposit of waste or solid objects on the sea floor and protection of areas of special importance of scientific or conservation purposes).
4. The practical availability of alternative land-based methods of treatment, disposal or elimination, or of treatment to render the matter less harmful for dumping at sea.

## D. REFERENCES

Reference should also be made to "Guidelines for the Implementation and Uniform Interpretation of Annex III" as adopted by the Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

## Annex IV

### ALLOCATION OF SUBSTANCES TO ANNEXES

1. Substances are allocated to Annexes I and II on the ground of any combination of the following criteria:

Persistence and degradability,  
 Bioaccumulation potential,  
 Toxicity to marine life,  
 Toxicity to man, domestic animals, marine mammals and birds preying on marine organisms,  
 Carcinogenicity and mutagenicity,  
 Ability to interfere with other legitimate uses of the sea.

2. Annex I substances are those which have a high degree of persistence coupled with:

- (a) the ability to accumulate to harmful levels in terms of toxicity to marine organisms and their predators, to domestic animals or to man; or
- (b) the ability to accumulate through marine pathways to levels harmful in terms of carcinogenicity or mutagenicity to domestic animals or to man; or
- (c) the ability to cause interference with fisheries, amenities or other legitimate uses of the sea.

3. Annex II substances are all those considered suitable for inclusion in Annexes except for those allocated to Annex I.



**PROTOCOL CONCERNING  
CO-OPERATION IN COMBATING  
POLLUTION EMERGENCIES IN THE  
SOUTH PACIFIC REGION [47]**

**Noumea, 25 November 1986**

The Parties to this Protocol,

Being Parties to the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six;

Conscious that the exploration, development and use of offshore and near shore minerals and the use of hazardous substances, as well as related vessel traffic, pose the threat of significant pollution emergencies in the South Pacific Region;

Aware that the islands of the region are particularly vulnerable to damage resulting from significant pollution due to the sensitivity of their ecosystems and their economic reliance on the continuous utilization of their coastal areas;

Recognizing that in the event of a pollution emergency or threat thereof, prompt and effective action should be taken initially at the national level to organise and co-ordinate prevention, mitigation and cleanup activities;

Recognizing further the importance of rational preparation and mutual co-operation and assistance in responding effectively to pollution emergencies or the threat thereof;

Determined to avert ecological damage to the marine environment and coastal areas of the South Pacific Region through the adoption of national contingency plans to be co-ordinated with appropriate bilateral and sub-regional contingency plans;

Have agreed as follows:

**Article 1**

**DEFINITIONS**

For the purposes of this Protocol:

- (a) "Convention" means the Convention for the Protection of the Natural Resources and Environment of the South Pacific Region adopted in Noumea, New Caledonia on twenty-fourth day of November in the year one thousand nine hundred and eighty-six;
- (b) "South Pacific Region" means the Convention Area as defined in Article 2 of the Convention and adjacent coastal areas;
- (c) "related interests" of a Party refer, *inter alia*, to:
- (i) maritime, coastal, port, or estuarine activities;
  - (ii) fishing activities and the management and conservation of living and non-living marine resources, including coastal ecosystems;
  - (iii) the cultural value of the area concerned and the exercise of traditional customary rights therein;

- (iv) the health of the coastal population;
- (v) tourist and recreational activities;

(d) "pollution incident" means a discharge or significant threat of a discharge of oil or other hazardous substance, however caused, resulting in pollution or an imminent threat of pollution to the marine and coastal environment or which adversely affects the related interests of one or more of the Parties and of a magnitude that requires emergency action or other immediate response for the purpose of minimizing its effects or eliminating its threat.

**Article 2**

**APPLICATION**

This Protocol applies to pollution incidents in the South Pacific Region.

**Article 3**

**GENERAL PROVISIONS**

1. The Parties to this Protocol shall, within their respective capabilities, co-operate in taking all necessary measures for the protection of the South Pacific Region from the threat and effects of pollution incidents.
2. The Parties shall, within their respective capabilities, establish and maintain, or ensure the establishment and maintenance of, the means of preventing and combating pollution incidents, and reducing the risk thereof. Such means shall include the enactment, as necessary, of relevant legislation, the preparation of contingency plans, the development or strengthening of the capability to respond to a pollution incident and the designation of a national authority responsible for the implementation of this Protocol.

**Article 4**

**EXCHANGE OF INFORMATION**

Each Party shall periodically exchange with other Parties, either directly or through the Organisation, current information relating to the implementation of this Protocol, including the identification of the officials charged with carrying out the activities covered by it, and information on its laws, regulations, institutions and operational procedures relating to the prevention and the means of reducing and combating the harmful effects of pollution incidents.

**Article 5**

**COMMUNICATION OF INFORMATION  
CONCERNING, AND REPORTING OF, POLLUTION  
INCIDENTS**

1. Each Party shall establish appropriate procedures to ensure that information regarding pollution incidents is reported as rapidly as possible and shall, *inter alia*:

(a) require appropriate officials of its government to report to it the occurrence of any pollution incident which comes to their attention;

(b) require masters of vessels flying its flag and persons in charge of offshore facilities operating under its jurisdiction to report to it the existence of any pollution incident involving their vessel or facilities;

(c) establish procedures to encourage masters of vessels flying its flag or of its registry to report, to the extent practicable, the existence of any pollution incident involving their vessel to any coastal State in the South Pacific Region which they deem likely to be seriously affected;

(d) request masters of all vessels and pilots of all aircraft operating in the vicinity of its coasts to report to it any pollution incident of which they are aware.

2. In the event of receiving a report regarding a pollution incident, each Party shall promptly inform all other Parties whose interests are likely to be affected by such incident as well as the flag State of any vessel involved in it. Each Party shall also inform the Organisation and, directly or through the Organisation, the competent international organisations. Furthermore, it shall inform, as soon as feasible, such other Parties and organisations of any measures it has itself taken to minimize or reduce pollution or the threat thereof.

#### Article 6

##### MUTUAL ASSISTANCE

1. Each Party requiring assistance to deal with a pollution incident may request, either directly or through the Organisation, the assistance of the other Parties. The Party requesting assistance shall specify the type of assistance it requires. The Parties whose assistance is requested under this article shall, within their capabilities, provide this assistance based on an agreement with the requesting Party or Parties and taking into account, in particular in the case of pollution by hazardous substances other than oil, the technological means available to them. If the Parties responding jointly within the framework of this article so request, the Organisation may co-ordinate the activities undertaken as a result.

2. Each Party shall facilitate the movement of technical personnel, equipment and material necessary for responding to a pollution incident, into, out of and through its territory.

#### Article 7

##### OPERATIONAL MEASURES

Each Party shall, within its capabilities, take steps including those outlined below in responding to a pollution incident:

(a) make a preliminary assessment of the incident, including the type and extent of existing or likely pollution effects;

(b) promptly communicate information concerning the situation to other Parties and the Organisation pursuant to article 5;

(c) promptly determine its ability to take effective measures to respond to the pollution incident and the assistance that might be required and to communicate any request for such assistance to the Party or Parties concerned or the Organisation in accordance with article 6;

(d) consult, as appropriate, with other affected or concerned Parties or the Organisation in determining the necessary response to a pollution incident;

(e) carry out the necessary measures to prevent, eliminate or control the effects of the pollution incident, including surveillance and monitoring of the situation.

#### Article 8

##### SUB-REGIONAL ARRANGEMENTS

1. The Parties should develop and maintain appropriate sub-regional arrangements, bilateral or multilateral, in particular to facilitate the steps provided for in articles 6 and 7 and taking into account the general provisions of this Protocol.

2. The Parties to any arrangements shall notify the other Parties to this Protocol as well as the Organisation of the conclusion of such sub-regional arrangements and the provisions thereof.

#### Article 9

##### INSTITUTIONAL ARRANGEMENTS

The Parties designate the Organisation to carry out the following functions:

(a) assisting Parties, upon request, in the communication of reports of pollution incidents in accordance with article 5;

(b) assisting Parties, upon request, in the organisation of a response action to a pollution incident, in accordance with article 6;

(c) assisting Parties, upon request, in the following areas:

(i) the preparation, periodic review, and updating of the contingency plans, referred to in paragraph 2 of Article 3, with a view, *inter alia*, to promoting the compatibility of the plans of the Parties; and

(ii) the identification of training courses and programmes;

(d) assisting the Parties upon request, on a regional or sub-regional basis, in the following areas:

(i) the co-ordination of emergency response activities; and

(ii) the provision of a forum for discussions concerning emergency response and other related topics;

(e) establishing and maintaining liaison with:

- (i) appropriate regional and international organisations; and
- (ii) appropriate private organisations, including producers and transporters of substances which could give rise to a pollution incident in the South Pacific Region and clean-up contractors and co-operatives;
- (f) maintaining an appropriate current inventory of available emergency response equipment;
- (g) disseminating information related to the prevention and control of pollution incidents and the removal of pollutants resulting therefrom;
- (h) identifying or maintaining emergency response communications systems;
- (i) encouraging research by the Parties, as well as by appropriate international and private organisations, on the environmental effects of pollution incidents, the environmental effects of pollution incident control materials and other matters related to pollution incidents;
- (j) assisting Parties in the exchange of information pursuant to article 4; and
- (k) preparing reports and carrying out other duties assigned to it by the Parties.

#### *Article 10*

##### MEETINGS OF THE PARTIES

1. Ordinary meetings of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Parties to the Convention, held pursuant to article 22 of the Convention. The Parties to this Protocol may also hold extraordinary meetings as provided for in article 22 of the Convention.
2. It shall be the function of the meetings of the Parties:
  - (a) to review the operation of this Protocol and to consider special technical arrangements and other measures to improve its effectiveness;
  - (b) to consider any measures to improve co-operation under this Protocol including, in accordance with article 24 of the Convention, amendments to this Protocol.

#### *Article 11*

##### RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

1. The provisions of the Convention relating to any Protocol shall apply with respect to the present Protocol.
2. The rules of procedure and the financial rules adopted pursuant to article 22 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

Done at Noumea, New Caledonia on the twenty-fifth day of November in the year one thousand nine hundred and eighty-six, in a single copy in the English and French languages, the two texts being equally authentic.

**AGREEMENT ON THE ACTION PLAN  
FOR THE ENVIRONMENTALLY SOUND  
MANAGEMENT OF THE COMMON  
ZAMBEZI RIVER SYSTEM [48]**

**Harare, 28 May 1987**

The Governments of the Republic of Botswana, the People's Republic of Mozambique, the United Republic of Tanzania, the Republic of Zambia, and the Republic of Zimbabwe, being Parties to this Agreement and referred below as the Parties,

Having in mind the recommendations of the United Nations Conference on the Human Environment, the Mar del Plata Action Plan on Water Development and Administration, and the resolution 1/1 of the first session of the African Ministerial Conference on the Environment,

Aiming to develop regional co-operation in the spirit of the Lagos Plan of Action and the Southern African Development Co-ordination Conference (SADCC), on environmentally sound water resources management of the common Zambezi river system and to strengthen their regional co-operation for sustainable development,

Appreciating the efforts of the United Nations Environment Programme (UNEP) and other United Nations Organizations to promote this co-operation,

Have agreed as follows:

*Article 1*

**ACTION PLAN**

1. The parties hereby adopt the Action Plan for the Environmentally Sound Management of the Common Zambezi River System, hereinafter referred to as "the Zambezi Action Plan", contained in Annex I to this Agreement.
2. The Parties respectfully request that the Zambezi Action Plan should be endorsed by the Council of Ministers of the Southern African Development Co-ordination Conference, as a concerted action programme of the Southern African Development Co-ordination Conference.
3. The region covered by the Zambezi Action Plan encompasses the territories within or related to the Zambezi river basin of the following countries: Angola, Botswana, Malawi, Mozambique, United Republic of Tanzania, Zambia, Zimbabwe and the illegally occupied territory of Namibia.
4. The Zambezi Action Plan will be implemented through various projects developed according to the relevant guidelines contained therein. The projects for the initial implementation of the Zambezi Action Plan are identified in the Appendix I to the Zambezi Action Plan.
5. The Parties will, individually and/or jointly as a regional activity of the Southern African Development Co-ordination Conference, take all appropriate measures for the expeditious and

effective implementation of the Zambezi Action Plan.

*Article 2*

**INSTITUTIONAL AND FINANCIAL ARRANGEMENTS**

1. Two options are open to the Council of Ministers of SADCC to implement the Zambezi Action Plan:
  - (a) through the normal institutional and financial arrangements of SADCC; or
  - (b) by establishing an Intergovernmental Monitoring and Co-ordinating Committee, a Co-ordinating Unit and a Trust Fund along the lines suggested in Annex II to this Agreement.

*Article 3*

**NATIONAL FOCAL POINTS**

1. In order to achieve efficient and well co-ordinated co-operation, national focal points should be established (or an existing structure should be designated) at a high level in each of the participating Governments to harmonize, on the national level, all matters concerning the Action Plan.
2. The role of national focal points should be:
  - (a) to act as the official channel of communication for national organizations participating in the Action Plan;
  - (b) to co-ordinate, as appropriate, the participation of national institutions and agencies in the Action Plan;
  - (c) to consult with all relevant organizations in their national Governments on the activities and progress achieved in implementing the Action Plan.

*Article 4*

**IMPLEMENTATION OF THE PLAN**

1. The Parties confirm the urgent need for immediate implementation of the Zambezi Action Plan as adopted.
2. The Parties request the Executive Secretary of SADCC and Executive Director of UNEP to start immediate consultations regarding the implementation of the Zambezi Action Plan and the raising of external finances to ensure that implementation of the Plan starts before the end of 1987.

*Article 5*

**FINAL CLAUSES**

1. This Agreement shall enter into force on the date of signature thereof.
2. Any party may withdraw from the Agreement by giving six months' written notification to the other Parties and to the Depository.
3. Any amendment to this Agreement mutually agreed upon by the Parties shall be effected in writing.

4. The original of this Agreement, the English text of which is authentic, shall be deposited with the Executive Secretary of the Southern African Development Co-ordination Conference.

5. The Agreement shall remain open for accession by the People's Republic of Angola, Malawi and Namibia, represented by the United Nations Council for Namibia, and shall enter into force for Angola, Malawi and Namibia on the date of the deposit of their instruments of accession.

In witness whereof the undersigned, being duly authorized to that effect, have signed this Agreement.

Done at Harare this twenty eighth day of May one thousand nine hundred and eighty seven in one original in the English language. The original text will be deposited with the Executive-Secretary of the Southern African Development Co-ordination Conference.

## Annex I

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## INTRODUCTION

1. In 1972, following the adoption of the Action Plan for the Human Environment by the United Nations Conference on the Human Environment, which had met in Stockholm in June that year, the United Nations General Assembly decided to establish the United Nations Environment Programme (UNEP) to "serve as a focal point for environmental action and co-ordination within the United Nations system" (General Assembly resolution 2997 (XXVII) of 15 December 1972). The organizations of the United Nations system were invited "to adopt the measures that may be required

to undertake concerted and co-ordinated programmes with regard to international environmental problems", and other intergovernmental and non-governmental organizations that have an interest in the field of the environment were also invited "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".

2. In accordance with the Action Plan for the Human Environment, the Mar del Plata Action Plan on Water Development and Administration, the recommendations of the Montevideo Programme for the Development and Periodic Review of Environmental Law and UNEP Governing Council decision 11/7, part five, UNEP, in co-operation with other United Nations agencies, has launched a comprehensive new programme on the environmentally sound management of inland water (EMINWA) to assist Governments in the integration of environmental concerns into the management of water resources.

3. One of the main sub-programmes of EMINWA is the African inland water programme, which lends high priority to water management and the reduction of the effect of droughts in Africa. Following requests from the Governments of the Zambezi river basin countries to develop regional co-operation and to promote sustainable development, it has been decided that the first element of the implementation of this programme should concentrate on the common Zambezi river system.

4. Thus, UNEP has assisted the Governments of the Zambezi river basin countries, in co-operation with other organizations of the United Nations system and donor agencies, in developing and launching an Action Plan for the Environmental Management of the Common Zambezi River System (ZACPLAN) as the first step in its comprehensive EMINWA programme.

5. The framework of ZACPLAN has also been included in the Cairo Programme for African Co-operation adopted by the African Ministerial Conference on the Environment, at its first session, which was held in Cairo in December 1985.

6. In light of the EMINWA programme, a Working Group of Experts on the Zambezi River System was established in 1985. It included experts from Botswana, Malawi, Mozambique, Tanzania, Zambia, Zimbabwe and the United Nations Council for Namibia. Representatives from Angola were invited to participate but were unable to do so. Representatives of the Southern African Development Co-ordination Conference, the United Nations Department of Technical Co-operation for Development, the United Nations Environment Programme, the United Nations Economic Commission for Africa, the World Bank, the United Nations Development Programme, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural

Organization, the World Health Organization, the World Meteorological Organization, the World Food Programme, the International Union for Conservation of Nature and Natural Resources and the International Lake Environment Committee also took part in the work.

7. The first meeting of the Working Group was held in Nairobi in April 1985 and was followed by two other meetings, in Lusaka, Zambia, in March 1986, and in Gaborone, Botswana, in January 1987.

8. The Working Group suggested that the Zambezi Programme should be implemented in the following stages:

(a) The preparation of a diagnostic study on the present state of ecology and the environmental management of the common Zambezi river system in order to define specific environmental problems and their impacts and to outline management goals, policies and activities. The diagnostic study was based on country reports prepared by the experts;

(b) The preparation of a draft Action Plan for the Environmental Management of the Common Zambezi River System (ZACPLAN);

(c) The adoption of ZACPLAN, including the establishment of the legal and institutional machinery for its implementation;

(d) Implementation of ZACPLAN, including regular reviews of progress and evaluation.

9. The diagnostic study on the present state of the ecology and the environmental management of the common Zambezi river system, which was prepared by the Working Group of Experts in 1985-1987, is a background document to this Action Plan.

## I. BACKGROUND AND OBJECTIVES

10. The Zambezi river system lies within the territories of the following countries and constitutes, for some of them, the main water resource: Angola, Botswana, Malawi, Mozambique, Tanzania, Zambia, Zimbabwe and the illegally occupied territory of Namibia.

11. The total population within the river basin is about 20 million. The Zambezi River with its tributaries drains an area of about 1,300,000 km<sup>2</sup>. The length of the river is in the order of 3,000 km from its source in the Central African Plateau to the Indian Ocean.

12. The present co-operation in the field of water among the basin States is mainly related to economic development through the Southern African Development Co-ordination Conference (SADCC), hydropower production based on existing inter-governmental agreements, and transport and communications.

13. In view of the present utilization of the river system it is possible and highly desirable to deal with the water resources and environmental management

problems of the river system in a co-ordinated manner to avoid possible future conflicts.

14. The diagnostic study identified the following main problems relating to the environmentally sound management of the river basin which should be dealt with through selected activities as part of the Zambezi Action Plan.

- Inadequate monitoring and exchanges of information with regard to climatic data, water quantity and quality, including pollution control;
- Soil erosion and inadequate soil and water conservation and flood plain management;
- Deforestation due to population growth and pressure on land;
- Lack of adequate drinking water supply and proper sanitation facilities;
- Insufficient community participation, especially on the part of women as "end users" of water, in planning, construction and maintenance of water supply and sanitation systems;
- Inadequate health education for the public especially for women;
- Inadequate land-use and river basin planning in general;
- Inadequate human resources development;
- Inadequate co-ordination and consultation both at national and at river basin level;
- Degradation of the natural resources base;
- Degradation of flora and fauna;
- Inadequate information on environmental impacts of water resources and related development projects, e.g. hydropower irrigation, etc;
- Inadequate dissemination of information to the public;
- Inadequate protection of wetlands.

15. The objective of ZACPLAN is to overcome the problems listed above and thus to promote the development, and implementation of environmentally sound water resources management in the whole river system. It will contribute to the incorporation by the river basin States of environmental considerations in water resources management while increasing long-term sustainable development in the river basin.

16. The objective will be met by the implementation of the following Action Plan.

## II. SUGGESTED ACTIONS

### A. General

17. One of the major constraints on the effective use of natural resources in the development process in the Zambezi river basin is the paucity of information about environment and resources. The lack of information impedes the decision-making of river basin countries and is particularly critical in that it relates to such fundamental issues as:

- (a) Potential of resources which may be utilized in the future,
- (b) Fragility of ecosystems in the basin,
- (c) Degradation and/or limit of utilization of resources in terms of the maintenance of sustained yields.

To form a common basis for action, existing information networks and data bases should be improved.

18. Assessment of the water resources management and related environmental processes within the Zambezi river basin is incomplete. There is therefore a need for continuing systematic assessment of the main factors influencing environmental quality, because sound action requires an understanding of the intricate links between development and the environment. Consequently, the environmental assessment component, which includes the systematic description and examination of environmental topics or problems to evaluate their present and future implications for man and the environment, will underlie and facilitate decision-making and the selection of the environmental elements of the Action Plan.

19. The planned and requested measures cover a wide range of activities and are long term in scale. They will, however, be implemented in short stages each with a detailed and specific workplan.

#### B. *Main elements of the Action Plan*

20. The following main areas are considered to be elements of the comprehensive Action Plan:

- (a) Environmental assessment;
- (b) Environmental management;
- (c) Environmental legislation;
- (d) Supporting measures.

21. The activities in the river basin should include solid and reliable environmental assessment. The collection and, as necessary, the development of comparable data and information on the basin region is one of the first tasks. The information falling into this category should relate to:

- (a) Water resources assessment;
- (b) Socio-economic development that may adversely affect the environment, including the identification of favourable opportunities for river basin development in general;
- (c) Institutions, experts and facilities available in the region for the implementation of the Action Plan;
- (d) Living and non-living resources, their status and trends in their exploitation;
- (e) Sources and levels of pollutants in the various components of the river basin environment;
- (f) The effects of pollutants on human health, ecosystems and amenities;

(g) The identification of human activities that could be affected by environmental degradation;

(h) The identification of ecosystems that could be endangered by environmental degradation.

22. After appropriate evaluation, this information should provide a general assessment of the state of the environment and should serve as the basis for environmentally sound management and development decisions. It is therefore evident that the actual dissemination to the States concerned of the information gathered under the environmental assessment activity is of paramount importance, if effective environmental management and development is to be sustained. Proper management of the resource base is the key to sustainable environmentally sound development.

23. A large number of present and planned activities in a region may have impacts on the quality of the environment. In addition, certain activities, when planned in concert, may provide favourable opportunities for minimizing negative environmental effects and conflicts in use and may possibly produce beneficial effects.

24. According to the "integrated river basin planning" concept, the various socio-economic activities are viewed in the light of their relation to the environment and to other uses of water resources in the river basin.

25. Environmental legislation (national legislation, and international agreements) can provide a firm commitment from States to maintain the environmental quality of the region shared by those States, and may include the harmonization of national legislation and the encouragement of the adoption of a regional agreement or agreements.

26. These main elements (as set out in paragraph 20 above) will be supported through various measures by the Governments within the river basin. They will enable them to participate in environmental activities and, in due course, they can assume their responsibility in full. The support by the Government may include, among other things, assistance in the form of education and training; equipment for the environmental assessment; experts to help national institutions participating in ZACPLAN to improve their capability; harmonization of methodology to ensure the compatibility of the results; and establishment of the specialized regional activity centres.

27. At the request of Governments, inter-agency expert missions may be organized. They undertake specific tasks, which relate to environmental problems of regional significance, in co-operation with national experts and/or institutions.

#### C. *Environmental assessment*

28. Sound action requires an understanding of the intricate links between development and the environment. Therefore there exists a need for

continuing systematic assessment of the main factors influencing water management and water-related environmental quality. The tasks that should be performed include:

- (a) Assessment of national and subregional capabilities to investigate and manage environmental processes, including scientific and administrative institutions (for example, those listed in *Desertification Control in Africa, Actions and Directory of Institutions*, volumes I and II, Desertification Control Programme Activity Centre, UNEP, 1985), manpower, research facilities and equipment, together with the identification of institutions with the potential to serve as regional activity centres in particular disciplines, and as regional or subregional activity centres co-ordinating specific inter-State projects;
- (b) The gradual development and operation of a basin-wide unified monitoring system for water and water-related environment, covering water quantity and quality, pollution, siltation, water consumption, water supply and sanitation, hydroelectric power plants, major irrigation schemes, human health, forestry, soil conservation, desertification, and wildlife conservation;
- (c) Assessment of the effects of the major water projects on the environment;
- (d) Provision of equipment needed for the assessment of environmental quality;
- (e) Compilation of an inventory of the sources and amount of pollutants reaching the river and coastal waters from land-based sources;
- (f) Analysis of data on competing demands for resource utilization including development of proper data storage, retrieval and management systems;
- (g) Co-operation with the Global Environmental Monitoring System (GEMS), the World Climate Programme and the Eastern African regional seas programme;
- (h) Survey and assessment of present and planned socio-economic activities including development projects, that have an impact on the quality of environment of the river basin and its coastal and marine environment;
- (i) Encouragement of collaboration among institutions, scientists and technicians from the region;
- (j) Strengthening of capabilities in water management science and for monitoring and assessing the state of the river, coastal and marine environment and the condition of living resources, including the training of scientists and technicians from the river basin States in methods and techniques related to the assessment and evaluation of river and related marine pollution;
- (k) Development of integrated information programmes taking into account existing information systems, the target audience and the promotion of community participation. Co-operation with INFOTERRA, which has national focal points

in Botswana, Malawi, Tanzania, Zambia and Zimbabwe should be promoted;

- (l) Assessment of water borne and other water related diseases and their effects in human health.

#### D. *Environmental management*

29. The key to sustainable, environmentally sound development is proper management of the resource base. Such management should take into account the assimilative capacity of the environment, the development goals as defined by national authorities and the economic feasibility of their implementation. The following activities may be undertaken to strengthen the ability of Governments to adopt appropriate environmental management practices for water and natural resources:

- (a) Strengthening or expansion of the relevant ongoing development activities that demonstrate sound environmental management practices;
- (b) Improvement of drinking water supply, sanitation and human health through strengthening of sector institutions, drinking water supply and sanitation programmes;
- (c) Development of water quality control programmes based on a uniform water monitoring system;
- (d) Encouraging "end users" of water, women in particular, who are actually in charge of making use of water in daily life, to participate in planning, construction and maintenance of water distribution, purification and sanitation systems;
- (e) Co-operation in preparedness for pollution emergencies and water-related natural hazards, and measures to prevent them and/or mitigate their consequences;
- (f) Environmentally sound development of water resources to meet the demand for water for industries, mines, irrigation, hydropower, navigation, drinking water supply, etc.;
- (g) Co-operation in the application of existing international measures to reduce and control the degradation and wasteful use of the natural resource base, to combat the vast problem of desertification, and to co-ordinate efforts concerning the problems of land-use practices in relation to flood and drought control and management and pollution control;
- (h) Formulation of regionally and locally applicable programmes including guidelines and standards for the management and control of domestic, agricultural and industrial waste water, including the development of principles governing the treatment and discharge of such wastes;
- (i) Integration of environmental management components in decision-making on water and water-related projects;
- (j) Harmonization of policies on the management of wildlife, genetic resources, natural habitats and landscapes.



(k) Co-operation in the establishment and management of protected rivers, lakes (natural and man-made), coastal areas of the river basin and its related marine habitats, such as wetlands, nurseries, breeding grounds and mangroves, including the training of technical personnel and managers in the conservation of wildlife and habitats;

(l) Co-operation in devising land-use practices, watershed management, soil conservation and development patterns appropriate for conditions in the river basin and its related marine regions, including improvement of national capabilities to assess the environmental impact of development;

(m) Co-operation in the preparation of measures to conserve wood resources, and to increase its supply on a sustainable basis which may reduce the rate of deforestation. In this context, improvement of biomass fuel processing and combustion techniques should be investigated;

(n) Co-operation in the assessment and utilization of fisheries to achieve the highest rational utilization on a sustainable basis;

(o) Development of a river basin planning process based, *inter alia*, on sound environmental management practices;

(p) Studies of the environmental, social and cultural effects of tourism, and elaboration of environmentally sound strategies for tourism development;

(q) Implementation of intensive human resources development programmes to support the above measures and provision of environmental education and training in order to develop the knowledge of human resources in all basin countries.

#### E. Environmental legislation

30. National laws and regulations pertaining to the protection and development of the river basin and its coastal and marine environment should be developed, reviewed, and, when necessary, expanded, updated or strengthened. The enforcement of national laws and regulations relating to the river basin and its coastal and marine resources should be improved, for example, with respect to deforestation, soil and water conservation, rural and urban health and development planning, mining and industrial activities, prevention of pollution of the riverine and marine environment and protection of the species living there.

31. National laws and regulations on the protection and development of river basin resources should as far as possible be harmonized whenever regional uniformity is required to meet the objectives of such legislation.

32. An up-to-date compilation of national legislation of the basin States related to the protection of the river, coastal and marine environment should be maintained.

33. A regional convention for the protection, management and development of river basin

resources and the coastal and marine environment relevant to the basin should be developed and adopted. It should be supplemented by protocols prescribing agreed measures, procedures and standards to prevent, reduce and control pollution from all sources and to promote stated environmental management objectives.

34. National legislation should be developed, adopted and implemented to integrate environmental considerations in the planning, development, construction, operation and rehabilitation of water projects and should include environmental impact assessment procedures. The implementation of the legislation adopted should be supported by the appropriate machinery. Such legislation and machinery should also be adopted with regard to water supply and sanitation.

35. Technical assistance and advice on the drafting of national legislation for the effective implementation of the regional convention and its protocols and other relevant international agreements should be provided by appropriate international organizations upon request.

#### F. Supporting measures

36. To support the activities of the regional co-operation programme, intensive training programmes should be formulated for personnel from the river basin and other SADCC States. These programmes should be carried out through existing national, regional or international institutions ready to offer their facilities. In this connection, reference is made to the UNEP environmental training policy, which is designed to promote the implementation of sustainable development, the International Training Network for Water and Waste Management, initiated by the World Bank, and the WHO Health Education Network, the last two of which might be organized through the University of Zimbabwe in Harare, or similar institutions. Emphasis will be put on strengthening existing national environmental training institutions. Some of these institutions may be designated centres of excellence for environmental training for their respective region or subregion. For the coming years, priority assistance will be given to create operational regional networks of environmental training institutions.

37. In the context of the International Drinking Water Supply and Sanitation Decade (IDWSSD), a Sector Development Team (SDT) has been established with location in Nairobi, Kenya. The Team is a UNDP/World Bank project covering eastern and southern Africa with its primary function to assist related Governments in institutional development, investment planning and project identification and preparation with the emphasis on low cost solutions. In this capacity the Team would be in a position to assist the Zambezi river basin countries in the development of the water supply and sanitation sector within the framework of the Action Plan.

38. The promotion of public awareness of ZACPLAN will be an important component in the development of the information programme both within the participating countries and in countries supporting the Plan. Initially, the following activities will be undertaken to provide basic data on which an integrated information programme can be developed:

- (a) A survey and analysis of existing information systems in the countries concerned including their present forms, usability and management and how they can be strengthened;
- (b) An analysis to identify target audiences of relevance to the development and adoption of ZACPLAN;
- (c) An analysis on the role that information can play in the development and maintenance of support for the project in donor countries.

39. Education in the principles of protection and development of the natural and human resources of the river basin and the relevant coastal and marine resources should be provided as part of the ordinary educational curricula at primary, secondary and university levels, through the training of special instructors or specialized training of general educators, and through seminars and courses offered to the general public. Written and audio-visual materials may be prepared to train general educators. It would be prepared jointly by a water resources expert involved in the project and a curriculum developer, and be aimed at teachers of engineering, environmental studies, integrated science, geography and biology. Activities would also include the training of experts in basin countries to enhance their knowledge on environmentally sound management of water systems. A handbook and other relevant materials for those experts who are actually in charge of planning and management of the use of water resources will be considered for publication.

### III. IMPLEMENTATION IN THE PERIOD OF 1987-1989

40. High priority should be given to the appointment of national focal points.

41. The Governments should be fully informed about the progress in order to be ready to make decisions on the plan and to evaluate the consequences that may follow.

42. The Governments should make policy decisions concerning all substantive matters, financial or otherwise, related to the implementation of the Zambezi Action Plan and in particular, should:

- (a) Review the progress achieved in implementing the Action Plan;
- (b) Evaluate the results achieved;
- (c) Adopt a workplan for implementing the Action Plan in the subsequent period;
- (d) Provide the policy guidance for the procedures to be followed in the implementation of the Action Plan;

(e) Approve the budgetary resources required to support the work plan and their allocation;

(f) Agree upon the means for financing activities under the Action Plan, including firm pledges for contributions to be made by the Governments.

43. The Zambezi Action Plan should be implemented also as a follow-up of the Cairo Conference, especially of the work of the Committee on River and Lake Basins.

44. The following specific short-term goals should be reached by the end of 1989 as phase I of the implementation of the Action Plan:

(a) To provide an up-to-date compilation of all projects in the Zambezi basin which relate to ZACPLAN and to commence a basin-wide information exchange on these projects;

(b) To compile an inventory of existing national and international legislation on and to give assistance on drafting national laws for environmentally sound water resources management and to provide a draft regional convention on the subject;

(c) To assess and strengthen the capabilities of scientific resources to implement ZACPLAN;

(d) To commence the development of a basin-wide unified monitoring system of water resources and related environment with a review of the existing systems, the preparation of the development plan of this monitoring system, and the installation of a few basic data acquisition stations;

(e) To develop national, sub-basin plans for environmentally sound water resources management in each basin country to form the basis of a subsequent basin-wide development plan;

(f) To provide assistance to develop rural community promotion campaigns in each basin country to promote sustainable development locally.

45. To meet the goals of the Action Plan and the specific short-term goals listed in paragraph 44, the programme categories and activities as Zambezi Action Plan projects (ZACPRO) are listed and briefly described in Appendix I. Of them, eight projects in category I should meet the short-term goals and have definite outputs by 1989 as a result of their complete or Phase I implementation. The proposed sources of funding of those eight projects are indicated in Appendix II. Implementation of the other 11 projects, which fall into Category II, should be commenced in the period 1987-1989, if financial resources become available. The relative contributions to the common cost of ZACPLAN are indicated in Appendix III.

46. The projects to implement the goals should be formulated on the basis of the following guidelines:

(a) They should be subregional in character affecting at least two basin countries;

(b) They should be closely related to inter-governmental co-operation on the management of water resources, i.e. monitoring, networks, pollution control and legislation;

(c) They should have training, demonstration and information components at different levels;

(d) They should improve environmental health conditions and combat water related and water-borne diseases;

(e) They should promote a sustainable basis for socio-economic development, with an emphasis on food and energy production.

These guidelines should also be considered in selecting further projects during the later stages of implementation of the Action Plan.

47. The workplan and financial plan for each period should be prepared and agreed upon at least six months before the previous period expires.

48. Proposed sources of funding for implementation of the Zambezi Action Plan for the period 1987-1989 are shown in Appendix II. The first eight projects have been considered in this table. The sources of funding are estimated to cover these category I projects.

49. When adopting the Action Plan, the Governments will be invited to consider a timetable of events suitable for the orderly review of the progress made in the implementation as well as for the approval of administrative programme and budget matters. The timetable is shown in Appendix IV.

### Appendix I

#### PROGRAMME CATEGORIES FOR THE ZAMBEZI ACTION PLAN

Projects related to ZACPLAN should constitute the basis of the programme and be implemented in phases based on the selection guidelines outlined in part III of the Action Plan. The Zambezi Action Plan projects (ZACPRO) for the period of 1987-1989 are as follows. (See paragraph 45 of the Action Plan for categorization of projects into category I and - II.):

#### A. Category I projects

(The complete or phase I implementation of projects in this category should meet the short-term goals indicated in paragraph 44 of the Action Plan and have definite outputs by 1989)

**ZACPRO 1** Up-to-date compilation of all completed, ongoing and planned development projects which can be related to the ZACPLAN, and the evaluation of major key projects which have been implemented in order to gain experience, to avoid overlapping with other development programmes, to do proper and detailed planning including co-operation with donors and United Nations agencies to avoid mistakes for future project implementation and to start a basin wide exchange of information.

**ZACPRO 2** Up-to-date compilation of national and international laws of the river basin countries related to the utilization and the protection of water and the environment.

In order of priority requirements develop and adopt regional convention on the environmentally sound management of the common Zambezi river system and additional protocols to promote the further development and implementation of the ZACPLAN.

Technical assistance and advice on the drafting of national legislation for the effective implementation of regional conventions and their protocols.

**ZACPRO 3** Survey of national capabilities and means to respond to environmental problems including scientific and administrative institutions, manpower requirements, research facilities and equipment and the need for human resources development.

**ZACPRO 4** Development or strengthening of relevant national research institutes, laboratories and institutions in order to enable them to develop water-related environmental research and training policies and priorities in collaboration with INFOTERRA and to carry out the analysis and research.

**ZACPRO 5** Development of a basin-wide unified monitoring system related to water quality and quantity.

5.1 Within the eight riparian countries and with particular emphasis on the Zambezi basin itself, review of existing and planned data collection, transmission and storage systems and data currently stored. This would be concerned with data relevant to the needs of the overall projects such as physiographical, meteorological, hydrological, land-cover and land-use data. The hydrological data should relate to both surface and ground water, to sediment loads and water pollution and to water quality in general including chemical and biological parameters.

5.2 On the basis of project 5.1 and a thorough analysis of the data needs of ZACPLAN, preparation of proposals for the strengthening of relevant data collection and storage activities and their regional co-ordination. These should be prepared and costed at three levels: a minimum proposal, an optimum proposal and an intermediate proposal. It is anticipated that these proposals will include the following activities:

(a) Assessment of the need for physiographic, land-use and land-cover data and their updating. Presentation of specific proposals for acquiring additional data (possibly using satellite data or aerial surveys) and storing and processing them;

(b) Assessment of the need for long-term and medium-term meteorological, hydrological and related time-series data. Evaluation of available data and presentation of specific proposals for overcoming deficiencies by using data from other sources or by augmenting existing networks of stations;

(c) Assessment of the need for real-time data for the continuous monitoring of the water environment

of the Zambezi river basin, including data on precipitation, streamflow and lake and ground-water levels, water quality, floods, flood-plain and soil moisture. Evaluation of present facilities for the provision of such data and presentation of specific proposals for overcoming deficiencies in the short and long term, possibly by using meteorburst or satellite-based transmission systems, including the training of the personnel that will be needed;

(d) Consideration in all the above of the need for a uniform or at least compatible system of data collection and storage, compatible not only with project 5, but also with the data collected and used by other ZACPLAN projects. Identification of national data centres and a potential regional data centre and preparation of specific proposals as to how these might be strengthened with computing facilities and trained staff to meet the needs of ZACPLAN.

5.3 Commencement of the implementation of the minimum proposals arising from projects 5.2 to the extent possible within the first phase of ZACPLAN. This will involve:

(a) The promotion of a fuller utilization of existing mechanisms for the exchange of water-related environmental data information between the countries at regional and sub-regional level with inputs from INFOTERRA and other similar systems which have national focal points in and/or information on the Zambezi basin countries;

(b) A minimum augmentation of the present station networks and data transmission facilities, possibly an additional five to ten stations using satellite transmission;

(c) With reference to ZACPRO 3 and 4, strengthening of manpower and facilities at some national data centres and at a regional data centre, by the provision of hardware and specific tried and tested software and training people to use the hardwares and softwares;

5.4 Development and implementation of Phase I of the regional hydro-electric hydrological assistance project of SADCC in co-operation with the implementation of activities in 5.1, 5.2 and 5.3 of ZACPRO 5.

**ZACPRO 6** Development of an integrated water management plan for the Zambezi basin based on sub-basin plans prepared as a first phase. The project includes, *inter alia*:

(a) Assessment and utilization of water resources for sustainable development;

(b) Flood control, flood plain and watershed management including drainage and control of other water related natural hazards;

(c) Conservation and improvement of the productive capacity of water related ecosystems;

(d) Development of safe drinking water supply and sanitation conditions including water pollution and accidental pollution control, waste-water reuse.

**ZACPRO 7** The design and implementation of promotion campaigns to persuade communities, schools and individuals to provide for themselves:

- (a) Sufficient drinking water of acceptable quality;
- (b) Good sanitary facilities;
- (c) Soil conservation measures;
- (d) Forest protection and fuelwood plantation.

The campaigns will be a follow-up action of the African Ministerial Conference on the Environment which at its first session called for pilot and promotion projects in three villages in each country. It includes the implementation of environmentally sound watershed management projects in several villages in the Zambezi river basin.

These projects should be based on a revision of past experience in some of the river basin States which may have carried out such campaigns. Special emphasis should be laid on proper operation and maintenance procedures and training of personnel at all levels.

In order to implement the campaigns the following actions must be taken:

(a) Preparation of written and audio-visual materials in English and Portuguese for secondary school teachers to enable them to teach their pupils about the Zambezi Action Plan and the concepts behind it, in collaboration with the Environmental Training Branch of UNEP;

(b) Training of a small number of personnel to ensure the successful implementation of the first phase of the ZACPLAN with emphasis on participation of women as "end users" of water in the integration of water systems, especially drinking water supply, purification and sanitation facilities.

**ZACPRO 8** Development of unified water engineering planning and design criteria and manuals for major elements of non-piped and piped drinking water supply and sanitation schemes including appropriate treatment when required.

#### B. Category II projects

(Implementation of projects in this category should be commenced in the period 1987-1989, if financial resources become available)

**ZACPRO 9** Basin-wide harmonization of existing and planned methodologies on environmentally sound water resources management and their application in the decision-making on selected drinking water supply, sanitation, irrigation and hydroelectric power projects.

**ZACPRO 10** Development and strengthening of the capability of the States of the region to prepare environmental impact analysis of major development projects and plans in order to incorporate the environmental dimension in the planning and implementation of socio-economic development programmes.

**ZACPRO 11** Promotion of increased technical and financial support for environmentally sound management practices within ongoing national, regional and internationally supported economic

development activities, so that they will have a demonstration effect.

**ZACPRO 12** The energy projects listed below should be implemented in close co-operation with the SADCC Energy Sector, including the countries which are directly involved.

**12.1** Assessment of major sources of conventional and non-conventional energy and their potential uses within and outside the river basin States.

**12.2** Assessment of the potential for energy conservation measures in the fossil fuel and hydropower systems for energy production and use and formulation of guidelines and recommendations on measures to achieve optimal efficiency in the exploitation of these resources.

**12.3** The feasibility of linking the major hydroelectric power plants including marketing analysis.

**12.4** Environmental impact assessment (EIA) analysis for existing and potential energy schemes which are likely to be developed or to be selected for further studies.

**12.5** Implementation of field demonstration projects on improved fuelwood utilization and application of other renewable sources of energy, including measures to ensure adequate replication throughout the river basin.

**ZACPRO 13** Adoption of watershed management guidelines based on the assessment of the effects of modification on the relationships between forest cover, water and land utilization with a view to introducing environmental planning concepts in the management of catchment areas. Soil erosion and siltation studies should be carried out before and after implementation in order to evaluate the projects.

**ZACPRO 14** Prevention and control of water related and water-borne diseases in Zambezi basin. The health projects listed below should be implemented in close co-operation with the World Health Organization and local health institutions.

**14.1** Evaluation of information on the prevalence of water-related and water-borne diseases in the Zambezi river basin.

**14.2** Guidelines on health protection measures in the planning, design, construction and operational phases of water projects in the Zambezi river basin.

**14.3** Guidelines on prevention and control of water-related and water-borne diseases in the Zambezi river basin.

**14.4** Seminar on prevention of water-related and water-borne diseases in the Zambezi river basin and promotion of training of technical personnel involved in water projects as a follow-up to this seminar.

**14.5** Promotion of community awareness of prevention and control of water-related and water-

borne diseases in the Zambezi river basin utilizing mass media and community level education.

**14.6** Pilot project on the control of water-related and water-borne diseases in the Zambezi river basin.

**ZACPRO 15** Limnological studies of Lake Malawi/Nyasa, Lake Kariba, Lake Cahora Bassa and Lake Chilwa. Special attention should be given to fisheries, creation of fish farms, and management of fish genetic resources.

**ZACPRO 16** Development and application of ecologically sound elements into vector control programmes in the Zambezi river basin. Priority should be given to tsetse and mosquito control operations.

**16.1** Survey of ongoing operations for tsetse control, development and testing of a model integrated tsetse control package and promotion of its field application at the regional level (pilot demonstration project).

**16.2** Promotion of environmental training as a corollary to tsetse control with insecticides (within the context of FAO training and applied research for *Glossina* control in the dry savannah zone, FAO Training Centre, Lusaka).

**16.3** Survey of ongoing operations for mosquito control by pesticides and their impact on the environment.

**16.4** Development of programmes for mosquito control and training programmes for staff to implement such control programmes.

**ZACPRO 17** Studies of inter-basin transfer of water including water demands for sustainable development outside the river basin and the impact on the Zambezi river system.

**ZACPRO 18** The establishment and implementation of living resource conservation programmes within the river basin and in accordance with the national and world conservation strategies.

**ZACPRO 19** Research on aquatic plants and on the eradication and prevention of the spread of harmful flora such as *Salvinia*.

## Appendix II

### PROPOSED SOURCES OF FUNDING FOR THE IMPLEMENTATION OF PHASE I OF THE ZAMBEZI ACTION PLAN

(in thousands of United States dollars)

	1987	1988	1989	Total
Regular contributions from participating countries	—	500	500	1,000
Earmarked contributions to specific projects from participating countries	—	1,900	1,900	3,800
Donor countries and organizations	1,100	1,700	1,700	4,500
The Environment Fund of UNEP	200	400	600	1,200
Organizations of the United Nations system and other international organizations	300	500	7,700	1,500
Total	1,600	5,000	5,400	12,000

## Appendix III

### RELATIVE CONTRIBUTIONS TO THE COMMON COST OF ZACPLAN

The total contribution to the common cost of ZACPLAN will be equally shared by all participating countries as follows:

Countries	%
Angola	12.5
Botswana	12.5
Malawi	12.5
Mozambique	12.5
Namibia	12.5
Tanzania	12.5
Zambia	12.5
Zimbabwe	12.5
Total	100

## Appendix IV

### WORKPLAN AND TIMETABLE (1987—1989)

1. June 1987  
2nd Session of the African Ministerial Conference on Environment to support the Zambezi Action Plan.
2. June 1987  
Fourteenth Session of the UNEP Governing Council to support the Zambezi Action Plan.
3. July 1987  
Council of Ministers and Summit of SADCC to approve the Zambezi Action Plan.
4. September/October 1987  
Meeting of SADCC Ministers of Food, Agriculture and Natural Resources to review progress in implementation of the Zambezi Action Plan.

### 5. Late 1988

Review progress in implementation of the Zambezi Action Plan, and adopt workplan and budget for 1990–1991 period.

### 6. June 1989

Regular Session of the UNEP Governing Council to take note of the progress of Zambezi Action Plan and to make necessary decisions in relation to the financial support of the Zambezi Action Plan.

### 7. Late 1989

Review progress in implementation of the Zambezi Action Plan and to revise workplan for 1990–1991, if necessary.

## Annex II

### INSTITUTIONAL AND FINANCIAL ARRANGEMENTS

1. As a possible option in the implementation of the Zambezi Action Plan, the Working Group of Experts on the Zambezi River System prepared some suggestions on institutional and financial arrangements for the Zambezi Action Plan which are presented in this Annex for information.

#### I. Institutional arrangements

2. In the implementation of ZACPLAN, the national capabilities available in the river basin and the capabilities of the regional programmes, should be used to the greatest possible extent.

3. The agreed programme should be implemented through projects executed primarily through existing national institutions, which should be strengthened where necessary, so that they may participate actively and effectively in the various projects. For some of the projects, the assistance of experts from outside the river basin States may be required.

4. The Zambezi Intergovernmental Monitoring and Co-ordinating Committee (ZIMCC) of the

Zambezi Action Plan should be established to co-ordinate and provide operational and policy guidance for the implementation of the Zambezi Action Plan, to follow-up the progress of its implementation, and to evaluate its results.

5. The Committee shall be composed of representatives of Angola, Botswana, Malawi, Mozambique, United Republic of Tanzania, Zambia, Zimbabwe, the United Nations Council for Namibia and the Secretariat of the Southern African Development Co-ordination Conference. Those States participating in the implementation of the Zambezi Action Plan, and those international, intergovernmental and regional organizations involved in the subject matter of each meeting shall attend as observers.

6. The Committee shall meet at least once a year. The first meeting shall be convened by the General Committee of the Conference of the Plenipotentiaries on the Environmental Management of the Common Zambezi River System at the earliest possible date, but not later than the second half of 1987, to decide its detailed organizational structure and agree upon and adopt by consensus its rules of procedure, as well as to review the projects proposed for the implementation of the Zambezi Action Plan in the light of documents received from national focal points and funding agencies and to decide on the immediate steps to be taken by SADCC and UNEP for their implementation within available financial resources.

7. To ensure the harmonious, co-ordinated and integrated evolution of each of the components of ZACPLAN, within the overall co-ordination and responsibility of SADCC and with the assistance of UNEP, a small Zambezi River Basin Co-ordination Unit should initially be established. The Unit should benefit as fully as possible from technical co-operation with existing international, regional and national organizations and co-ordinating bodies.

8. The Zambezi River Basin Co-ordinating Unit as a SADCC Unit shall be established using the resources of the Zambezi River Basin Trust Fund, established according to Section II. The Unit shall be located in . . . . .

9. The Zambezi River Basin Co-ordinating Unit shall be responsible for the administration of the implementation and co-ordination of the Zambezi Action Plan under the guidance of the Zambezi Intergovernmental Monitoring and Co-ordinating Committee, and shall perform any other functions assigned to it by the Committee.

10. The Zambezi River Basin Co-ordinating Unit shall, in consultation with the Governments of the region and their intergovernmental bodies, and in close co-operation with the relevant United Nations bodies and non-governmental and other relevant international organizations, make adequate arrangements to achieve the objectives of the Zambezi Action Plan.

11. The Zambezi River Basin Co-ordinating Unit is expected to have 3-4 members. In general terms, it should:

- (a) Formulate project documents for specific activities agreed upon as part of the action plan;
- (b) Negotiate and co-ordinate the execution of the projects through national, international, regional and subregional organizations;
- (c) Collect, collate and analyse results achieved through the project activities and disseminate related information;
- (d) Organize expert and intergovernmental meetings to be held in connection with the regional programme, including the periodical preparation of progress and other reports and documents for the meetings;
- (e) Keep the national focal points regularly informed of the progress achieved in carrying out the work, the results achieved and problems encountered.

12. The Zambezi River Basin Co-ordinating Unit should serve as a co-ordinating centre providing information, identifying experts and institutions for the solution of specific problems, facilitating information exchange and co-operation among those experts and institutions, and promoting activities identified by the Governments. The Zambezi River Basin Co-ordinating Unit should not be expected to conduct field research and execute projects, since such activities are to be undertaken primarily by the national institutions with the co-operation and assistance of international and regional organizations, as appropriate.

13. A national focal point should be designated by each Government (co-ordinating all the relevant departments dealing with natural and human resources development within the river basin) to facilitate the work of, and co-ordinate with, the Zambezi River Basin Co-ordinating Unit, and to co-ordinate the activities of interdisciplinary programmes at the national level.

14. National institutions (such as ministries, research centres, laboratories, government services, universities, etc.) should provide the institutional basis for carrying out the technical work of the Action Plan. They should be the principal executing or implementing agencies of the project activities. National institutions that will participate in the activities should be selected and designated by the national focal points, taking into account the specific characteristics of the national administration and organizational structure of each State. In order to allow for complete and effective participation in agreed activities, technical and managerial assistance (such as equipment and training) should be provided through the Action Plan to strengthen the capabilities of national institutions to participate in the programme.

15. Experience has shown that a higher degree of efficiency and mobilization of national institutions

can be achieved by the establishment in each of the participating States of a national committee for the regional programme composed of representatives of the most important national institutions. Such a committee, chaired by the national focal point for the regional programmes, can play a crucial role in mobilizing support for the activities of the Action Plan. When the establishment of such a committee is proposed, it is clearly the responsibility of each Government to review its national administrative structure and to decide whether the committee could play a useful role in promoting and strengthening its national participation in implementation of the Action Plan.

16. Participation in the Action Plan of international organizations, in particular those belonging to the United Nations system, can greatly assist its implementation, and, therefore, their financial, technical and managerial support for specific projects should be solicited. The Zambezi River Basin Co-ordinating Unit should assume responsibility for co-ordinating such support.

17. The suggested communication links on policy and technical matters between the various participants in the proposed institutional arrangements are indicated schematically in Appendix I.

## II. Financial arrangements

18. The costs required to implement the Action Plan can be broadly divided into two categories – common costs and project costs.

19. The common costs include the expenses related to the co-ordination of the activities agreed to within the framework of the adopted Action Plan, including the costs of the establishment and operation of the Zambezi River Basin Co-ordinating Unit. They also include the costs of servicing the meetings and of the financial management of projects carried out under the action plan. The main items under common costs include:

- (a) Salaries and benefits of professional and supporting staff, including consultants;
- (b) Travel of secretariat personnel;
- (c) Meetings (interpreters, translators, travel of participants; meeting premises, other costs related to servicing of the meeting);
- (d) Equipment (purchase and maintenance);
- (e) Rental and maintenance of secretariat premises;
- (f) Reporting costs (preparation, translation, printing and dissemination of documents);
- (g) Telecommunication costs (telex, telegrams, postage and freight).

20. The project costs are specific for each project and depend on its nature. They may involve some or all of the items listed above, as well as additional items such as:

- (a) Training/fellowship;

- (b) Sub-contracts (for the execution of a specialized activity).

21. Financial support for the implementation of the Action Plan could come from several sources:

- (a) Regular contributions from participating countries and SADCC;
- (b) Earmarked contributions to specific projects from participating countries;
- (c) Donor countries and organizations;
- (d) The Environment Fund of UNEP;
- (e) Organizations of the United Nations system;
- (f) Regional and international organizations which are not part of the United Nations system (e.g. OAU, ILEC, IUCN);
- (g) Any other source of funding agreed to by participating countries,

22. Of the above, the regular contributions from participating countries should be in cash only, while the remainder should preferably be in cash but could include payments in kind (staff time, experts, training, facilities, services, equipment, etc.).

23. Support will be provided by the Environment Fund and the United Nations system on the assumption that these contributions will progressively decrease as the Governments themselves assume full responsibility for the implementation of ZACPLAN.

24. The ultimate aim would be to make the proposed regional programme self-supporting, not only by developing institutional capabilities to perform the required tasks, but also by supporting the provision of training, equipment and other forms of assistance from within the region.

25. Zambezi River Basin Trust Fund shall be established to promote financial support for the implementation of the Action Plan. The terms of reference for management of the Zambezi River Basin Trust Fund are shown in Appendix II.

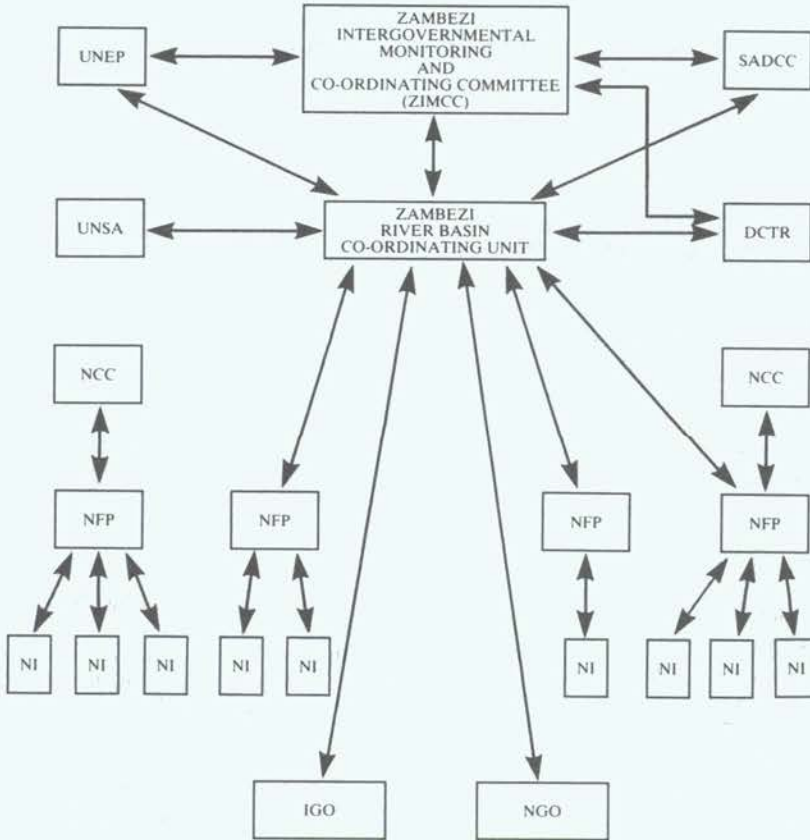
26. The Zambezi River Basin Trust Fund shall be established for two calendar years beginning 1 January 1988 but may be extended beyond that period by the Parties.

27. The Trust Fund shall be financed from contributions made by the Parties and such other contributions as may be negotiated by the Parties when appropriate.



Appendix I

COMMUNICATIONS LINKS



NFP: NATIONAL FOCAL POINT  
 NI: NATIONAL INSTITUTION  
 UNSA: UNITED NATIONS SPECIALIZED AGENCY (OR BODY)  
 NCC: NATIONAL CO-ORDINATING COMMITTEE  
 NGO: NON-GOVERNMENTAL ORGANIZATION  
 IGO: INTER-GOVERNMENTAL ORGANIZATION  
 UNEP: UNITED NATIONS ENVIRONMENT PROGRAMME  
 DCTR: DONOR COUNTRY

Appendix II

TERMS OF REFERENCE FOR THE MANAGEMENT OF THE ZAMBEZI RIVER BASIN TRUST FUND

1. The Zambezi River Basin Trust Fund, hereinafter referred to as the "Trust Fund", is established for an initial period of two years to provide financial support for the implementation of the Action Plan for the Environmental Management of the Common Zambezi River System adopted by

the Intergovernmental Meeting of the Zambezi countries.

2. The Trust Fund shall be initially established for two calendar years beginning 1 January 1988 and ending 31 December 1989.

3. The administration of the Trust Fund shall be entrusted to the Secretary-General of the United Nations and, should he deem it necessary, to the Executive Director of UNEP.

4. The establishment and management of the Trust Fund shall be governed by the Financial Regulations and Rules of the United Nations, the Staff Regulations and Rules of the United Nations, and other administrative policies or procedures promulgated by the Secretary-General. It is understood that these Rules provide that the United Nations shall make a deduction equal to 13 per cent of all expenditures financed from the Trust Fund to finance the administrative support costs of the Trust Fund.

5. In the event that the participating States wish the Trust Fund to be extended beyond 31 December 1989, the Executive Director of the United Nations Environment Programme shall be so advised in writing at the least six months before that date. It is understood that such extension of the Trust Fund shall be decided at the discretion of the Secretary-General of the United Nations.

6. For 1988 and 1989, the Trust Fund shall be financed from agreed contributions made in accordance with the Agreement on the Action Plan for the Environmental Management of the Common Zambezi River System.

7. All contributions to the Trust Fund shall be paid in any fully convertible currencies. Contributions shall be paid in annual instalments, payable on first day of January each year. Contributions shall be paid into the account designated by UNEP.

8. Contributions received into the Trust Fund that are not immediately required to finance activities shall be invested at the discretion of the United Nations, and any income shall be credited to the Trust Fund.

9. The Trust Fund shall be subject to audit by the United Nations Internal Audit Service.

10. Appropriations from the Trust Fund towards the costs of the Action Plan for the Environmental Management of the Common Zambezi River System will be approved by the Intergovernmental Monitoring and Co-ordinating Committee, on the basis of detailed proposals submitted by the Zambezi River Basin Co-ordinating Unit to such meetings.

11. No appropriations from the Trust Fund shall be made in advance of the receipt of contributions, and none shall be made before a minimum of US \$..... has been contributed to the Trust Fund.

12. The Secretary-General, or the organization designated by him to administer the Trust Fund, shall submit annual reports on the administration of the Trust Fund to the Zambezi Intergovernmental Monitoring and Co-ordinating Committee.

## EUROPEAN CONVENTION FOR THE PROTECTION OF PET ANIMALS [49]

Strasbourg, 13 November 1987

The member States of the Council of Europe, signatory hereto:

Considering that the aim of the Council of Europe is to achieve a greater unity between its Members,

Recognising that man has a moral obligation to respect all living creatures and bearing in mind that pet animals have a special relationship with man,

Considering the importance of pet animals in contributing to the quality of life and their consequent value to society,

Considering the difficulties arising from the enormous variety of animals which are kept by man,

Considering the risks which are inherent in pet animal overpopulation for the hygiene, health and safety of man and of other animals,

Considering that the keeping of specimens of wild fauna as pet animals should not be encouraged,

Aware of the different conditions which govern the acquisition, keeping, commercial and non-commercial breeding and the disposal of and trading in pet animals,

Aware that pet animals are not always kept in conditions that promote their health and well-being,

Noting that attitudes towards pet animals vary widely, sometimes because of limited knowledge and awareness,

Considering that a basic common standard of attitude and practice which results in responsible pet ownership is not only a desirable, but a realistic goal,

Have agreed as follows:

### Chapter I

#### GENERAL PROVISIONS

##### Article 1

##### DEFINITIONS

1. By pet animal is meant any animal kept or intended to be kept by man, in particular in his household, for private enjoyment and companionship.

2. By trading in pet animals is meant all regular business transactions in substantial quantities carried out for profit which involve the change of ownership of pet animals.

3. By commercial breeding and boarding is meant breeding or boarding mainly for profit and in substantial quantities.

4. By animal sanctuary is meant a non-profit making establishment where pet animals may be kept in substantial numbers. If national legislative and/or

administrative measures permit, such an establishment may accept stray animals.

5. By a stray animal is meant a pet animal which either has no home or is outside the bounds of its owner's or keeper's household and is not under the control or direct supervision of any owner or keeper.

6. By competent authority is meant the authority designated by the member State.

#### Article 2

##### SCOPE AND IMPLEMENTATION

1. Each Party undertakes to take the necessary steps to give effect to the provisions of this Convention in respect of:

(a) pet animals kept by a person or legal entity in any household or in any establishment for trading, for commercial breeding and boarding, and in animal sanctuaries;

(b) where appropriate, stray animals.

2. Nothing in this Convention shall affect the implementation of other instruments for the protection of animals or for the conservation of threatened wild species.

3. Nothing in this Convention shall affect the liberty of the Parties to adopt stricter measures for the protection of pet animals or to apply the provisions contained herein to categories of animals which have not been mentioned expressly in this instrument.

## Chapter II

### PRINCIPLES FOR THE KEEPING OF PET ANIMALS

#### Article 3

##### BASIC PRINCIPLES FOR ANIMAL WELFARE

1. Nobody shall cause a pet animal unnecessary pain, suffering or distress.

2. Nobody shall abandon a pet animal.

#### Article 4

##### KEEPING

1. Any person who keeps a pet animal or who has agreed to look after it shall be responsible for its health and welfare.

2. Any person who is keeping a pet animal or who is looking after it shall provide accommodation, care and attention which take account of the ethological needs of the animal in accordance with its species and breed, in particular:

(a) give it suitable and sufficient food and water;

(b) provide it with adequate opportunities for exercise;

(c) take all reasonable measures to prevent its escape.

3. An animal shall not be kept as a pet animal if:

(a) the conditions of paragraph 2 above are not met or if,

(b) in spite of these conditions being met, the animal cannot adapt itself to captivity.

#### Article 5

##### BREEDING

Any person who selects a pet animal for breeding shall be responsible for having regard to the anatomical, physiological and behavioural characteristics which are likely to put at risk the health and welfare of either the offspring or the female parent.

#### Article 6

##### AGE-LIMIT ON ACQUISITION

No pet animal shall be sold to persons under the age of 16 without the express consent of their parents or other persons exercising parental responsibilities.

#### Article 7

##### TRAINING

No pet animal shall be trained in a way that is detrimental to its health and welfare, especially by forcing it to exceed its natural capacities or strength or by employing artificial aids which cause injury or unnecessary pain, suffering or distress.

#### Article 8

##### TRADING, COMMERCIAL BREEDING AND BOARDING, ANIMAL SANCTUARIES

1. Any person who, at the time of the entry into force of the Convention, is trading in or is commercially breeding or boarding pet animals or is operating an animal sanctuary shall, within an appropriate period to be determined by each Party, declare this to the competent authority.

Any person who intends to engage in any of these activities shall declare this intention to the competent authority.

2. This declaration shall stipulate:

(a) the species of pet animals which are involved or to be involved;

(b) the person responsible and his knowledge;

(c) a description of the premises and equipment used or to be used.

3. The above-mentioned activities may be carried out only:

(a) if the person responsible has the knowledge and abilities required for the activity either as a result of professional training or of sufficient experience with pet animals; and

(b) if the premises and the equipment used for the activity comply with the requirements set out in Article 4.

4. The competent authority shall determine on the basis of the declaration made under the provisions of paragraph 1 whether or not the conditions set out in paragraph 3 are being complied with. If these conditions are not adequately met, it shall recommend measures and, if necessary for the welfare of the animals, it shall prohibit the commencement or continuation of the activity.

5. The competent authority shall, in accordance with national legislation, supervise whether or not the above-mentioned conditions are complied with.

#### Article 9

##### ADVERTISING, ENTERTAINMENT, EXHIBITIONS, COMPETITIONS AND SIMILAR EVENTS

1. Pet animals shall not be used in advertising, entertainment, exhibitions, competitions and similar events unless:

- (a) the organiser has created appropriate conditions for the pet animals to be treated in accordance with the requirements of Article 4, paragraph 2, and
- (b) the pet animals' health and welfare are not put at risk.

2. No substances shall be given to, treatments applied to, or devices used on a pet animal for the purpose of increasing or decreasing its natural level of performance:

- (a) during competition or
- (b) at any other time, when this would put at risk the health and welfare of the animal.

#### Article 10

##### SURGICAL OPERATIONS

1. Surgical operations for the purpose of modifying the appearance of a pet animal or for other non-curative purposes shall be prohibited and, in particular:

- (a) the docking of tails;
- (b) the cropping of ears;
- (c) devocalisation;
- (d) declawing and defanging.

2. Exceptions to these prohibitions shall be permitted only:

- (a) if a veterinarian considers non-curative procedures necessary either for veterinary medical reasons or for the benefit of any particular animal;
- (b) to prevent reproduction.

3. (a) Operations in which the animal will or is likely to experience severe pain shall be carried out under anaesthesia only by a veterinarian or under his supervision.

(b) Operations for which no anaesthesia is required may be carried out by a person competent under national legislation.

#### Article 11

##### KILLING

1. Only a veterinarian or another competent person shall kill a pet animal except in an emergency to terminate an animal's suffering when veterinary or other competent assistance cannot be quickly obtained or in any other emergency covered by national legislation. All killing shall be done with the minimum of physical and mental suffering appropriate to the circumstances. The method chosen, except in an emergency, shall either:

(a) cause immediate loss of consciousness and death, or

(b) begin with the induction of deep general anaesthesia to be followed by a step which will ultimately and certainly cause death.

The person responsible for the killing shall make sure that the animal is dead before the carcass is disposed of.

2. The following methods of killing shall be prohibited:

(a) drowning and other methods of suffocation if they do not produce the effects required in subparagraph 1(b);

(b) the use of any poisonous substance or drug, the dose and application of which cannot be controlled so as to give the effect mentioned in paragraph 1;

(c) electrocution unless preceded by immediate induction of loss of consciousness.

### Chapter III

#### SUPPLEMENTARY MEASURES FOR STRAY ANIMALS

#### Article 12

##### REDUCTION OF NUMBERS

When a Party considers that the numbers of stray animals present it with a problem, it shall take the appropriate legislative and/or administrative measures necessary to reduce their numbers in a way which does not cause avoidable pain, suffering or distress.

(a) Such measures shall include the requirements that:

(i) if such animals are to be captured, this is done with the minimum of physical and mental suffering appropriate to the animal;

(ii) whether captured animals are kept or killed, this is done in accordance with the principles laid down in this Convention.

(b) Parties undertake to consider:

(i) providing for dogs and cats to be permanently identified by some appropriate means which causes little or no enduring pain, suffering or distress, such as tattooing as well as recording the numbers in a register together with the names and addresses of their owners;

(ii) reducing the unplanned breeding of dogs and cats by promoting the neutering of these animals;

(iii) encouraging the finder of a stray dog or cat to report it to the competent authority.

#### *Article 13*

##### EXCEPTIONS FOR CAPTURE, KEEPING AND KILLING

Exceptions to the principles laid down in this Convention for the capture, the keeping and the killing of stray animals may be made only if unavoidable in the framework of national disease control programmes.

### **Chapter IV**

#### INFORMATION AND EDUCATION

#### *Article 14*

##### INFORMATION AND EDUCATION PROGRAMMES

The Parties undertake to encourage the development of information and education programmes so as to promote awareness and knowledge amongst organisations and individuals concerned with the keeping, breeding, training, trading and boarding of pet animals of the provisions and the principles in this Convention. In these programmes, attention shall be drawn in particular to the following subjects:

(a) the need for training of pet animals for any commercial or competitive purpose to be carried out by persons with adequate knowledge and ability;

(b) the need to discourage:

(i) gifts of pet animals to persons under the age of 16 without the express consent of their parents or other persons exercising parental responsibilities;

(ii) gifts of pet animals as prizes, awards or bonuses;

(iii) unplanned breeding of pet animals;

(c) the possible negative consequences for the health and well-being of wild animals if they were to be acquired or introduced as pet animals;

(d) the risks of irresponsible acquisition of pet animals leading to an increase in the number of unwanted and abandoned animals.

### **Chapter V**

#### MULTILATERAL CONSULTATIONS

#### *Article 15*

##### MULTILATERAL CONSULTATIONS

1. The Parties shall, within five years from the entry into force of the Convention and every five years thereafter, and, in any case, whenever a majority of the representatives of the Parties so request, hold multilateral consultations within the Council of Europe to examine the application of the Convention and the advisability of revising it or extending any of its provisions. These consultations shall take place at meetings convened by the Secretary General of the Council of Europe.

2. Each Party shall have the right to appoint a representative to participate in these consultations. Any member State of the Council of Europe which is not a Party to the Convention shall have the right to be represented by an observer in these consultations.

3. After each consultation, the Parties shall submit to the Committee of Ministers of the Council of Europe a report on the consultation and on the functioning of the Convention including, if they consider it necessary, proposals for the amendment of Articles 15 to 23 of the Convention.

4. Subject to the provisions of this Convention, the Parties shall draw up the rules of procedure for the consultations.

### **Chapter VI**

#### AMENDMENTS

#### *Article 16*

##### AMENDMENTS

1. Any amendment to Articles 1 to 14 proposed by a Party or the Committee of Ministers shall be communicated to the Secretary General of the Council of Europe and forwarded by him to the member States of the Council of Europe, to any Party and to any State invited to accede to the Convention in accordance with the provisions of Article 19.

2. Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined at a multilateral consultation not less than two months after the date of forwarding by the Secretary General where it may be adopted by a two-thirds majority of the Parties. The text adopted shall be forwarded to the Parties.

3. Twelve months after its adoption at a multilateral consultation, any amendment shall enter into force unless one of the Parties has notified objection.

## Chapter VII

### FINAL PROVISIONS

#### Article 17

##### SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL

This Convention shall be open for signature by the member States of the Council of Europe. It 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.

#### Article 18

##### ENTRY INTO FORCE

1. This Convention shall enter into force on the first day of the month following the expiration of a period of six months after the date on which four member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 17.

2. In respect of any member 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 six months after the date of the deposit of the instrument of ratification, acceptance or approval.

#### Article 19

##### ACCESSION OF NON-MEMBER STATES

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe 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 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 six months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

#### Article 20

##### TERRITORIAL CLAUSE

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 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. 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 six 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 six months after the date of receipt of such notification by the Secretary General.

#### Article 21

##### 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 reservations in respect of Article 6 and Article 10, paragraph 1, sub-paragraph (a). No other reservation may be made.

2. Any Party 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 invoke the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, invoke the application of that provision insofar as it has itself accepted it.

#### Article 22

##### 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 six months after the date of receipt of the notification by the Secretary General.

#### Article 23

##### 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 or has been invited to do so, 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 18, 19 and 20;

(d) 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, this 13th day of November 1987, 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, and to any State invited to accede to this Convention.

## AGREEMENT ON THE NETWORK OF AQUACULTURE CENTRES IN ASIA AND THE PACIFIC [50]

**Bangkok, 8 January 1988**

The Contracting Parties,

Conscious of the paramount importance of fisheries as an essential sector of development in the Asia-Pacific region;

Recognizing that aquaculture plays a vital role in the promotion and better use of fishery resources;

Recognizing that the establishment and maintenance of a network of aquaculture centres in the region can make a significant contribution to the development of aquaculture;

Considering that the success of such a network will depend largely on close regional co-operation;

Considering that co-operation in this field can best be achieved through the establishment of an intergovernmental organization carrying out its activities in collaboration with other governments as well as organizations and institutions that may be able to provide financial and technical support;

Have agreed as follows:

### *Article 1*

#### ESTABLISHMENT

The Contracting Parties hereby establish the Organization for the Network of Aquaculture Centres in Asia and the Pacific (NACA) with the objectives and functions set out hereinafter.

### *Article 2*

#### DEFINITIONS

For the purpose of this Agreement:

"Aquaculture" means the farming of aquatic organisms.

"Donor Government" means a government, other than a Member Government, which makes a substantial contribution to the activities of the Organization and has concluded an agreement pursuant to Article 15 of this Agreement.

"Member" means a government which is a contracting party to this Agreement.

"National centre" means an aquaculture institution designated by a Member to serve as national focal point for linkage with NACA.

"Organization" means the Organization for the Network of Aquaculture Centres in Asia and the Pacific (NACA).

"Regional centre" means an aquaculture institution in the Asia-Pacific region selected by the Members to serve as a lead centre to share in the regional activities and responsibilities of NACA.

*Article 3*

## OBJECTIVES

1. The objectives of the Organization shall be to assist the Members in their efforts to expand aquaculture development mainly for the purpose of:

- (a) increasing production;
- (b) improving rural income and employment;
- (c) diversifying farm production; and
- (d) increasing foreign exchange earnings and savings.

2. In order to facilitate the achievement of the foregoing objectives, the Organization shall:

- (a) consolidate the establishment of an expanded network of aquaculture centres to share the responsibility of research, training and information exchange essential to aquaculture development in the region;
- (b) strengthen institutional and personal links among national and regional centres through the exchange of technical personnel, technical know-how and information;
- (c) promote regional self-reliance in aquaculture development through Technical Co-operation among Developing Countries (TCDC); and
- (d) promote the role of women in aquaculture development.

*Article 4*

## FUNCTIONS

In order to achieve its objectives, the Organization shall:

- (a) conduct disciplinary and interdisciplinary research on selected aquafarming systems for adaptation or improvement of technologies, and for the development of new technologies;
- (b) train and upgrade core personnel needed for national aquaculture planning, research, training, extension and development;
- (c) establish a regional information system to provide appropriate information for development planning, research and training;
- (d) assist Members in strengthening their national centres linked to the regional centres;
- (e) assist the national centres of Members in testing and adapting existing technology to local requirements and in the training of technicians, extension workers and farmers at the national level;
- (f) transfer to the Members appropriate aquaculture technologies and techniques developed at regional centres;
- (g) facilitate the exchange of national experts, technical know-how and information within the framework of TCDC;
- (h) develop programmes for the promotion of women's participation in aquaculture development at all levels;

(i) assist Members in feasibility studies and project formulation; and

(j) undertake such other activities related to the objectives of the Organization as may be approved by the Governing Council.

*Article 5*

## SEAT

1. The Seat of the Organization shall be determined by the Governing Council, subject to the consent of the Member concerned.

2. The Host Government shall provide free of charge or at a nominal rent, such accommodation and facilities as are necessary for the efficient conduct of work at the Seat of the Organization.

3. If necessary, the Governing Council may establish subsidiary offices, subject to the consent of the Members concerned; in so doing account should be taken of the possibility of utilizing accommodation in existing centres.

*Article 6*

## MEMBERSHIP

1. The Members of the Organization shall be the Contracting Parties to this Agreement.

2. The original Members of the Organization shall be the Governments in Asia and the Pacific invited to the Conference of Plenipotentiaries at which this Agreement was adopted, which have ratified the Agreement or have acceded thereto. A list of invited Governments is given in the Annex to this Agreement.

3. The Governing Council of the Organization may, by a majority of not less than two-thirds of the Members, authorize any Government not referred to in paragraph 2 above, which has submitted an application for membership, to accede to this Agreement as in force at the time of accession, in accordance with Article 16, paragraph 3.

*Article 7*

## RIGHTS AND OBLIGATIONS OF MEMBERS

1. Members shall, in accordance with this Agreement, have the right:

(a) to attend the meetings of the Governing Council and other appropriate meetings that may be called by the Organization;

(b) to obtain on request, free of charge within reasonable limits, information available within the Organization, on matters of their concern, including guidelines for obtaining technical assistance, and collaboration in the study of their problems; and

(c) to receive free of charge publications and other information that may be distributed by the Organization.



2. Members shall, in accordance with this Agreement, have the following obligations:

- (a) to settle their financial obligations towards the Organization;
- (b) to collaborate in determining the technical activities of the Organization;
- (c) to provide, promptly, information reasonably requested by the Organization, to the extent that this is not contrary to any laws or regulations of the Members;
- (d) to undertake assignments that may be mutually agreed between individual Members or groups of Members and the Organization;
- (e) to accord to the Organization and its Members, in so far as it may be possible under the constitutional procedures of the respective Members, facilities which are deemed essential for the successful functioning of the Organization; and
- (f) to collaborate, in general, in the fulfilment of the objectives and functions of the Organization.

#### Article 8

##### THE GOVERNING COUNCIL

1. The Organization shall have a Governing Council on which each Member shall be represented. The Governing Council shall be the supreme body of the Organization.
2. The Governing Council shall adopt its own Rules of Procedure.
3. The Governing Council shall hold an annual session at such time and place as it shall determine.
4. Special sessions of the Governing Council may be convened by the Co-ordinator at the request of not less than two-thirds of the Members.
5. The Governing Council may, in its Rules of Procedure, establish a procedure whereby the Chairman of the Governing Council may obtain a vote of the Members on a specific question without convening a meeting of the Council.
6. The Governing Council shall elect its Chairman and other officers.
7. Each Member shall have one vote. Unless otherwise provided in this Agreement, decisions of the Governing Council shall be taken by a majority of the votes cast. A majority of the Members shall constitute a quorum.
8. The Food and Agriculture Organization of the United Nations (FAO) shall be invited to be represented at meetings of the Governing Council in an advisory capacity.
9. Donor Governments may be represented at meetings of the Governing Council in accordance with an agreement concluded with the Organization under Article 15 of this Agreement.

#### Article 9

##### FUNCTIONS OF THE GOVERNING COUNCIL

The functions of the Governing Council shall be:

1. (a) to determine the policy of the Organization and to approve by a majority of not less than two-thirds of the Members its programme of work and its budget, giving due consideration to the conclusions and recommendations of the Technical Advisory Committee referred to in Article 11;
- (b) to assess, by a majority of not less than two-thirds of the Members, the contribution of Members as provided in Article 13;
- (c) to establish special funds to enable the acceptance of additional resources for the development of programmes and projects;
- (d) to lay down general standards and guidelines for the management of the Organization;
- (e) to evaluate the progress of work and activities of the Organization including the auditing of accounts, in accordance with policies and procedures established for the purpose by the Governing Council, and to give guidance to the Co-ordinator on the implementation of its decisions;
- (f) to formulate and adopt the Financial Regulations and the Administrative Regulations, and to appoint auditors;
- (g) to appoint the Co-ordinator of the Organization and to determine his conditions of service;
- (h) to adopt rules governing the settlement of disputes, referred to in Article 19;
- (i) to approve formal arrangements with governments as well as other organizations or institutions, including any headquarters agreement concluded between the Organization and the Host Government;
- (j) to adopt the Staff Regulations which determine the general terms and conditions of employment of the staff;
- (k) to approve agreements for co-operation to be concluded pursuant to Article 15; and
- (l) to perform all other functions that have been entrusted to it by this Agreement or that are ancillary to the accomplishment of the approved activities of the Organization.

#### Article 10

##### OBSERVERS

Non-member Governments, organizations and institutions that are able to make a significant contribution to the activities of the Organization may, in accordance with the Rules of Procedure adopted under Article 8, paragraph 2, be invited to be represented at sessions of the Governing Council as observers.

*Article 11*

## TECHNICAL ADVISORY COMMITTEE

1. The Governing Council shall establish a Technical Advisory Committee composed of one representative designated by each Member of the Organization.
2. The representatives designated on the Technical Advisory Committee shall be persons with special competence and expertise in the field of aquaculture.
3. The Technical Advisory Committee shall meet at least once a year and at any time at the request of the Governing Council.
4. At its annual meeting the Committee shall designate one of the Committee members as Chairman who shall convene the next annual meeting of the Technical Advisory Committee.
5. The Technical Advisory Committee shall advise the Governing Council on all technical aspects of the activities of the Organization.
6. At each session, the Technical Advisory Committee shall adopt a report, which shall be submitted to the Governing Council.
7. FAO shall be invited to be represented at Sessions of the Technical Advisory Committee. Where appropriate, representatives of Donor Governments and of other organizations or institutions shall also be invited to be represented at such sessions.

*Article 12*

## CO-ORDINATOR AND STAFF

1. The Organization shall have a Co-ordinator appointed by the Governing Council.
2. The Co-ordinator shall be the legal representative of the Organization. He shall direct the work of the Organization under the guidance of the Governing Council in accordance with its policies and decisions.
3. The Co-ordinator shall submit to the Governing Council at each regular session:
  - (a) a report on the work of the Organization, as well as the audited accounts; and
  - (b) a draft programme of work and a draft budget for the following year.
4. The Co-ordinator shall:
  - (a) prepare and organize the sessions of the Governing Council and all other meetings of the Organization and shall provide the secretariat therefor;
  - (b) ensure co-ordination among Members of the Organization;
  - (c) organize conferences, symposia, regional training programmes and other meetings in accordance with the approved programme of work;

- (d) initiate proposals for joint action programmes with regional and other international bodies;
  - (e) be responsible for the management of the Organization;
  - (f) ensure the publication of research findings, training manuals, information print-outs and other materials as required;
  - (g) take action on other matters consistent with the objectives of the Organization; and
  - (h) perform any other function as may be specified by the Governing Council.
5. Staff members and consultants shall be appointed by the Co-ordinator in accordance with the policy, general standards and guidelines laid down by the Governing Council and in accordance with the Staff Regulations. The Co-ordinator shall promulgate Staff Rules, as required, to implement the foregoing.

*Article 13*

## FINANCES

1. The financial resources of the Organization shall be:
  - (a) the contributions of the Members to the budget of the Organization;
  - (b) the revenue obtained from the provision of services against payment;
  - (c) donations, provided that acceptance of such donations is compatible with the objectives of the Organization; and
  - (d) such other resources as are approved by the Governing Council and compatible with the objectives of the Organization.
2. Members undertake to pay annual contributions in freely convertible currencies to the regular budget of the Organization.
3. A Member which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the Governing Council if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Governing Council may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Member.
4. Unless otherwise agreed by the consensus of the Members of the Organization, each Member's financial liability to the Governing Council and to other Members and for the acts of omission and commission of the Governing Council shall be limited to the extent of its obligation to make contributions to the budget of the Organization.

*Article 14*

## LEGAL STATUS, PRIVILEGES AND IMMUNITIES

1. The Organization shall have juridical personality and such legal capacity as may be necessary for the fulfilment of the Organization's objectives and for the exercise of its functions.
2. The Organization shall be accorded the privileges and immunities necessary to perform its functions provided for in this Agreement. In addition, the representatives of Members and the Co-ordinator and staff of the Organization shall be accorded the privileges and immunities necessary for the independent exercise of their functions with the Organization as generally accorded to international organizations in each country.
3. Each Member shall accord the status, privileges and immunities referred to above by applying, *mutatis mutandis*, to the Organization, the representatives of Members, and to the Co-ordinator and staff of the Organization the privileges and immunities provided for in the Convention on the Privileges and Immunities of the Specialized Agencies adopted by the General Assembly of the United Nations on 21 November 1947.
4. Privileges and immunities are accorded to the representatives of Members and to the Co-ordinator and staff of the Organization not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Organization. Consequently, a Member not only has the right but is under a duty to waive the immunity of its representatives in any case where, in the opinion of the Member, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded. If the Member does not waive the immunity of the representative, the Member shall make the strongest efforts to achieve an equitable solution of the matter. Similarly, the Co-ordinator not only has the right, but is under a duty to waive the immunity of a staff member where, in the opinion of the Co-ordinator, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded. If the Co-ordinator does not waive the immunity of the staff member, he shall make the strongest efforts to achieve an equitable solution of the matter. The immunity of the Co-ordinator may only be waived by the Governing Council.
5. The Organization shall conclude a headquarters agreement with the Host Government, and may conclude agreements with other States in which offices of the Organization may be located, specifying the privileges and immunities and facilities to be enjoyed by the Organization to enable it to fulfil its objectives and to perform its functions.

*Article 15*

## CO-OPERATION WITH DONOR GOVERNMENTS AND WITH OTHER ORGANIZATIONS AND INSTITUTIONS

1. The Contracting Parties agree that there should be a close working relationship between the Organization and the Food and Agriculture Organization of the United Nations (FAO). To this end the Organization shall enter into negotiations with FAO with a view to concluding an agreement pursuant to Article XIII of the FAO Constitution. Such agreement should provide, *inter alia*, that the Director-General of FAO may appoint a Representative who shall be entitled to participate in all meetings of the Organization in an advisory capacity, without the right to vote.
2. The Contracting Parties agree that there should be co-operation between the Organization and Donor Governments whose contribution would further the activities of the Organization. To this end, the Organization may enter into agreements with such Donor Governments wherein provision may be made for their participation in certain activities of the Organization.
3. The Contracting Parties agree that there should be co-operation between the Organization and other international organizations and institutions, especially those active in the fisheries sector, which might contribute to the work and further the objectives of the Organization. The Organization may enter into agreements with such organizations and institutions. Such agreements may include, if appropriate, provision for participation by such organizations and institutions in activities of the Organization.

*Article 16*

## SIGNATURE, RATIFICATION, ACCESSION, ENTRY INTO FORCE AND ADMISSION

1. This Agreement shall be open for signature by the Governments in Asia and the Pacific listed in the Annex hereto, in Bangkok on 8th January 1988 and, thereafter, at the Headquarters of the Food and Agriculture Organization of the United Nations (FAO) in Rome until 7th January 1989. Governments which have signed the Agreement may become a party thereto by depositing an instrument of ratification. Governments which have not signed the Agreement may become a party thereto by depositing an instrument of accession.
2. Instruments of ratification or accession shall be deposited with the Director-General of FAO, who shall be the Depositary of this Agreement.
3. Subject to Article 6, paragraph 3 of this Agreement, and at any time after the entry into force thereof, any Government not referred to in paragraph 1 above may apply to the Director-General of FAO to become a member of the Organization. The Director-General of FAO shall

inform Members of such application. The Governing Council shall then decide on the application in accordance with Article 6 and if a favourable decision is taken, invite the Government concerned to accede to this Agreement. The Government shall lodge its instrument of accession, whereby it consents to be bound by the provisions of this Agreement as from the date of its admission, with the Director-General of FAO within ninety days of the date of the invitation by the Governing Council.

4. This Agreement shall enter into force, with respect to all Governments which have ratified it or acceded thereto, on the date when instruments of ratification or accession have been deposited by at least five Governments listed in the Annex.

#### Article 17

##### AMENDMENT

1. The Governing Council may amend this Agreement by a three-quarters majority of the Members. Amendments shall take effect, with respect to all Contracting Parties, on the thirtieth day after their adoption by the Governing Council, except for any Contracting Party which gives notice of withdrawal within thirty days of receipt of notification of the adoption of such amendments, subject to the condition that any obligation incurred by the Member *vis-à-vis* the Organization shall remain valid and enforceable. Amendments adopted shall be notified to the Depositary forthwith.
2. Proposals for the amendment of this Agreement may be made by a Member in a communication to the Depositary, who shall promptly notify the proposal to all Members and to the Co-ordinator of the Organization.
3. No proposal for amendment shall be considered by the Governing Council unless it was received by the Depositary at least one hundred and twenty days before the opening day of the session at which it is to be considered.

#### Article 18

##### WITHDRAWAL AND DISSOLUTION

1. At any time after the expiration of three years from the date when it became a party to this Agreement, any Member may give notice of its withdrawal from the Organization to the Depositary. Such withdrawal shall take effect twelve months after the notice thereof was received by the Depositary or at any later date specified in the notice, provided, however, that any obligation incurred by the Member *vis-à-vis* the Organization shall remain valid and enforceable.
2. The Organization shall cease to exist at any time decided by the Governing Council by a three-quarters majority of the Members. The disposal of any real property belonging to the Organization shall be subject to the prior approval of the Governing Council. Any assets remaining after the land,

buildings and fixtures have been disposed of, after the balance of any donated funds that have not been used has been returned to the respective donors, and after all obligations have been met, shall be distributed among the Governments which were Members of the Organization at the time of the dissolution, in proportion to the contributions that they made, in accordance with Article 13, paragraph 2, for the year preceding the year of the dissolution.

#### Article 19

##### INTERPRETATION AND SETTLEMENT OF DISPUTES

1. Any dispute concerning the interpretation or application of this Agreement which cannot be settled by negotiation, conciliation or similar means may be referred by any party to the dispute to the Governing Council for its recommendation. Failing settlement of the dispute, the matter shall be submitted to an arbitral tribunal consisting of three arbitrators. The parties to the dispute shall appoint one arbitrator each; the two arbitrators so appointed shall designate by mutual consent the third arbitrator, who shall be the President of the tribunal. If one of the parties does not appoint an arbitrator within two months of the appointment of the first arbitrator, or if the President of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Chairman of the Governing Council shall designate the arbitrator or the President, as the case may be, within a further two-month period.
2. The proceedings of the arbitral tribunal shall be carried out in accordance with the rules of the United Nations Commission on International Trade Law (UNCITRAL).
3. A Member which fails to abide by an arbitral award rendered in accordance with paragraph 1 of this Article may be suspended from the exercise of the rights and privileges of membership by a two-thirds majority of the Members.

#### Article 20

##### DEPOSITARY

The Director-General of FAO shall be the Depositary of this Agreement. The Depositary shall:

- (a) send certified copies of this Agreement to the Governments invited as participants to the Conference of Plenipotentiaries, and to any other Government which so requests;
- (b) arrange for the registration of this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;
- (c) inform the Governments invited as participants to the Conference of Plenipotentiaries and any Government that has been admitted to membership in the Organization of:

(i) the signature of this Agreement and the deposit of instruments of ratification or accession in accordance with Article 16;

(ii) the date of entry into force of this Agreement in accordance with Article 16, paragraph 4;

(iii) notification of the desire of a Government to be admitted to membership in the Organization; and admissions, in accordance with Article 6;

(iv) proposals for the amendment of this Agreement and of the adoption of amendments, in accordance with Article 17; and

(d) convene the first session of the Governing Council of the Organization within six months after the entry into force of this Agreement, in accordance with Article 16, paragraph 4.

Thailand

Tonga

Tuvalu

United States of America

Vanuatu

Viet Nam

#### Article 21

##### ANNEX

The Annex shall constitute an integral part of this Agreement.

Done at Bangkok this eighth day of January 1988 in a single copy in the English language. The original text shall be deposited in the archives of the Food and Agriculture Organization of the United Nations in Rome.

#### Annex

##### LIST OF GOVERNMENTS INVITED TO THE CONFERENCE OF PLENIPOTENTIARIES

(Article 6, paragraph 2)

Australia

Bangladesh

Bhutan

Brunei

Burma

People's Republic of China

Cook Islands

Democratic Kampuchea

Democratic People's Republic of Korea

Fiji

France

Hong Kong

India

Indonesia

Japan

Republic of Korea

Laos

Malaysia

Maldives

Mongolia

Nepal

New Zealand

Pakistan

Papua New Guinea

Philippines

Samoa

Singapore

Solomon Islands

Sri Lanka

## CONVENTION ON THE REGULATION OF ANTARCTIC MINERAL RESOURCE ACTIVITIES [51]

Wellington, 2 June 1988

The States Parties to this Convention, hereinafter referred to as the Parties,

Recalling the provisions of the Antarctic Treaty;

Convinced that the Antarctic Treaty system has proved effective in promoting international harmony in furtherance of the purposes and principles of the Charter of the United Nations, in ensuring the absence of any measures of a military nature and the protection of the Antarctic environment and in promoting freedom of scientific research in Antarctica;

Reaffirming that it is in the interest of all mankind that the Antarctic Treaty area shall continue forever to be used exclusively for peaceful purpose and shall not become the scene or object of international discord;

Noting the possibility that exploitable mineral resources may exist in Antarctica;

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 purpose and principles of the Antarctic Treaty;

Bearing in mind also that a regime for Antarctic mineral resources must be consistent with Article IV of the Antarctic Treaty and in accordance therewith be without prejudice and acceptable to those States which assert rights of or claims to territorial sovereignty in Antarctica, and those States which neither recognise nor assert such rights or claims, including those States which assert a basis of claim to territorial sovereignty in Antarctica;

Noting the unique ecological, scientific and wilderness value of Antarctica and the importance of Antarctica to the global environment;

Recognising that Antarctic mineral resource activities could adversely affect the Antarctic environment or dependent or associated ecosystems;

Believing that the protection of the Antarctic environment and dependent and associated ecosystems must be a basic consideration in decisions taken on possible Antarctic mineral resource activities;

Concerned to ensure that Antarctic mineral resource activities, should they occur, are compatible with scientific investigation in Antarctica and other legitimate uses of Antarctica;

Believing that a regime governing Antarctic mineral resource activities will further strengthen the Antarctic Treaty system;

Convinced that participation in Antarctic mineral resource activities should be open to all States which have an interest in such activities and subscribe to a regime governing them and that the special situation

of developing country Parties to the regime should be taken into account;

Believing that the effective regulation of Antarctic mineral resource activities is in the interest of the international community as a whole;

Have agreed as follows:

### Chapter I

#### GENERAL PROVISIONS

##### Article 1

##### DEFINITIONS

For the purposes of this Convention:

1. "Antarctic Treaty" means the Antarctic Treaty done at Washington on 1 December 1959.
2. "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.
3. "Antarctic Treaty area" means the area to which the provisions of the Antarctic Treaty apply in accordance with Article VI of that Treaty.
4. "Convention for the Conservation of Antarctic Seals" means the Convention done at London on 1 June 1972.
5. "Convention on the Conservation of Antarctic Marine Living Resources" means the Convention done at Canberra on 20 May 1980.
6. "Mineral resources" means all non-living natural non-renewable resources, including fossil fuels, metallic and non-metallic minerals.
7. "Antarctic mineral resource activities" means prospecting, exploration or development, but does not include scientific research activities within the meaning of Article III of the Antarctic Treaty.
8. "Prospecting" means activities, including logistic support, aimed at identifying areas of mineral resource potential for possible exploration and development, including geological, geochemical and geophysical investigations and field observations, the use of remote sensing techniques and collection of surface, seafloor and sub-ice samples. Such activities do not include dredging and excavations, except for the purpose of obtaining small-scale samples, or drilling, except shallow drilling into rock and sediment to depths not exceeding 25 metres, or such other depth as the Commission may determine for particular circumstances.
9. "Exploration" means activities, including logistic support, aimed at identifying and evaluating specific mineral resource occurrences or deposits, including exploratory drilling, dredging and other surface or subsurface excavations required to determine the nature and size of mineral resource

deposits and the feasibility of their development, but excluding pilot projects or commercial production.

10. "Development" means activities, including logistic support, which take place following exploration and are aimed at or associated with exploitation of specific mineral resource deposits, including pilot projects, processing, storage and transport activities.

11. "Operator" means:

- (a) a Party; or
  - (b) an agency or instrumentality of a Party; or
  - (c) a juridical person established under the law of a Party; or
  - (d) a joint venture consisting exclusively of any combination of any of the foregoing,
- which is undertaking Antarctic mineral resource activities and for which there is a Sponsoring State.

12. "Sponsoring State" means the Party with which an Operator has a substantial and genuine link, through being:

- (a) in the case of a Party, that Party;
- (b) in the case of an agency or instrumentality of a Party, that Party;
- (c) in the case of a juridical person other than an agency or instrumentality of a Party, the Party:
  - (i) under whose law that juridical person is established and to whose law it is subject, without prejudice to any other law which might be applicable, and
  - (ii) in whose territory the management of that juridical person is located, and
  - (iii) to whose effective control that juridical person is subject;
- (d) in the case of a joint venture not constituting a juridical person:
  - (i) where the managing member of the joint venture is a Party or an agency or instrumentality of a Party, that Party; or
  - (ii) in any other case, where in relation to a Party the managing member of the joint venture satisfies the requirements of subparagraph (c) above, that Party.

13. "Managing member of the joint venture" means that member which the participating members in the joint venture have by agreement designated as having responsibility for central management of the joint venture, including the functions of organising and supervising the activities to be undertaken, and controlling the financial resources involved.

14. "Effective control" means the ability of the Sponsoring State to ensure the availability of substantial resources of the Operator for purposes connected with the implementation of this Convention, through the location of such resources in the territory of the Sponsoring State or otherwise.

15. "Damage to the Antarctic environment or dependent or associated ecosystems" means any impact on the living or non-living components of that environment or those ecosystems, including harm to atmospheric, marine or terrestrial life, beyond that which is negligible or which has been assessed and judged to be acceptable pursuant to this Convention.

16. "Commission" means the Antarctic Mineral Resources Commission established pursuant to Article 18.

17. "Regulatory Committee" means an Antarctic Mineral Resources Regulatory Committee established pursuant to Article 29.

18. "Advisory Committee" means the Scientific, Technical and Environmental Advisory Committee established pursuant to Article 23.

19. "Special Meeting of Parties" means the Meeting referred to in Article 28.

20. "Arbitral Tribunal" means an Arbitral Tribunal constituted as provided for in the Annex, which forms an integral part of this Convention.

## Article 2

### OBJECTIVES AND GENERAL PRINCIPLES

1. This Convention is an integral part of the Antarctic Treaty system, comprising the Antarctic Treaty, the measures in effect under that Treaty, and its associated separate legal instruments, the prime purpose of which is 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. The Parties provide through this Convention, the principles it establishes, the rules it prescribes, the institutions it creates and the decisions adopted pursuant to it, a means for:

- (a) assessing the possible impact on the environment of Antarctic mineral resource activities;
- (b) determining whether Antarctic mineral resource activities are acceptable;
- (c) governing the conduct of such Antarctic mineral resource activities as may be found acceptable; and
- (d) ensuring that any Antarctic mineral resource activities are undertaken in strict conformity with this Convention.

2. In implementing this Convention, the Parties shall ensure that Antarctic mineral resource activities, should they occur, take place in a manner consistent with all the components of the Antarctic Treaty system and the obligations flowing therefrom.

3. In relation to Antarctic mineral resource activities, should they occur, the Parties acknowledge the special responsibility of the Antarctic Treaty Consultative Parties for the protection of the environment and the need to:

- (a) protect the Antarctic environment and dependent and associated ecosystems;
- (b) respect Antarctica's significance for, and influence on, the global environment;
- (c) respect other legitimate uses of Antarctica;
- (d) respect Antarctica's scientific value and aesthetic and wilderness qualities;
- (e) ensure the safety of operations in Antarctica;
- (f) promote opportunities for fair and effective participation of all Parties; and
- (g) take into account the interests of the international community as a whole.

#### Article 3

##### PROHIBITION OF ANTARCTIC MINERAL RESOURCE ACTIVITIES OUTSIDE THIS CONVENTION

No Antarctic mineral resource activities shall be conducted except in accordance with this Convention and measures in effect pursuant to it and, in the case of exploration or development, with a Management Scheme approved pursuant to Article 48 or 54.

#### Article 4

##### PRINCIPLES CONCERNING JUDGMENTS ON ANTARCTIC MINERAL RESOURCE ACTIVITIES

1. Decisions about Antarctic mineral resource activities shall be based upon information adequate to enable informed judgments to be made about their possible impacts and no such activities shall take place unless this information is available for decisions relevant to those activities.
2. No Antarctic mineral resource activity shall take place until it is judged, based upon assessment of its possible impacts on the Antarctic environment and on dependent and on associated ecosystems, that the activity in question would not cause:
  - (a) significant adverse effects on air and water quality;
  - (b) significant changes in atmospheric, terrestrial or marine environments;
  - (c) significant changes in the distribution, abundance or productivity of populations of species of fauna or flora;
  - (d) further jeopardy to endangered or threatened species or populations of such species; or
  - (e) degradation of, or substantial risk to, areas of special biological, scientific, historic, aesthetic or wilderness significance.
3. No Antarctic mineral resource activity shall take place until it is judged, based upon assessment of its possible impacts, that the activity in question would not cause significant adverse effects on global or regional climate or weather patterns.

4. No Antarctic mineral resource activity shall take place until it is judged that:

- (a) technology and procedures are available to provide for safe operations and compliance with paragraphs 2 and 3 above;
- (b) there exists the capacity to monitor key environmental parameters and ecosystem components so as to identify any adverse effects of such activity and to provide for the modification of operating procedures as may be necessary in the light of the results of monitoring or increased knowledge of the Antarctic environment or dependent or associated ecosystems; and
- (c) there exists the capacity to respond effectively to accidents, particularly those with potential environmental effects.

5. The judgments referred to in paragraphs 2, 3 and 4 above shall take into account the cumulative impacts of possible Antarctic mineral resource activities both by themselves and in combination with other such activities and other uses of Antarctica.

#### Article 5

##### AREA OF APPLICATION

1. This Convention shall, subject to paragraphs 2, 3 and 4 below, apply to the Antarctic Treaty area.
2. Without prejudice to the responsibilities of the Antarctic Treaty Consultative Parties under the Antarctic Treaty and measures pursuant to it, the Parties agree that this Convention shall regulate Antarctic mineral resource activities which take place on the continent of Antarctica and all Antarctic islands, including all ice shelves, south of 60° south latitude and in the seabed and subsoil of adjacent offshore areas up to the deep seabed.
3. For the purposes of this Convention "deep seabed" means the seabed and subsoil beyond the geographic extent of the continental shelf as the term continental shelf is defined in accordance with international law.
4. Nothing in this Article shall be construed as limiting the application of other Articles of this Convention in so far as they relate to possible impacts outside the area referred to in paragraphs 1 and 2 above, including impacts on dependent or on associated ecosystems.

#### Article 6

##### COOPERATION AND INTERNATIONAL PARTICIPATION

In the implementation of this Convention cooperation within its framework shall be promoted and encouragement given to international participation in Antarctic mineral resource activities by interested Parties which are Antarctic Treaty Consultative Parties and by other interested Parties, in particular, developing countries in either category.



Such participation may be realised through the Parties themselves and their Operators.

#### Article 7

##### COMPLIANCE WITH THIS CONVENTION

1. Each Party shall take appropriate measures within its competence to ensure compliance with this Convention and any measures in effect pursuant to it.
2. If a Party is prevented by the exercise of jurisdiction by another Party from ensuring compliance in accordance with paragraph 1 above, it shall not, to the extent that it is so prevented, bear responsibility for that failure to ensure compliance.
3. If any jurisdictional dispute related to compliance with this Convention or any measure in effect pursuant to it arises between two or more Parties, the Parties concerned shall immediately consult together with a view to reaching a mutually acceptable solution.
4. Each Party shall notify the Executive Secretary, for circulation to all other Parties, of the measures taken pursuant to paragraph 1 above.
5. Each Party shall exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any Antarctic mineral resource activities contrary to the objectives and principles of this Convention.
6. Each Party may, whenever it deems it necessary, draw the attention of the Commission to any activity which in its opinion affects the implementation of the objectives and principles of this Convention.
7. The Commission shall draw the attention of all Parties to any activity which, in the opinion of the Commission, affects the implementation of the objectives and principles of this Convention or the compliance by any Party with its obligations under this Convention and any measures in effect pursuant to it.
8. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by that State, its agencies or instrumentalities, natural or juridical persons, ships, aircraft or other means of transportation which, in the opinion of the Commission, affects the implementation of the objectives and principles of this Convention. The Commission shall inform all Parties accordingly.
9. Nothing in this Article shall affect the operation of Article 12(7) of this Convention or Article VIII of the Antarctic Treaty.

#### Article 8

##### RESPONSE ACTION AND LIABILITY

1. An Operator undertaking any Antarctic mineral resource activity shall take necessary and timely response action, including prevention, containment,

clean up and removal measures, if the activity results in or threatens to result in damage to the Antarctic environment or dependent or associated ecosystems. The Operator, through its Sponsoring State, shall notify the Executive Secretary, for circulation to the relevant institutions of this Convention and to all Parties, of action taken pursuant to this paragraph.

2. An Operator shall be strictly liable for:

(a) damage to the Antarctic environment or dependent or associated ecosystems arising from its Antarctic mineral resource activities, including payment in the event that there has been no restoration to the *status quo ante*;

(b) loss of or impairment to an established use, as referred to in Article 15, or loss of or impairment to an established use of dependent or associated ecosystems, arising directly out of damage described in subparagraph (a) above;

(c) loss of or damage to property of a third party or loss of life or personal injury of a third party arising directly out of damage described in subparagraph (a) above; and

(d) reimbursement of reasonable costs by whomsoever incurred relating to necessary response action, including prevention, containment, clean up and removal measures, and action taken to restore the *status quo ante* where Antarctic mineral resource activities undertaken by that Operator result in or threaten to result in damage to the Antarctic environment or dependent or associated ecosystems.

3. (a) Damage of the kind referred to in paragraph 2 above which would not have occurred or continued if the Sponsoring State had carried out its obligations under this Convention with respect to its Operator shall, in accordance with international law, entail liability of that Sponsoring State. Such liability shall be limited to that portion of liability not satisfied by the Operator or otherwise.

(b) Nothing in subparagraph (a) above shall affect the application of the rules of international law applicable in the event that damage not referred to in that subparagraph would not have occurred or continued if the Sponsoring State had carried out its obligations under this Convention with respect to its Operator.

4. An Operator shall not be liable pursuant to paragraph 2 above if it proves that the damage has been caused directly by, and to the extent that it has been caused directly by:

(a) an event constituting in the circumstances of Antarctica a natural disaster of an exceptional character which could not reasonably have been foreseen; or

(b) armed conflict, should it occur notwithstanding the Antarctic Treaty, or an act of terrorism directed against the activities of the Operator, against which no reasonable precautionary measures could have been effective.

5. Liability of an Operator for any loss of life, personal injury or loss of or damage to property other than that governed by this Article shall be regulated by applicable law and procedures.

6. If an Operator proves that damage has been caused totally or in part by an intentional or grossly negligent act or omission of the party seeking redress, that Operator may be relieved totally or in part from its obligation to pay compensation in respect of the damage suffered by such party.

7. (a) Further rules and procedures in respect of the provisions on liability set out in this Article shall be elaborated through a separate Protocol which shall be adopted by consensus by the members of the Commission and shall enter into force according to the procedure provided for in Article 62 for the entry into force of this Convention.

(b) Such rules and procedures shall be designed to enhance the protection of the Antarctic environment and dependent and associated ecosystems.

(c) Such rules and procedures:

(i) may contain provisions for appropriate limits on liability, where such limits can be justified;

(ii) without prejudice to Article 57, shall prescribe means and mechanisms such as a claims tribunal or other fora by which claims against Operators pursuant to this Article may be assessed and adjudicated;

(iii) shall ensure that a means is provided to assist with immediate response action, and to satisfy liability under paragraph 2 above in the event, *inter alia*, that an Operator liable is financially incapable of meeting its obligation in full, that it exceeds any relevant limits of liability, that there is a defence to liability or that the loss or damage is of undetermined origin. Unless it is determined during the elaboration of the Protocol that there are other effective means of meeting these objectives, the Protocol shall establish a Fund or Funds and make provision in respect of such Fund or Funds, *inter alia*, for the following:

- financing by Operators or on industry wide bases;
- ensuring the permanent liquidity and mandatory supplementation thereof in the event of insufficiency;
- reimbursement of costs of response action, by whomsoever incurred.

8. Nothing in paragraphs 4, 6 and 7 above or in the Protocol adopted pursuant to paragraph 7 shall affect in any way the provisions of paragraph 1 above.

9. No application for an exploration or development permit shall be made until the Protocol provided for in paragraph 7 above is in force for the Party lodging such application.

10. Each Party, pending the entry into force for it of the Protocol provided for in paragraph 7 above, shall ensure, consistently with Article 7 and in accordance with its legal system, that recourse is available in its national courts for adjudicating liability claims

pursuant to paragraphs 2, 4 and 6 above against Operators which are engaged in prospecting. Such recourse shall include the adjudication of claims against any operator it has sponsored. Each Party shall also ensure, in accordance with its legal system, that the Commission has the right to appear as a party in its national courts to pursue relevant liability claims under paragraph 2(a) above.

11. Nothing in this Article or in the Protocol provided for in paragraph 7 above shall be construed so as to:

(a) preclude the application of existing rules on liability, and the development in accordance with international law of further such rules, which may have application to either States or Operators; or

(b) affect the right of an Operator incurring liability pursuant to this Article to seek redress from another party which caused or contributed to the damage in question.

12. When compensation has been paid other than under this Convention liability under this Convention shall be offset by the amount of such payment.

#### Article 9

##### PROTECTION OF LEGAL POSITIONS UNDER THE ANTARCTIC TREATY

Nothing in this Convention and no acts or activities taking place while this Convention is in force shall:

(a) constitute a basis for asserting, supporting or denying a claim to territorial sovereignty in the Antarctic Treaty area or create any rights of sovereignty in the Antarctic Treaty area;

(b) be interpreted as a renunciation or diminution by any Party of, or as prejudicing, any right or claim or basis of claim to territorial sovereignty in Antarctica or to exercise coastal state jurisdiction under international law;

(c) be interpreted as prejudicing the position of any Party as regards its recognition or non-recognition of any such right, claim or basis of claim; or

(d) affect the provision of Article IV(2) of the Antarctic Treaty that no new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the Antarctic Treaty is in force.

#### Article 10

##### CONSISTENCY WITH THE OTHER COMPONENTS OF THE ANTARCTIC TREATY SYSTEM

1. Each Party shall ensure that Antarctic mineral resource activities take place in a manner consistent with the components of the Antarctic Treaty system, including the Antarctic Treaty, the Convention for the Conservation of Antarctic Seals and the Convention on the Conservation of Antarctic Marine Living Resources and the measures in effect pursuant to those instruments.

2. The Commission shall consult and co-operate with the Antarctic Treaty Consultative Parties, the Contracting Parties to the Convention for the Conservation of Antarctic Seals, and the Commission for the Conservation of Antarctic Marine Living Resources with a view to ensuring the achievement of the objectives and principles of this Convention and avoiding any interference with the achievement of the objectives and principles of the Antarctic Treaty, the Convention for the Conservation of Antarctic Seals or the Convention on the Conservation of Antarctic Marine Living Resources, or inconsistency between the measures in effect pursuant to those instruments and measures in effect pursuant to this Convention.

#### *Article 11*

##### INSPECTION UNDER THE ANTARCTIC TREATY

All stations, installations and equipment, in the Antarctic Treaty area, relating to Antarctic mineral resource activities, as well as ships and aircraft supporting such activities at points of discharging or embarking cargoes or personnel at such stations and installations, shall be open at all times to inspection by observers designated under Article VII of the Antarctic Treaty for the purposes of that Treaty.

#### *Article 12*

##### INSPECTION UNDER THIS CONVENTION

1. In order to promote the objectives and principles and to ensure the observance of this Convention and measures in effect pursuant to it, all stations, installations and equipment relating to Antarctic mineral resource activities in the area in which these activities are regulated by this Convention, as well as ships and aircraft supporting such activities at points of discharging or embarking cargoes or personnel anywhere in that area, shall be open at all times to inspection by:

(a) observers designated by any member of the Commission who shall be nationals of that member; and

(b) observers designated by the Commission or relevant Regulatory Committees.

2. Aerial inspection may be carried out at any time over the area in which Antarctic mineral resource activities are regulated by this Convention.

3. The Commission shall maintain an up-to-date list of observers designated pursuant to paragraph 1(a) and (b) above.

4. Reports from the observers shall be transmitted to the Commission and to any Regulatory Committee having competence in the area where the inspection has been carried out.

5. Observers shall avoid interference with the safe and normal operations of stations, installations and equipment visited and shall respect measures

adopted by the Commission to protect confidentiality of data and information.

6. Inspections undertaken pursuant to paragraph 1(a) and (b) above shall be compatible and reinforce each other and shall not impose an undue burden on the operation of stations, installations and equipment visited.

7. In order to facilitate the exercise of their functions under this Convention, and without prejudice to the respective positions of the Parties relating to jurisdiction over all other persons in the area in which Antarctic mineral resource activities are regulated by this Convention, observers designated under this Article shall be subject only to the jurisdiction of the Party of which they are nationals in respect of all acts or omissions occurring while they are in that area for the purpose of exercising their functions.

8. No exploration or development shall take place in an area identified pursuant to Article 41 until effective provision has been made for inspection in that area.

#### *Article 13*

##### PROTECTED AREAS

1. Antarctic mineral resource activities shall be prohibited in any area designated as a Specially Protected Area or a Site of Special Scientific Interest under Article IX(1) of the Antarctic Treaty. Such activities shall also be prohibited in any other area designated as a protected area in accordance with Article IX(1) of the Antarctic Treaty, except to the extent that the relevant measure provides otherwise. Pending any designation becoming effective in accordance with Article IX(4) of the Antarctic Treaty, no Antarctic mineral resource activities shall take place in any such area which would prejudice the purpose for which it was designated.

2. The Commission shall also prohibit or restrict Antarctic mineral resource activities in any area which, for historic, ecological, environmental, scientific or other reasons, it has designated as a protected area.

3. In exercising its powers under paragraph 2 above or under Article 41 the Commission shall consider whether to restrict or prohibit Antarctic mineral resource activities in any area, in addition to those referred to in paragraph 1 above, protected or set aside pursuant to provisions of other components of the Antarctic Treaty system, to ensure the purposes for which they are designated.

4. In relation to any area in which Antarctic mineral resource activities are prohibited or restricted in accordance with paragraph 1, 2 or 3 above, the Commission shall consider whether, for the purposes of Article 4(2)(e), it would be prudent, additionally, to prohibit or restrict Antarctic mineral

resource activities in adjacent areas for the purpose of creating a buffer zone.

5. The Commission shall give effect to Article 10(2) in acting pursuant to paragraphs 2, 3 and 4 above.

6. The Commission shall, where appropriate, bring any decisions it takes pursuant to this Article to the attention of the Antarctic Treaty Consultative Parties, the Contracting Parties to the Convention for the Conservation of Antarctic Seals, the Commission for the Conservation of Antarctic Marine Living Resources and the Scientific Committee on Antarctic Research.

#### Article 14

##### NON-DISCRIMINATION

In the implementation of this Convention there shall be no discrimination against any Party or its Operators.

#### Article 15

##### RESPECT FOR OTHER USES OF ANTARCTICA

1. Decisions about Antarctic mineral resource activities shall take into account the need to respect other established uses of Antarctica, including:

- (a) the operation of stations and their associated installations, support facilities and equipment in Antarctica;
- (b) scientific investigation in Antarctica and co-operation therein;
- (c) the conservation, including rational use, of Antarctic marine living resources;
- (d) tourism;
- (e) the preservation of historic monuments; and
- (f) navigation and aviation;

that are consistent with the Antarctic Treaty system.

2. Antarctic mineral resource activities shall be conducted so as to respect any uses of Antarctica as referred to in paragraph 1 above.

#### Article 16

##### AVAILABILITY AND CONFIDENTIALITY OF DATA AND INFORMATION

Data and information obtained from Antarctic mineral resource activities shall, to the greatest extent practicable and feasible, be made freely available, provided that:

- (a) as regards data and information of commercial value deriving from prospecting, they may be retained by the Operator in accordance with Article 37;
- (b) as regards data and information deriving from exploration or development, the Commission shall adopt measures relating, as appropriate, to their release and to ensure the confidentiality of data and information of commercial value.

#### Article 17

##### NOTIFICATIONS AND PROVISIONAL EXERCISE OF FUNCTIONS OF THE EXECUTIVE SECRETARY

1. Where in this Convention there is a reference to the provision of information, a notification or a report to any institution provided for in this Convention and that institution has not been established, the information, notification or report shall be provided to the Executive Secretary who shall circulate it as required.

2. Where in this Convention a function is assigned to the Executive Secretary and no Executive Secretary has been appointed under Article 33, that function shall be performed by the Depositary.

## Chapter II

### INSTITUTIONS

#### Article 18

##### COMMISSION

1. There is hereby established the Antarctic Mineral Resources Commission.

2. Membership of the Commission shall be as follows:

- (a) each Party which was an Antarctic Treaty Consultative Party on the date when this Convention was opened for signature; and
- (b) each other Party during such time as it is actively engaged in substantial scientific, technical or environmental research in the area to which this Convention applies directly relevant to decisions about Antarctic mineral resource activities, particularly the assessments and judgments called for in Article 4; and

(c) each other Party sponsoring Antarctic mineral resource exploration or development during such time as the relevant Management Scheme is in force.

3. A Party seeking to participate in the work of the Commission pursuant to subparagraph (b) or (c) above shall notify the Depositary of the basis upon which it seeks to become a member of the Commission. In the case of a Party which is not an Antarctic Treaty Consultative Party, such notification shall include a declaration of intent to abide by recommendations pursuant to Article IX(1) of the Antarctic Treaty. The Depositary shall communicate to each member of the Commission such notification and accompanying information.

4. The Commission shall consider the notification at its next meeting. In the event that a Party referred to in paragraph 2(b) above submitting a notification pursuant to paragraph 3 above is an Antarctic Treaty Consultative Party, it shall be deemed to have satisfied the requirements for Commission membership unless more than one-third of the members of the Commission object at the meeting at which such

notification is considered. Any other Party submitting a notification shall be deemed to have satisfied the requirements for Commission membership if no member of the Commission objects at the meeting at which such notification is considered.

5. Each member of the Commission shall be represented by one representative who may be accompanied by alternate representatives and advisers.

6. Observer status in the Commission shall be open to any Party and to any Contracting Party to the Antarctic Treaty which is not a Party to this Convention.

#### Article 19

##### COMMISSION MEETINGS

1. (a) The first meeting of the Commission, held for the purpose of taking organisational, financial and other decisions necessary for the effective functioning of this Convention and its institutions, shall be convened within six months of the entry into force of this Convention.

(b) After the Commission has held the meeting or meetings necessary to take the decisions referred to in subparagraph (a) above, the Commission shall not hold further meetings except in accordance with paragraph 2 or 3 below.

2. Meetings of the Commission shall be held within two months of:

(a) receipt of a notification pursuant to Article 39;

(b) a request by at least six members of the Commission; or

(c) a request by a member of a Regulatory Committee in accordance with Article 49(1).

3. The Commission may establish a regular schedule of meetings if it determines that it is necessary for the effective functioning of this Convention.

4. Unless the Commission decides otherwise, its meetings shall be convened by the Executive Secretary.

#### Article 20

##### COMMISSION PROCEDURE

1. The Commission shall elect from among its members a Chairman and two Vice-Chairmen, each of whom shall be a representative of a different Party.

2. (a) Until such time as the Commission has established a regular schedule of meetings in accordance with Article 19(3), the Chairman and Vice-Chairmen shall be elected to serve for a period of two years, provided that if no meeting is held during that period they shall continue to serve until the conclusion of the first meeting held thereafter.

(b) When a regular schedule of meetings has been established, the Chairman and Vice-Chairmen shall be elected to serve for a period of two years.

3. The Commission shall adopt its rules of procedure. Such rules may include provisions concerning the number of terms of office which the Chairman and Vice-Chairmen may serve and for the rotation of such offices.

4. The Commission may establish such subsidiary bodies as are necessary for the performance of its functions.

5. The Commission may decide to establish a permanent headquarters which shall be in New Zealand.

6. The Commission shall have legal personality and shall enjoy in the territory of each Party such legal capacity as may be necessary to perform its functions and achieve the objectives of this Convention.

7. The privileges and immunities to be enjoyed by the Commission, the Secretariat and representatives attending meetings in the territory of a Party shall be determined by agreement between the Commission and the Party concerned.

#### Article 21

##### FUNCTIONS OF THE COMMISSION

1. The functions of the Commission shall be:

(a) to facilitate and promote the collection and exchange of scientific, technical and other information and research projects necessary to predict, detect and assess the possible environmental impact of Antarctic mineral resource activities, including the monitoring of key environmental parameters and ecosystem components;

(b) to designate areas in which Antarctic mineral resource activities shall be prohibited or restricted in accordance with Article 13, and to perform the related functions assigned to it in that Article;

(c) to adopt measures for the protection of the Antarctic environment and dependent and associated ecosystems and for the promotion of safe and effective exploration and development techniques and, as it may deem appropriate, to make available a handbook of such measures;

(d) to determine, in accordance with Article 41, whether or not to identify an area for possible exploration and development, and to perform the related functions assigned to it in Article 42;

(e) to adopt measures relating to prospecting applicable to all relevant Operators:

(i) to determine for particular circumstances maximum drilling depths in accordance with Article 1(8);

(ii) to restrict or prohibit prospecting consistently with Articles 13, 37 and 38;

(f) to ensure the effective application of Articles 12(4), 37(7) and (8), 38(2) and 39(2), which require the submission to the Commission of information, notifications and reports;

(g) to give advance public notice of matters upon which it is requesting the advice of the Advisory Committee;

(h) to adopt measures relating to the availability and confidentiality of data and information, including measures pursuant to Article 16;

(i) to elaborate the principle of non-discrimination set forth in Article 14;

(j) to adopt measures with respect to maximum block sizes;

(k) to perform the functions assigned to it in Article 29;

(l) to review action by Regulatory Committees in accordance with Article 49;

(m) to adopt measures in accordance with Articles 6 and 41(1)(d) related to the promotion of co-operation and to participation in Antarctic mineral resource activities;

(n) to adopt general measures pursuant to Article 51(6);

(o) to take decisions on budgetary matters and adopt financial regulations in accordance with Article 35;

(p) to adopt measures regarding fees payable in connection with notifications submitted pursuant to Articles 37 and 39 and applications lodged pursuant to Articles 44 and 53, the purpose of which fees shall be to cover the administrative costs of handling such notifications and applications;

(q) to adopt measures regarding levies payable by operators engaged in exploration and development, the principal purpose of which levies shall be to cover the costs of the institutions of this Convention;

(r) to determine in accordance with Article 35(7) the disposition of revenues, if any, accruing to the Commission which are surplus to the requirements for financing the budget pursuant to Article 35;

(s) to perform the functions assigned to it in Article 7(7) and (8);

(t) to perform the functions relating to inspection assigned to it in Article 12;

(u) to consider monitoring reports received pursuant to Article 52;

(v) to perform the functions relating to dispute settlement assigned to it in Article 59;

(w) to perform the functions relating to consultation and co-operation assigned to it in Articles 10(2) and 34;

(x) to keep under review the conduct of Antarctic mineral resource activities with a view to safeguarding the protection of the Antarctic environment in the interest of all mankind; and

(y) to perform such other functions as are provided for elsewhere in this Convention.

2. In performing its functions the Commission shall seek and take full account of the views of the Advisory Committee provided in accordance with Article 26.

3. Each measure adopted by the Commission shall specify the date on which it comes into effect.

4. The Commission shall, subject to Article 16 and measures in effect pursuant to it and paragraph 1(h) above, ensure that a publicly available record of its meetings and decisions and of information, notifications and reports submitted to it is maintained.

#### Article 22

##### DECISION MAKING IN THE COMMISSION

1. The Commission shall take decisions on matters of substance by a three-quarters majority of the members present and voting. When a question arises as to whether a matter is one of substance or not, that matter shall be treated as one of substance unless otherwise decided by a three-quarters majority of the members present and voting.

2. Notwithstanding paragraph 1 above, consensus shall be required for the following:

(a) the adoption of the budget and decisions on budgetary and related matters pursuant to Article 21(1)(p), (q) and (r) and Article 35(1), (2), (3), (4) and (5);

(b) decisions taken pursuant to Article 21(1)(i);

(c) decisions taken pursuant to Article 41(2).

3. Decisions on matters of procedure shall be taken by a simple majority of the members present and voting.

4. Nothing in this Article shall be interpreted as preventing the Commission, in taking decisions on matters of substance, from endeavouring to reach a consensus.

5. For the purposes of this Article, consensus means the absence of a formal objection. If, with respect to any decision covered by paragraph 2(c) above, the Chairman of the Commission determines that there would be such an objection he shall consult the members of the Commission. If, as a result of these consultations, the Chairman determines that an objection would remain, he shall convene those members most directly interested for the purpose of seeking to reconcile the differences and producing a generally acceptable proposal.

#### Article 23

##### ADVISORY COMMITTEE

1. There is hereby established the Scientific, Technical and Environmental Advisory Committee.

2. Membership of the Advisory Committee shall be open to all Parties.

3. Each member of the Advisory Committee shall be represented by one representative with suitable scientific, technical or environmental competence who may be accompanied by alternate representatives and by experts and advisors.

4. Observer status in the Advisory Committee shall be open to any Contracting Party to the Antarctic Treaty or to the Convention on the Conservation of

Antarctic Marine Living Resources which is not a Party to this Convention.

#### Article 24

##### ADVISORY COMMITTEE MEETINGS

1. Unless the Commission decides otherwise, the Advisory Committee shall be convened for its first meeting within six months of the first meeting of the Commission. It shall meet thereafter as necessary to fulfil its functions on the basis of a schedule established by the Commission.

2. Meetings of the Advisory Committee, in addition to those scheduled pursuant to paragraph 1 above, shall be convened at the request of at least six members of the Commission or pursuant to Article 40(1).

3. Unless the Commission decides otherwise, the meetings of the Advisory Committee shall be convened by the Executive Secretary.

#### Article 25

##### ADVISORY COMMITTEE PROCEDURE

1. The Advisory Committee shall elect from among its members a Chairman and two Vice-Chairmen, each of whom shall be a representative of a different Party.

2. (a) Until such time as the Commission has established a schedule of meetings in accordance with Article 24(1), the Chairman and Vice-Chairmen shall be elected to serve for a period of two years, provided that if no meeting is held during that period they shall continue to serve until the conclusion of the first meeting held thereafter.

(b) When a schedule of meetings has been established, the Chairman and Vice-Chairmen shall be elected to serve for a period of two years.

3. The Advisory Committee shall give advance public notice of its meetings and of matters to be considered at each meeting so as to permit the receipt and consideration of views on such matters from international organisations having an interest in them. For this purpose the Advisory Committee may, subject to review by the Commission, establish procedures for the transmission of relevant information to these organisations.

4. The Advisory Committee shall, by a two-thirds majority of the members present and voting, adopt its rules of procedure. Such rules may include provisions concerning the number of terms of office which the Chairman and Vice-Chairmen may serve and for the rotation of such offices. The rules of procedure and any amendments thereto shall be subject to approval by the Commission.

5. The Advisory Committee may establish such subcommittees, subject to budgetary approval, as may be necessary for the performance of its functions.

#### Article 26

##### FUNCTIONS OF THE ADVISORY COMMITTEE

1. The Advisory Committee shall advise the Commission and Regulatory Committees, as required by this Convention, or as requested by them, on the scientific, technical and environmental aspects of Antarctic mineral resource activities. It shall provide a forum for consultation and co-operation concerning the collection, exchange and evaluation of information related to the scientific, technical and environmental aspects of Antarctic mineral resource activities.

2. It shall provide advice to:

(a) the Commission relating to its functions under Articles 21(1)(a) to (f), (u) and (x) and 35(7)(a) (in matters relating to scientific research) as well as on the implementation of Article 4; and

(b) Regulatory Committees with respect to:

(i) the implementation of Article 4;

(ii) scientific, technical and environmental aspects of Articles 43(3) and (5), 45, 47, 51, 52 and 54;

(iii) data to be collected and reported in accordance with Articles 47 and 52; and

(iv) the scientific, technical and environmental implications of reports and reported data provided in accordance with Articles 47 and 52.

3. It shall provide advice to the Commission and to Regulatory Committees on:

(a) criteria in respect of the judgments required under Article 4(2) and (3) for the purposes of Article 4(1);

(b) types of data and information required to carry out its functions, and how they should be collected, reported and archived;

(c) scientific research which would contribute to the base of data and information required in subparagraph (b) above;

(d) effective procedures and systems for data and information analysis, evaluation, presentation and dissemination to facilitate the judgments referred to in Article 4; and

(e) possibilities for scientific, technical and environmental co-operation amongst interested Parties which are developing countries and other Parties.

4. The Advisory Committee, in providing advice on decisions to be taken in accordance with Articles 41, 43, 45 and 54 shall, in each case, undertake a comprehensive environmental and technical assessment of the proposed actions. Such assessments shall be based on all information, and any amplifications thereof, available to the Advisory Committee, including the information provided pursuant to Articles 39(2)(e), 44(2)(b)(iii) and 53(2)(b). The assessments of the Advisory Committee shall, in each case, address the nature and scope of the decisions to be taken and shall include consideration, as appropriate, of, *inter alia*:

- (a) the adequacy of existing information to enable informed judgments to be made;
- (b) the nature, extent, duration and intensity of likely direct environmental impacts resulting from the proposed activity;
- (c) possible indirect impacts;
- (d) means and alternatives by which such direct or indirect impacts might be reduced, including environmental consequences of the alternative of not proceeding;
- (e) cumulative impacts of the proposed activity in the light of existing or planned activities;
- (f) capacity to respond effectively to accidents with potential environmental effects;
- (g) the environmental significance of unavoidable impacts; and
- (h) the probabilities of accidents and their environmental consequences.

5. In preparing its advice the Advisory Committee may seek information and advice from other scientists and experts or scientific organisations as may be required on an *ad hoc* basis.

6. The Advisory Committee shall, with a view to promoting international participation in Antarctic mineral resource activities as provided for in Article 6, provide advice concerning the availability to interested developing country Parties and other Parties, of the information referred to in paragraph 3 above, of training programmes related to scientific, technical and environmental matters bearing on Antarctic mineral resource activities, and of opportunities for cooperation among Parties in these programmes.

#### Article 27

##### REPORTING BY THE ADVISORY COMMITTEE

The Advisory Committee shall present a report on each of its meetings to the Commission and to any relevant Regulatory Committee. The report shall cover all matters considered at the meeting and shall reflect the conclusions reached and all the views expressed by members of the Advisory Committee. The report shall be circulated by the Executive Secretary to all Parties, and to observers attending the meeting, and shall thereupon be made publicly available.

#### Article 28

##### SPECIAL MEETING OF PARTIES

1. A Special Meeting of Parties shall, as required, be convened in accordance with Article 40(2) and shall have the functions, in relation to the identification of an area for possible exploration and development, specified in Article 40(3).

2. Membership of a Special Meeting of Parties shall be open to all Parties, each of which shall be represented by one representative who may be accompanied by alternate representatives and advisers.

3. Observer status at a Special Meeting of Parties shall be open to any Contracting Party to the Antarctic Treaty which is not a Party to this Convention.

4. Each Special Meeting of Parties shall elect from among its members a Chairman and Vice-Chairman, each of whom shall serve for the duration of that meeting. The Chairman and Vice-Chairman shall not be representatives of the same Party.

5. The Special Meeting of Parties shall, by a two-thirds majority of the members present and voting, adopt its rules of procedure. Until such time as this has been done the Special Meeting of Parties shall apply provisional rules of procedure drawn up by the Commission.

6. Unless the Commission decides otherwise, a Special Meeting of Parties shall be convened by the Executive Secretary and shall be held at the same venue as the meeting of the Commission convened to consider the identification of an area for possible exploration and development.

#### Article 29

##### REGULATORY COMMITTEES

1. An Antarctic Mineral Resources Regulatory Committee shall be established for each area identified by the Commission pursuant to Article 41.

2. Subject to paragraph 6 below, each Regulatory Committee shall consist of 10 members. Membership shall be determined by the Commission in accordance with this Article and, taking into account Article 9, shall include:

(a) the member, if any, or if there are more than one, those members of the Commission identified by reference to Article 9(b) which assert rights or claims in the identified area;

(b) the two members of the Commission also identified by reference to Article 9(b) which assert a basis of claim in Antarctica;

(c) other members of the Commission determined in accordance with this Article so that the Regulatory Committee shall, subject to paragraph 6 below, consist, in total, of 10 members:

(i) four members identified by reference to Article 9(b) which assert rights or claims, including the member or members, if any, referred to in subparagraph (a) above; and

(ii) six members which do not assert rights or claims as described in Article 9(b), including the two members referred to in subparagraph (b) above.

3. Upon the identification of an area in accordance with Article 41(2), the Chairman of the Commission shall, as soon as possible and in any event within 90 days, make a recommendation to the Commission concerning the membership of the Regulatory Committee. To this end the Chairman shall consult, as appropriate, with the Chairman of the Advisory Committee and all members of the Commission. Such recommendation shall comply with the



requirements of paragraphs 2 and 4 of this Article and shall ensure:

(a) the inclusion of members of the Commission which, whether through prospecting, scientific research or otherwise, have contributed substantial scientific, technical or environmental information relevant to the identification of the area by the Commission pursuant to Article 41;

(b) adequate and equitable representation of developing country members of the Commission, having regard to the overall balance between developed and developing country members of the Commission, including at least three developing country members of the Commission;

(c) that account is taken of the value of a rotation of membership of Regulatory Committees as a further means of ensuring equitable representation of members of the Commission.

4. (a) When there are one or more members of the Regulatory Committee referred to in paragraph 2(a) above, the Chairman of the Commission shall make the recommendation in respect of paragraph 2(c)(i) above upon the nomination, if any, of such member or members which shall take into account paragraph 3 above, in particular subparagraph (b) of that paragraph.

(b) In making the recommendation in respect of paragraph 2(c)(ii) above, the Chairman of the Commission shall give full weight to the views (which shall take into account paragraph 3 above) which may be presented on behalf of those members of the Commission which do not assert rights of or claims to territorial sovereignty in Antarctica and, with reference to the requirements of paragraph 3(b) above, to the views which may be presented on behalf of the developing countries among them.

5. The recommendation of the Chairman of the Commission shall be deemed to have been approved by the Commission if it does not decide otherwise at the same meeting as the recommendation is submitted. In taking any decision in accordance with this Article the Commission shall ensure that the requirements of paragraphs 2 and 3 above are complied with and that the nomination, if any, referred to in paragraph 4(a) above is given effect.

6. (a) If a member of the Commission which has sponsored prospecting in the identified area and submitted the notification pursuant to Article 39 upon which the Commission based its identification of the area pursuant to Article 41, is not a member of the Regulatory Committee by virtue of paragraphs 2 and 3 above; that member of the Commission shall be a member of the Regulatory Committee until such time as an application for an exploration permit is lodged pursuant to Article 44.

(b) If a Party lodging an application for an exploration permit pursuant to Article 44 is not a member of the Regulatory Committee by virtue of paragraphs 2 and 3 above, that Party shall be a member of the Regulatory Committee for its consideration of that application. Should such

application result in approval of a Management Scheme pursuant to Article 48, the Party in question shall remain a member of the Regulatory Committee during such time as that Management Scheme is in force with the right to take part in decisions on matters affecting that Management Scheme.

7. Nothing in this Article shall be interpreted as affecting Article IV of the Antarctic Treaty.

### Article 30

#### REGULATORY COMMITTEE PROCEDURE

1. The first meeting of each Regulatory Committee shall be convened by the Executive Secretary in accordance with Article 43(1). Each Regulatory Committee shall meet thereafter when and where necessary to fulfil its functions.

2. Each member of a Regulatory Committee shall be represented by one representative who may be accompanied by alternate representatives and advisers.

3. Each Regulatory Committee shall elect from among its members a Chairman and Vice-Chairman. The Chairman and Vice-Chairman shall not be representatives of the same Party.

4. Any Party may attend meetings of a Regulatory Committee as an observer.

5. Each Regulatory Committee shall adopt its rules of procedure. Such rules may include provisions concerning the period and number of terms of office which the Chairman and Vice-Chairman may serve and for the rotation of such offices.

### Article 31

#### FUNCTIONS OF REGULATORY COMMITTEES

1. The functions of each Regulatory Committee shall be:

(a) to undertake the preparatory work provided for in Article 43;

(b) to consider applications for exploration and development permits in accordance with Articles 45, 46 and 54;

(c) to approve Management Schemes and issue exploration and development permits in accordance with Articles 47, 48 and 54;

(d) to monitor exploration and development activities in accordance with Article 52;

(e) to perform the functions assigned to it in Article 51;

(f) to perform the functions relating to inspection assigned to it in Article 12;

(g) to perform the functions relating to dispute settlement assigned to it in Article 47(r); and

(h) to perform such other functions as are provided for elsewhere in this Convention.

2. In performing its functions each Regulatory Committee shall seek and take full account of the

views of the Advisory Committee provided in accordance with Article 26.

3. Each Regulatory Committee shall, subject to Article 16 and measures in effect pursuant to it and Article 21(1)(h), ensure that a publicly available record of its decisions, and of Management Schemes in force, is maintained.

#### Article 32

##### DECISION MAKING IN REGULATORY COMMITTEES

1. Decisions by a Regulatory Committee pursuant to Articles 48 and 54(5) shall be taken by a two-thirds majority of the members present and voting, which majority shall include a simple majority of those members present and voting referred to in Article 29(2)(c)(i) and also a simple majority of those members present and voting referred to in Article 29(2)(c)(ii).

2. Decisions by a Regulatory Committee pursuant to Article 43(3) and (5) shall be taken by a two-thirds majority of the members present and voting, which majority shall include at least half of those members present and voting referred to in Article 29(2)(c)(i) and also at least half of those members present and voting referred to in Article 29(2)(c)(ii).

3. Decisions on all other matters of substance shall be taken by a two-thirds majority of the members present and voting. When a question arises as to whether a matter is one of substance or not, that matter shall be treated as one of substance unless otherwise decided by a two-thirds majority of the members present and voting.

4. Decisions on matters of procedure shall be taken by a simple majority of the members present and voting.

5. Nothing in this Article shall be interpreted as preventing a Regulatory Committee, in taking decisions on matters of substance, from endeavouring to reach a consensus.

#### Article 33

##### SECRETARIAT

1. The Commission may establish a Secretariat to serve the Commission, Regulatory Committees, the Advisory Committee, the Special Meeting of Parties and any subsidiary bodies established.

2. The Commission may appoint an Executive Secretary, who shall be the head of the Secretariat, according to such procedures and on such terms and conditions as the Commission may determine. The Executive Secretary shall serve for a four year term and may be reappointed.

3. The Commission may, with due regard to the need for efficiency and economy, authorise such staff establishment for the Secretariat as may be necessary. The Executive Secretary shall appoint, direct and supervise the staff according to such rules and procedures and on such terms and conditions as the Commission may determine.

4. The Secretariat shall perform the functions specified in this Convention and, subject to the approved budget, the tasks entrusted to it by the Commission, Regulatory Committees, the Advisory Committee and the Special Meeting of Parties.

#### Article 34

##### CO-OPERATION WITH INTERNATIONAL ORGANISATIONS

1. The Commission and, as appropriate, the Advisory Committee shall co-operate with the Antarctic Treaty Consultative Parties, the Contracting Parties to the Convention for the Conservation of Antarctic Seals, the Commission for the Conservation of Antarctic Marine Living Resources, and the Scientific Committee on Antarctic Research.

2. The Commission shall co-operate with the United Nations, its relevant Specialised Agencies, and, as appropriate, any international organisation which may have competence in respect of mineral resources in areas adjacent to those covered by this Convention.

3. The Commission shall also, as appropriate, co-operate with the International Union for the Conservation of Nature and Natural Resources, and with other relevant international organisations, including non-governmental organisations, having a scientific, technical or environmental interest in Antarctica.

4. The Commission may, as appropriate, accord observer status in the Commission and in the Advisory Committee to such relevant international organisations, including non-governmental organisations, as might assist in the work of the institutions in question. Observer status at a Special Meeting of Parties shall be open to such organisations as have been accorded observer status in the Commission or the Advisory Committee.

5. The Commission may enter into agreements with the organisations referred to in this Article.

#### Article 35

##### FINANCIAL PROVISIONS

1. The Commission shall adopt a budget, on an annual or other appropriate basis, for:

(a) its activities and the activities of Regulatory Committees, the Advisory Committee, the Special Meeting of Parties, any subsidiary bodies established and the Secretariat; and

(b) the progressive reimbursement of any contributions paid under paragraphs 5 and 6 below whenever revenues under paragraph 4 below exceed expenditure.

2. The first draft budget shall be submitted by the Depositary at least 90 days before the first meeting of the Commission. At that meeting the Commission shall adopt its first budget and decide upon arrangements for the preparation of subsequent budgets.

3. The Commission shall adopt financial regulations.

4. Subject to paragraph 5 below, the budget shall be financed, *inter alia*, by:

(a) fees prescribed pursuant to Articles 21(1)(p) and 43(2)(b);

(b) levies on Operators, subject to any measures adopted by the Commission in accordance with Article 21(1)(q), pursuant to Article 47(k)(i); and

(c) such other financial payments by Operators pursuant to Article 47(k)(ii) as may be required to be paid to the institutions of this Convention.

5. If the budget is not fully financed by revenues in accordance with paragraph 4 above, and subject to reimbursement in accordance with paragraph 1(b) above, the budget shall, to the extent of any shortfall and subject to paragraph 6 below, be financed by contributions from the members of the Commission. To this end, the Commission shall adopt as soon as possible a method of equitable sharing of contributions to the budget. The budget shall, in the meantime, to the extent of any shortfall, be financed by equal contributions from each member of the Commission.

6. In adopting the method of contributions referred to in paragraph 5 above the Commission shall consider the extent to which members of and observers at institutions of this Convention may be called upon to contribute to the costs of those institutions.

7. The Commission, in determining the disposition of revenues accruing to it, which are surplus to the requirements for financing the budget pursuant to this Article, shall:

(a) promote scientific research in Antarctica, particularly that related to the Antarctic environment and Antarctic resources, and a wide spread of participation in such research by all Parties, in particular developing country Parties;

(b) ensure that the interests of the members of Regulatory Committees having the most direct interest in the matter in relation to the areas in question are respected in any disposition of that surplus.

8. The finances of the Commission, Regulatory Committees, the Advisory Committee, the Special Meeting of Parties, any subsidiary bodies established and the Secretariat shall accord with the financial regulations adopted by the Commission and shall be subject to an annual audit by external auditors selected by the Commission.

9. Each member of the Commission, Regulatory Committees, the Advisory Committee, the Special Meeting of Parties and any subsidiary bodies established, as well as any observer at a meeting of any of the institutions of this Convention, shall meet its own expenses arising from attendance at meetings.

10. A member of the Commission that fails to pay its contribution for two consecutive years shall not,

during the period of its continuing subsequent default, have the right to participate in the taking of decisions in any of the institutions of this Convention. If it continues to be in default for a further two consecutive years, the Commission shall decide what further action should be taken, which may include loss by that member of the right to participate in meetings of the institutions of this Convention. Such member shall resume the full enjoyment of its rights upon payment of the outstanding contributions.

11. Nothing in this Article shall be construed as prejudicing the position of any member of a Regulatory Committee on the outcome of consideration by the Regulatory Committee of terms and conditions in a Management Scheme pursuant to Article 47(k)(ii).

#### Article 36

##### OFFICIAL AND WORKING LANGUAGES

The official and working languages of the Commission, Regulatory Committees, the Advisory Committee, the Special Meeting of Parties and any meeting convened under Article 64 shall be English, French, Russian and Spanish.

### Chapter III

#### PROSPECTING

##### Article 37

##### PROSPECTING

1. Prospecting shall not confer upon any Operator any right to Antarctic mineral resources.

2. Prospecting shall at all times be conducted in compliance with this Convention and with measures in effect pursuant to this Convention, but shall not require authorisation by the institutions of this Convention.

3. (a) The Sponsoring State shall ensure that its Operators undertaking prospecting maintain the necessary financial and technical means to comply with Article 8(1), and, to the extent that any such Operator fails to take response action as required in Article 8(1), shall ensure that this is undertaken.

(b) The Sponsoring State shall also ensure that its Operators undertaking prospecting maintain financial capacity, commensurate with the nature and level of the activity undertaken and the risks involved, to comply with Article 8(2).

4. In cases where more than one Operator is engaged in prospecting in the same general area, the Sponsoring State or States shall ensure that those Operators conduct their activities with due regard to each others' rights.

5. Where an Operator wishes to conduct prospecting in an area identified under Article 41 in which another Operator has been authorised to

undertake exploration or development, the Sponsoring State shall ensure that such prospecting is carried out subject to the rights of any authorised Operator and any requirements to protect its rights specified by the relevant Regulatory Committee.

6. Each Operator shall ensure upon cessation of prospecting the removal of all installations and equipment and site rehabilitation. On the request of the Sponsoring State, the Commission may waive the obligation to remove installations and equipment.

7. The Sponsoring State shall notify the Commission at least nine months in advance of the commencement of planned prospecting. The notification shall be accompanied by such fees as may be established by the Commission in accordance with Article 21(1)(p) and shall:

(a) identify, by reference to co-ordinates of latitude and longitude or identifiable geographic features, the general area in which the prospecting is to take place;

(b) broadly identify the mineral resource or resources which are to be the subject of the prospecting;

(c) describe the prospecting, including the methods to be used, and the general programme of work to be undertaken and its expected duration;

(d) provide an assessment of the possible environmental and other impacts of the prospecting, taking into account possible cumulative impacts as referred to in Article 4(5);

(e) describe the measures, including monitoring programmes, to be adopted to avoid harmful environmental consequences or undue interference with other established uses of Antarctica, and outline the measures to be put into effect in the event of any accident and contingency plans for evacuation in an emergency;

(f) provide details on the Operator and certify that it:

(i) has a substantial and genuine link with the Sponsoring State as defined in Article 1(12); and

(ii) is financially and technically qualified to carry out the proposed prospecting in accordance with this Convention; and

(g) provide such further information as may be required by measures adopted by the Commission.

8. The Sponsoring State shall subsequently provide to the Commission:

(a) notification of any changes to the information referred to in paragraph 7 above;

(b) notification of the cessation of prospecting, including removal of any installations and equipment as well as site rehabilitation; and

(c) a general annual report on the prospecting undertaken by the Operator.

9. Notifications and reports submitted pursuant to this Article shall be circulated by the Executive Secretary without delay to all Parties and observers attending Commission meetings.

10. Paragraphs 7, 8 and 9 above shall not be interpreted as requiring the disclosure of data and information of commercial value.

11. The Sponsoring State shall ensure that basic data and information of commercial value generated by prospecting are maintained in archives and may at any time release part of or all such data and information, on conditions which it shall establish, for scientific or environmental purposes.

12. The Sponsoring State shall ensure that basic data and information, other than interpretative data, generated by prospecting are made readily available when such data and information are not, or are no longer, of commercial value and, in any event, no later than 10 years after the year the data and information were collected, unless it certifies to the Commission that the data and information continue to have commercial value. It shall review at regular intervals whether such data and information may be released and shall report the results of such reviews to the Commission.

13. The Commission may adopt measures consistent with this Article relating to the release of data and information of commercial value including requirements for certifications, the frequency of reviews and maximum time limits for extensions of the protection of such data and information.

#### Article 38

##### CONSIDERATION OF PROSPECTING BY THE COMMISSION

1. If a member of the Commission considers that a notification submitted in accordance with Article 37(7) or (8), or ongoing prospecting, causes concern as to consistency with this Convention or measures in effect pursuant thereto, that member may request the Sponsoring State to provide a clarification. If that member considers that an adequate response is not forthcoming from the Sponsoring State within a reasonable time, the member may request that the Commission be convened in accordance with Article 19(2)(b) to consider the question and take appropriate action.

2. If measures applicable to all relevant Operators are adopted by the Commission following a request made in accordance with paragraph 1 above, Sponsoring States that have submitted notifications in accordance with Article 37(7) or (8), and Sponsoring States whose Operators are conducting prospecting, shall ensure that the plans and activities of their Operators are modified to the extent necessary to conform with those measures within such time limit as the Commission may prescribe, and shall notify the Commission accordingly.

## Chapter IV

### EXPLORATION

#### Article 39

##### REQUESTS FOR IDENTIFICATION OF AN AREA FOR POSSIBLE EXPLORATION AND DEVELOPMENT

1. Any Party may submit to the Executive Secretary a notification requesting that the Commission identify an area for possible exploration and development of a particular mineral resource or resources.
2. Any such notification shall be accompanied by such fees as may be established by the Commission in accordance with Article 21(1)(p) and shall contain:
  - (a) a precise delineation, including co-ordinates, of the area proposed for identification;
  - (b) specification of the resource or resources for which the area would be identified and any relevant data and information, excluding data and information of commercial value, concerning that resource or those resources, including a geological description of the proposed area;
  - (c) a detailed description of the physical and environmental characteristics of the proposed area;
  - (d) a description of the likely scale of exploration and development for the resource or resources involved in the proposed area and of the methods which could be employed in such exploration and development;
  - (e) a detailed assessment of the environmental and other impacts of possible exploration and development for the resource or resources involved, taking into account Articles 15 and 26(4); and
  - (f) such other information as may be required pursuant to measures adopted by the Commission.
3. A notification under paragraph 1 above shall be referred promptly by the Executive Secretary to all Parties and shall be circulated to observers attending the meeting of the Commission to be convened pursuant to Article 19(2)(a).

#### Article 40

##### ACTION BY THE ADVISORY COMMITTEE AND SPECIAL MEETING OF PARTIES

1. The Advisory Committee shall meet as soon as possible after the meeting of the Commission convened pursuant to Article 19(2)(a) has commenced. The Advisory Committee shall provide advice to the Commission on the notification submitted pursuant to Article 39(1). The Commission may prescribe a time limit for the provision of such advice.
2. A Special Meeting of Parties shall meet as soon as possible after circulation of the report of the Advisory Committee and in any event not later than two months after that report has been circulated.
3. The Special Meeting of Parties shall consider whether identification of an area by the Commission

in accordance with the request contained in the notification would be consistent with this Convention, and shall report thereon to the Commission as soon as possible and in any event not later than 21 days from the commencement of the meeting.

4. The report of the Special Meeting of Parties to the Commission shall reflect the conclusions reached and all the views expressed by Parties participating in the meeting.

#### Article 41

##### ACTION BY THE COMMISSION

1. The Commission shall, as soon as possible after receipt of the report of the Special Meeting of Parties, consider whether or not it will identify an area as requested. Taking full account of the views and giving special weight to the conclusions of the Special Meeting of Parties, and taking full account of the views and the conclusions of the Advisory Committee, the Commission shall determine whether such identification would be consistent with this Convention. For this purpose:
  - (a) the Commission shall ensure that an area to be identified shall be such that, taking into account all factors relevant to such identification, including the physical, geological, environmental and other characteristics of such area, it forms a coherent unit for the purposes of resource management. The Commission shall thus consider whether an area to be identified should include all or part of that which was requested in the notification and, subject to the necessary assessments having been made, adjacent areas not covered by that notification;
  - (b) the Commission shall consider whether there are, within an area requested or to be identified, any areas in which exploration and development are or should be prohibited or restricted in accordance with Article 13;
  - (c) the Commission shall specify the mineral resource or resources for which the area would be identified;
  - (d) the Commission shall give effect to Article 6, by elaborating opportunities for joint ventures or different forms of participation, up to a defined level, including procedures for offering such participation, in possible exploration and development, within the area, by interested Parties which are Antarctic Treaty Consultative Parties and by other interested Parties, in particular, developing countries in either category;
  - (e) the Commission shall prescribe any additional associated conditions necessary to ensure that an area to be identified is consistent with other provisions of this Convention and may prescribe general guidelines relating to the operational requirements for exploration and development in an area to be identified including measures establishing maximum block sizes and advice concerning related support activities; and
  - (f) the Commission shall give effect to the requirement in Article 59 to establish additional procedures for the settlement of disputes.

2. After it has completed its consideration in accordance with paragraph 1 above, the Commission shall identify an area for possible exploration and development if there is a consensus of Commission members that such identification is consistent with this Convention.

#### Article 42

##### REVISION IN THE SCOPE OF AN IDENTIFIED AREA

1. If, after an area has been identified in accordance with Article 41, a Party requests identification of an area, all or part of which is contained within the boundaries of the area already identified but in respect of a mineral resource or resources different from any resource in respect of which the area has already been identified, the request shall be dealt with in accordance with Articles 39, 40 and 41. Should the Commission identify an area in respect of such different mineral resource or resources, it shall have regard, in addition to the requirements of Article 41(1)(a), to the desirability of specifying the boundaries of the area in such a way that it can be assigned to the Regulatory Committee with competence for the area already identified.

2. In the light of increased knowledge bearing on the effective management of the area, and after seeking the views of the Advisory Committee and the relevant Regulatory Committee, the Commission may amend the boundaries of any area it has identified. In making any such amendment the Commission shall ensure that authorised exploration and development in the area are not adversely affected. Unless there are compelling reasons for doing so, the Commission shall not amend the boundaries of an area it has identified in such a way as to involve a change in the composition of the relevant Regulatory Committee.

#### Article 43

##### PREPARATORY WORK BY REGULATORY COMMITTEES

1. As soon as possible after the identification of an area pursuant to Article 41, the relevant Regulatory Committee established in accordance with Article 29 shall be convened.

2. The Regulatory Committee shall:

(a) subject to any measures adopted by the Commission pursuant to Article 21(1)(j) relating to maximum block sizes, divide its area of competence into blocks in respect of which applications for exploration and development may be submitted and make provision for a limit in appropriate circumstances on the number of blocks to be accorded to any Party;

(b) subject to any measures adopted by the Commission pursuant to Article 21(1)(p), establish fees to be paid with any application for an exploration or development permit lodged pursuant to Article 44 or 53;

(c) establish periods within which applications for exploration and development may be lodged, all

applications received within each such period being considered as simultaneous;

(d) establish procedures for the handling of applications; and

(e) determine a method of resolving competing applications which are not resolved in accordance with Article 45(4)(a), which method shall, provided that all other requirements of this Convention are satisfied and consistent(ly) with measures adopted pursuant to Article 41(1)(d), include priority for the application with the broadest participation among interested Parties which are Antarctic Treaty Consultative Parties and other interested Parties, in particular, developing countries in either category.

3. The Regulatory Committee shall adopt guidelines which are consistent with, and which taken together with, the provisions of this Convention and measures of general applicability adopted by the Commission, as well as associated conditions and general guidelines adopted by the Commission when identifying the area, shall, by addressing the relevant items in Article 47, identify the general requirements for exploration and development in its area of competence.

4. Upon adoption of guidelines under paragraph 3 above the Executive Secretary shall, without delay, inform all members of the Commission of the decisions taken by the Regulatory Committee pursuant to paragraphs 2 and 3 above and shall make them publicly available together with relevant measures, associated conditions and general guidelines adopted by the Commission.

5. The Regulatory Committee may from time to time revise guidelines adopted under paragraph 3 above, taking into account any views of the Commission.

6. In performing its functions under paragraphs 3 and 5 above, the Regulatory Committee shall seek and take full account of the views of the Advisory Committee provided in accordance with Article 26.

#### Article 44

##### APPLICATION FOR AN EXPLORATION PERMIT

1. Following completion of the work undertaken pursuant to Article 43, any Party, on behalf of an Operator for which it is the Sponsoring State, may lodge with the Regulatory Committee an application for an exploration permit within the periods established by the Regulatory Committee pursuant to Article 43(2)(c).

2. An application shall be accompanied by the fees established by the Regulatory Committee in accordance with Article 43(2)(b) and shall contain:

(a) a detailed description of the Operator, including its managerial structure, financial composition and resources and technical expertise, and, in the case of an Operator being a joint venture, the inclusion of a detailed description of the degree to which Parties are involved in the Operator through,

*inter alia*, juridical persons with which Parties have substantial and genuine links, so that each component of the joint venture can be easily attributed to a Party or Parties for the purposes of identifying the level of Antarctic mineral resource activities thereof, which description of substantial and genuine links shall include a description of equity sharing;

(b) a detailed description of the proposed exploration activities and a description in as much detail as possible of proposed development activities, including:

(i) an identification of the mineral resource or resources and the block to which the application applies;

(ii) a detailed explanation of how the proposed activities conform with the general requirements referred to in Article 43(3);

(iii) a detailed assessment of the environmental and other impacts of the proposed activities, taking into account Articles 15 and 26(4); and

(iv) a description of the capacity to respond effectively to accidents, especially those with potential environmental effects;

(c) a certification by the Sponsoring State of the capacity of the operator to comply with the general requirements referred to in Article 43(3);

(d) a certification by the Sponsoring State of the technical competence and financial capacity of the Operator and that the Operator has a substantial and genuine link with it as defined in Article 1(12);

(e) a description of the manner in which the application complies with any measures adopted by the Commission pursuant to Article 41(1)(d); and

(f) such further information as may be required by the Regulatory Committee or in measures adopted by the Commission.

#### Article 45

##### EXAMINATION OF APPLICATIONS

1. The Regulatory Committee shall meet as soon as possible after an application has been lodged pursuant to Article 44, for the purpose of elaborating a Management Scheme. In performing this function it shall:

(a) determine whether the application contains sufficient or adequate information pursuant to Article 44(2). To this end, it may at any time seek further information from the Sponsoring State consistent with Article 44(2);

(b) consider the exploration and development activities proposed in the application, and such elaborations, revisions or adaptations as necessary:

(i) to ensure their consistency with this Convention as well as measures in effect pursuant thereto and the general requirements referred to in Article 43(3); and

(ii) to prescribe the specific terms and conditions of a Management Scheme in accordance with Article 47.

2. At any time during the process of consideration described above, the Regulatory Committee may decline the application if it considers that the activities proposed therein cannot be elaborated, revised or adapted to ensure consistency with this Convention as well as measures in effect pursuant thereto and the general requirements referred to in Article 43(3).

3. In performing its functions under this Article, the Regulatory Committee shall seek and take full account of the views of the Advisory Committee. To that end the Regulatory Committee shall refer to the Advisory Committee all parts of the application which are necessary for it to provide advice pursuant to Article 26, together with any other relevant information.

4. If two or more applications meeting the requirements of Article 44(2) are lodged in respect of the same block:

(a) the competing applicants shall be invited by the Regulatory Committee to resolve the competition amongst themselves, by means of their own choice within a prescribed period;

(b) if the competition is not resolved pursuant to subparagraph (a) above it shall be resolved by the Regulatory Committee in accordance with the method determined by it pursuant to Article 43(2)(e).

#### Article 46

##### MANAGEMENT SCHEME

In performing its functions under Article 45, including the preparation of a Management Scheme, and under Article 54, the Regulatory Committee shall have recourse to the Sponsoring State and the member or members, if any, referred to in Article 29(2)(a) and, as may be required, one or two additional members of the Regulatory Committee.

#### Article 47

##### SCOPE OF THE MANAGEMENT SCHEME

The Management Scheme shall prescribe the specific terms and conditions for exploration and development of the mineral resource or resources concerned within the relevant block. Such terms and conditions shall be consistent with the general requirements referred to in Article 43(3), and shall cover, *inter alia*:

(a) duration of exploration and development permits;

(b) measures and procedures for the protection of the Antarctic environment and dependent and associated ecosystems, including methods, activities and undertakings by the Operator to minimise environmental risks and damage;

(c) provision for necessary and timely response action, including prevention, containment and clean up and removal measures, for restoration to the *status quo ante*, and for contingency plans, resources and equipment to enable such action to be taken;

- (d) procedures for the implementation of different stages of exploration and development;
- (e) performance requirements;
- (f) technical and safety specifications, including standards and procedures to ensure safe operations;
- (g) monitoring and inspection;
- (h) liability;
- (i) procedures for the development of mineral deposits which extend outside the area covered by a permit;
- (j) resource conservation requirements;
- (k) financial obligations of the Operator including:
  - (i) levies in accordance with measures adopted pursuant to Article 21(1)(q);
  - (ii) payments in the nature of and similar to taxes, royalties or payments in kind;
- (l) financial guarantees and insurance;
- (m) assignment and relinquishment;
- (n) suspension and modification of the Management Scheme, or cancellation of the Management Scheme, exploration or development permit, and the imposition of monetary penalties, in accordance with Article 51;
- (o) procedures for agreed modifications;
- (p) enforcement of the Management Scheme;
- (q) applicable law to the extent necessary;
- (r) effective additional procedures for the settlement of disputes;
- (s) provisions to avoid and to resolve conflict with other legitimate uses of Antarctica;
- (t) data and information collection, reporting and notification requirements;
- (u) confidentiality; and
- (v) removal of installations and equipment, as well as site rehabilitation.

#### Article 48

##### APPROVAL OF THE MANAGEMENT SCHEME

A Management Scheme prepared in accordance with Articles 45, 46 and 47 shall be subject to approval pursuant to Article 32. Such approval shall constitute authorisation for the issue without delay of an exploration permit by the Regulatory Committee. The exploration permit shall accord exclusive rights to the Operator to explore and, subject to Articles 53 and 54, to develop the mineral resource or resources which are the subject of the Management Scheme exclusively in accordance with the terms and conditions of the Management Scheme.

#### Article 49

##### REVIEW

1. Any member of the Commission, or any member of a Regulatory Committee, may within one month of a decision by that Regulatory Committee to approve a Management Scheme or issue a

development permit, request that the Commission be convened in accordance with Article 19(2)(b) or (c), as the case may be, to review the decision of the Regulatory Committee for consistency with the decision taken by the Commission to identify the area pursuant to Article 41 and any measures in effect relevant to that decision.

2. The Commission shall complete its consideration within three months of a request made pursuant to paragraph 1 above. In performing its functions the Commission shall not assume the functions of the Regulatory Committee, nor shall it substitute its discretion for that of the Regulatory Committee.

3. Should the Commission determine that a decision to approve a Management Scheme or issue a development permit is inconsistent with the decision taken by the Commission to identify the area pursuant to Article 41 and any measures in effect relevant to that decision, it may request that Regulatory Committee to reconsider its decision.

#### Article 50

##### RIGHTS OF AUTHORISED OPERATORS

1. No Management Scheme shall be suspended or modified and no Management Scheme, exploration or development permit shall be cancelled without the consent of the Sponsoring State except pursuant to Article 51, or Article 54 or the Management Scheme itself.

2. Each Operator authorised to conduct activities pursuant to a Management Scheme shall exercise its rights with due regard to the rights of other Operators undertaking exploration or development in the same identified area.

#### Article 51

##### SUSPENSION, MODIFICATION OR CANCELLATION OF THE MANAGEMENT SCHEME AND MONETARY PENALTIES

1. If a Regulatory Committee determines that exploration or development authorised pursuant to a Management Scheme has resulted or is about to result in impacts on the Antarctic environment or dependent or associated ecosystems beyond those judged acceptable pursuant to this Convention, it shall suspend the relevant activities and as soon as possible modify the Management Scheme so as to avoid such impacts. If such impacts cannot be avoided by the modification of the Management Scheme, the Regulatory Committee shall suspend it, or cancel it and the exploration or development permit.

2. In performing its functions under paragraph 1 above a Regulatory Committee shall, unless emergency action is required, seek and take into account the views of the Advisory Committee.

3. If a Regulatory Committee determines that an Operator has failed to comply with this Convention or with measures in effect pursuant to it or a



Management Scheme applicable to that Operator, the Regulatory Committee may do all or any of the following:

- (a) modify the Management Scheme;
- (b) suspend the Management Scheme;
- (c) cancel the Management Scheme and the exploration or development permit; and
- (d) impose a monetary penalty.

4. Sanctions determined pursuant to paragraph 3(a) to (d) above shall be proportionate to the seriousness of the failure to comply.

5. A Regulatory Committee shall cancel a Management Scheme and the exploration or development permit if an Operator ceases to have a substantial and genuine link with the Sponsoring State as defined in Article 1(12).

6. The Commission shall adopt general measures, which may include mitigation, relating to action by Regulatory Committees pursuant to paragraphs 1 and 3 above and, as appropriate, to the consequences of such action. No application pursuant to Article 44 may be lodged until such measures have come into effect.

#### Article 52

##### MONITORING IN RELATION TO MANAGEMENT SCHEMES

1. Each Regulatory Committee shall monitor the compliance of Operators with Management Schemes within its area of competence.

2. Each Regulatory Committee, taking into account the advice of the Advisory Committee, shall monitor and assess the effects on the Antarctic environment and on dependent and on associated ecosystems of Antarctic mineral resource activities within its area of competence, particularly by reference to key environmental parameters and ecosystem components.

3. Each Regulatory Committee shall, as appropriate, inform the Commission and the Advisory Committee in a timely fashion of monitoring under this Article.

#### Chapter V

##### DEVELOPMENT

#### Article 53

##### APPLICATION FOR A DEVELOPMENT PERMIT

1. At any time during the period in which an approved Management Scheme and exploration permit are in force for an Operator, the Sponsoring State may, on behalf of that Operator, lodge with the Regulatory Committee an application for a development permit.

2. An application shall be accompanied by the fees established by the Regulatory Committee in accordance with Article 43(2)(b) and shall contain:

- (a) an updated description of the planned development identifying any modifications proposed to the approved Management Scheme and any additional measures to be taken, consequent upon such modifications, to ensure consistency with this Convention, including any measures in effect pursuant thereto and the general requirements referred to in Article 43(3);
- (b) a detailed assessment of the environmental and other impacts of the planned development, taking into account Articles 15 and 26(4);
- (c) a recertification by the Sponsoring State of the technical competence and financial capacity of the Operator and that the Operator has a substantial and genuine link with it as defined in Article 1(12);
- (d) a recertification by the Sponsoring State of the capacity of the Operator to comply with the general requirements referred to in Article 43(3);
- (e) updated information in relation to all other matters specified in Article 44(2); and
- (f) such further information as may be required by the Regulatory Committee or in measures adopted by the Commission.

#### Article 54

##### EXAMINATION OF APPLICATIONS AND ISSUE OF DEVELOPMENT PERMITS

1. The Regulatory Committee shall meet as soon as possible after an application has been lodged pursuant to Article 53.

2. The Regulatory Committee shall determine whether the application contains sufficient or adequate information pursuant to Article 53(2). In performing this function it may at any time seek further information from the Sponsoring State consistent with Article 53(2).

3. The Regulatory Committee shall consider whether:

- (a) the application reveals modifications to the planned development previously envisaged;
- (b) the planned development would cause previously unforeseen impacts on the Antarctic environment or dependent or associated ecosystems, either as a result of any modifications referred to in subparagraph (a) above or in the light of increased knowledge.

4. The Regulatory Committee shall consider any modifications to the Management Scheme necessary in the light of paragraph 3 above to ensure that the development activities proposed would be undertaken consistently with this Convention as well as measures in effect pursuant thereto and the general requirements referred to in Article 43(3). However, the financial obligations specified in the approved Management Scheme may not be revised without the consent of the Sponsoring State, unless provided for in the Management Scheme itself.

5. If the Regulatory Committee in accordance with Article 32 approves modifications under paragraph 4

above, or if it does not approve modifications under paragraph 4 above, or if it does not consider that such modifications are necessary, the Regulatory Committee shall issue without delay a development permit.

6. In performing its functions under this Article, the Regulatory Committee shall seek and take full account of the views of the Advisory Committee. To that end the Regulatory Committee shall refer to the Advisory Committee all parts of the application which are necessary for it to provide advice pursuant to Article 26, together with any other relevant information.

## Chapter VI

### DISPUTES SETTLEMENT

#### Article 55

##### DISPUTES BETWEEN TWO OR MORE PARTIES

Articles 56, 57 and 58 apply to disputes between two or more Parties.

#### Article 56

##### CHOICE OF PROCEDURE

1. Each Party, when signing, ratifying, accepting, approving or acceding to this Convention, 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 this Convention:

- (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 57(1), (3), (4) and (5).

3. A Party that 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 3 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 57

##### PROCEDURE FOR DISPUTE SETTLEMENT

1. If a dispute arises concerning the interpretation or application of this Convention, 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, enquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their choice.

2. If the parties to a dispute concerning the interpretation or application of this Convention have not agreed on a means for resolving it within 12 months of the request for consultation pursuant to paragraph 1 above, the dispute shall be referred, at the request of any party to the dispute, for settlement in accordance with the procedure determined by the operation of Article 56(4) and (5).

3. If a dispute concerning the interpretation or application of this Convention relates to a measure in effect pursuant to this Convention or a Management Scheme and the parties to such a dispute:

(a) have not agreed on a means for resolving the dispute within 6 months of the request for consultation pursuant to paragraph 1 above, the dispute shall be referred, at the request of any party to the dispute, for discussion in the institution which adopted the instrument in question;

(b) have not agreed on a means for resolving the dispute within 12 months of the request for consultation pursuant to paragraph 1 above, the dispute shall be referred for settlement, at the request of any party to the dispute, to the Arbitral Tribunal.

4. The Arbitral Tribunal shall not be competent to decide or otherwise rule upon any matter within the scope of Article 9. In addition, nothing in this Convention 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 9.

5. The Arbitral Tribunal shall not be competent with regard to the exercise by an institution of its discretionary powers in accordance with this Convention; in no case shall the Arbitral Tribunal substitute its discretion for that of an institution. In addition, nothing in this Convention 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 with regard to the exercise

by an institution of its discretionary powers or to substitute its discretion for that of an institution.

#### Article 58

##### EXCLUSION OF CATEGORIES OF DISPUTES

1. Any Party, when signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, may, by written declaration, exclude the operation of Article 57(2) or (3) without its consent with respect to a category or categories of disputes specified in the declaration. Such declaration may not cover disputes concerning the interpretation or application of:

- (a) any provision of this Convention or of any measure in effect pursuant to it relating to the protection of the Antarctic environment or dependent or associated ecosystems;
- (b) Article 7(1);
- (c) Article 8;
- (d) Article 12;
- (e) Article 14;
- (f) Article 15; or
- (g) Article 37.

2. Nothing in paragraph 1 above or in any declaration made under it shall affect the operation of Article 57(1), (4) and (5).

3. A declaration made under paragraph 1 above shall remain in force until it expires in accordance with its terms or until 3 months after written notice of 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. Declarations and notices referred to in this Article shall be deposited with the Depositary who shall transmit copies thereof to all Parties.

6. A Party which, by declaration made under paragraph 1 above, has excluded a specific category or categories of disputes from the operation of Article 57(2) or (3) without its consent shall not be entitled to submit any dispute falling within that category or those categories for settlement pursuant to Article 57(2) or (3), as the case may be, without the consent of the other party or parties to the dispute.

#### Article 59

##### ADDITIONAL DISPUTE SETTLEMENT PROCEDURES

1. The Commission, in conjunction with its responsibilities pursuant to Article 41(1), shall establish additional procedures for third-party settlement, by the Arbitral Tribunal or through other similar procedures, of disputes which may arise if it is alleged that a violation of this Convention has occurred by virtue of:

- (a) a decision to decline a Management Scheme;
- (b) a decision to decline the issue of a development permit; or
- (c) a decision to suspend, modify or cancel a Management Scheme or to impose monetary penalties.

2. Such procedures shall:

- (a) permit, as appropriate, Parties and operators under their sponsorship, but not both in respect of any particular dispute, to initiate proceedings against a Regulatory Committee;
- (b) require disputes to which they relate to be referred in the first instance to the relevant Regulatory Committee for consideration;
- (c) incorporate the rules in Article 57(4) and (5).

## Chapter VII

### FINAL CLAUSES

#### Article 60

##### SIGNATURE

This Convention shall be open for signature at Wellington from 25 November 1988 to 25 November 1989 by States which participated in the final session of the Fourth Special Antarctic Treaty Consultative Meeting.

#### Article 61

##### RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

1. This Convention is subject to ratification, acceptance or approval by Signatory States.
2. After 25 November 1989 this Convention 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 New Zealand, hereby designated as the Depositary.

#### Article 62

##### ENTRY INTO FORCE

1. This Convention shall enter into force on the thirtieth day following the date of deposit of instruments of ratification, acceptance, approval or accession by 16 Antarctic Treaty Consultative Parties which participated as such in the final session of the Fourth Special Antarctic Treaty Consultative Meeting, provided that number includes all the States necessary in order to establish all of the institutions of the Convention in respect of every area of Antarctica, including 5 developing countries and 11 developed countries.
2. For each State which, subsequent to the date of entry into force of this Convention, deposits an

instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day following such deposit.

#### Article 63

##### RESERVATIONS, DECLARATIONS AND STATEMENTS

1. Reservations to this Convention shall not be permitted. This does not preclude a State, when signing, ratifying, accepting, approving or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonisation of its laws and regulations with this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effect of this Convention in its application to that State.
2. The provisions of this Article are without prejudice to the right to make written declarations in accordance with Article 58.

#### Article 64

##### AMENDMENT

1. This Convention shall not be subject to amendment until after the expiry of 10 years from the date of its entry into force. Thereafter, any Party may, by written communication addressed to the Depositary, propose a specific amendment to this Convention and request the convening of a meeting to consider such proposed amendment.
2. The Depositary shall circulate such communication to all Parties. If within 12 months of the date of circulation of the communication at least one-third of the Parties reply favourably to the request, the Depositary shall convene the meeting.
3. The adoption of an amendment considered at such a meeting shall require the affirmative votes of two-thirds of the Parties present and voting, including the concurrent votes of the members of the Commission attending the meeting.
4. The adoption of any amendment relating to the Special Meeting of Parties or to the Advisory Committee shall require the affirmative votes of three-quarters of the Parties present and voting, including the concurrent votes of the members of the Commission attending the meeting.
5. An amendment shall enter into force for those Parties having deposited instruments of ratification, acceptance or approval thereof 30 days after the Depositary has received such instruments of ratification, acceptance or approval from all the members of the Commission.
6. Such amendment shall thereafter enter into force for any other Party 30 days after the Depositary has received its instrument of ratification, acceptance or approval thereof.
7. An amendment that has entered into force pursuant to this Article shall be without prejudice to

the provisions of any Management Scheme approved before the date on which the amendment entered into force.

#### Article 65

##### WITHDRAWAL

1. Any Party may withdraw from this Convention by giving to the Depositary notice in writing of its intention to withdraw. Withdrawal shall take effect two years after the date of receipt of such notice by the Depositary.
2. Any Party which ceases to be a Contracting Party to the Antarctic Treaty shall be deemed to have withdrawn from this Convention on the date that it ceases to be a Contracting Party to the Antarctic Treaty.
3. Where an amendment has entered into force pursuant to Article 64(5), any Party from which no instrument of ratification, acceptance or approval of the amendment has been received by the Depositary within a period of two years from the date of the entry into force of the amendment shall be deemed to have withdrawn from this Convention on the date of the expiration of a further two year period.
4. Subject to paragraphs 5 and 6 below, the rights and obligations of any Operator pursuant to this Convention shall cease at the time its Sponsoring State withdraws or is deemed to have withdrawn from this Convention.
5. Such Sponsoring State shall ensure that the obligations of its Operators have been discharged no later than the date on which its withdrawal takes effect.
6. Withdrawal from this Convention by any Party shall not affect its financial or other obligations under this Convention pending on the date withdrawal takes effect. Any dispute settlement procedure in which that Party is involved and which has been commenced prior to that date shall continue to its conclusion unless agreed otherwise by the parties to the dispute.

#### Article 66

##### NOTIFICATIONS BY THE DEPOSITARY

The Depositary shall notify all Contracting Parties to the Antarctic Treaty of the following:

- (a) signatures of this Convention and the deposit of instruments of ratification, acceptance, approval or accession;
- (b) the deposit of instruments of ratification, acceptance or approval of any amendment adopted pursuant to Article 64;
- (c) the date of entry into force of this Convention and of any amendment thereto;
- (d) the deposit of declarations and notices pursuant to Articles 56 and 58;
- (e) notifications pursuant to Article 18; and

(f) the withdrawal of a Party pursuant to Article 65.

#### Article 67

##### AUTHENTIC TEXTS, CERTIFIED COPIES AND REGISTRATION WITH THE UNITED NATIONS

1. This Convention of which the Chinese, English, French, Russian and Spanish texts are equally authentic shall be deposited with the Government of New Zealand which shall transmit duly certified copies thereof to all Signatory and Acceding States.
2. The Depositary shall also transmit duly certified copies to all Signatory and Acceding States of the text of this Convention in any additional language of a Signatory or Acceding State which submits such text to the Depositary.
3. This Convention shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

Done at Wellington this second day of June 1988.

In witness whereof, the undersigned, duly authorised, have signed this Convention.

#### Annex for an arbitral tribunal

##### Article 1

The Arbitral Tribunal shall be constituted and shall function in accordance with this Convention, including this Annex.

##### 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 this Convention for that Party. Each Arbitrator shall be experienced in Antarctic affairs, with knowledge of international law and enjoying 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. An Arbitrator may by notice given to the Party which designated that person withdraw his name from the list. If an Arbitrator dies or gives notice of withdrawal of his name from the list 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 Executive 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 that Arbitral Tribunal.

4. The Executive 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 of this Annex. This appointment shall be included in the notification referred to in Article 4 of this Annex.

(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 of this Annex.

(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 of this Annex. The third Arbitrator shall not be either a national of, or a person designated by, a party to the dispute, or of the same nationality as either of the first two Arbitrators. The third Arbitrator shall be the Chairman 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 of this Annex and subject to the conditions prescribed in subparagraphs (b) and (c) above. In performing the functions accorded him in this subparagraph, the President of the Court shall consult the parties to the dispute and the Chairman of the Commission.

(e) If the President of the International Court of Justice is unable to perform the functions accorded him 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 disputes 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 Executive 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 Executive Secretary to all Parties.

#### Article 5

1. Unless the parties to the dispute agree otherwise, arbitration shall take place at the headquarters of the Commission, 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 this Convention, 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 a dispute shall comply promptly with any provisional measures prescribed under paragraph 1(b) above pending an award under Article 9 of this Annex.

3. Notwithstanding Article 57(1), (2) and (3) of this Convention, a party to any dispute that may arise falling within the categories specified in Article 58(1)(a) to (g) of this Convention may at any time, by notification to the other party or parties to the dispute and to the Executive Secretary in accordance with Article 4 of this Annex, 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 of this Annex, 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 Chairman.

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 56 and 57 of this Convention.

#### 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 decide, on the basis of this Convention and other rules of law not incompatible with it, 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 Executive 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 of this Annex, shall be made by a majority of the Arbitrators who may not abstain from voting.

**CONVENTION CONCERNING SAFETY AND HEALTH IN CONSTRUCTION [52]****Geneva, 18 June 1988**

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 Seventy-fifth Session on 1 June 1988, and

Noting the relevant international labour Conventions and Recommendations and, in particular, the Safety Provisions (Building) Convention and Recommendation, 1937, the Cooperation in Accident Prevention (Building) Recommendation, 1937, the Radiation Protection Convention and Recommendation, 1960, the Guarding of Machinery Convention and Recommendation, 1963, the Maximum Weight Convention and Recommendation, 1967, the Occupational Cancer Convention and Recommendation, 1974, the Working Environment (Air Pollution, Noise and Vibration) Convention and Recommendation, 1977, the Occupational Safety and Health Convention and Recommendation, 1981, the Occupational Health Services Convention and Recommendation, 1985, the Asbestos Convention and Recommendation, 1986, and the list of occupational diseases as revised in 1980 appended to the Employment Injury Benefits Convention, 1964, and

Having decided upon the adoption of certain proposals with regard to safety and health in construction, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention revising the Safety Provisions (Building) Convention, 1937,

adopts this twentieth day of June of the year one thousand nine hundred and eighty-eight the following Convention, which may be cited as the Safety and Health in Construction Convention, 1988:

**I: Scope and definitions***Article 1*

1. This Convention applies to all construction activities, namely building, civil engineering, and erection and dismantling work, including any process, operation or transport on a construction site, from the preparation of the site to the completion of the project.

2. A Member ratifying this Convention may, after consultation with the most representative organisations of employers and workers concerned, where they exist, exclude from the application of the Convention, or certain provisions thereof, particular branches of economic activity or particular undertakings in respect of which special problems of a

substantial nature arise, on condition that a safe and healthy working environment is maintained.

3. This Convention also applies to such self-employed persons as may be specified by national laws or regulations.

#### Article 2

For the purpose of this Convention:

(a) The term "construction" covers:

(i) building, including excavation and the construction, structural alteration, renovation, repair, maintenance (including cleaning and painting) and demolition of all types of buildings or structures;

(ii) civil engineering, including excavation and the construction, structural alteration, repair, maintenance and demolition of, for example, airports, docks, harbours, inland waterways, dams, river and avalanche and sea defence works, roads and highways, railways, bridges, tunnels, viaducts and works related to the provision of services such as communications, drainage, sewerage, water and energy supplies;

(iii) the erection and dismantling of prefabricated buildings and structures, as well as the manufacturing of prefabricated elements on the construction site;

(b) the term "construction site" means any site at which any of the processes or operations described in subparagraph (a) above are carried on;

(c) the term "workplace" means all places where workers need to be or to go by reason of their work and which are under the control of an employer as defined in subparagraph (e) below;

(d) the term "worker" means any person engaged in construction;

(e) the term "employer" means:

(i) any physical or legal person who employs one or more workers on a construction site; and

(ii) as the context requires, the principal contractor, the contractor or the subcontractor;

(f) the term "competent person" means a person possessing adequate qualifications, such as suitable training and sufficient knowledge, experience and skill for the safe performance of the specific work. The competent authorities may define appropriate criteria for the designation of such persons and may determine the duties to be assigned to them;

(g) the term "scaffold" means any temporary structure, fixed, suspended or mobile, and its supporting components which is used for supporting workers and materials or to gain access to any such structure, and which is not a "lifting appliance" as defined in subparagraph (h) below;

(h) the term "lifting appliance" means any stationary or mobile appliance used for raising or lowering persons or loads;

(i) the term "lifting gear" means any gear or tackle by means of which a load can be attached to a lifting appliance but which does not form an integral part of the appliance or load.

## II: General provisions

#### Article 3

The most representative organisations of employers and workers concerned shall be consulted on the measures to be taken to give effect to the provisions of this Convention.

#### Article 4

Each Member which ratifies this Convention undertakes that it will, on the basis of an assessment of the safety and health hazards involved, adopt and maintain in force laws or regulations which ensure the application of the provisions of the Convention.

#### Article 5

1. The laws and regulations adopted in pursuance of Article 4 above may provide for their practical application through technical standards or codes of practice, or by other appropriate methods consistent with national conditions and practice.

2. In giving effect to Article 4 above and to paragraph 1 of this Article, each Member shall have due regard to the relevant standards adopted by recognised international organisations in the field of standardisation.

#### Article 6

Measures shall be taken to ensure that there is co-operation between employers and workers, in accordance with arrangements to be defined by national laws or regulations, in order to promote safety and health at construction sites.

#### Article 7

National laws or regulations shall require that employers and self-employed persons have a duty to comply with the prescribed safety and health measures at the workplace.

#### Article 8

1. Whenever two or more employers undertake activities simultaneously at one construction site:

(a) the principal contractor, or other person or body with actual control over or primary responsibility for overall construction site activities, shall be responsible for co-ordinating the prescribed safety and health measures and, in so far as is compatible with national laws and regulations, for ensuring compliance with such measures;

(b) in so far as is compatible with national laws and regulations, where the principal contractor, or other



person or body with actual control over or primary responsibility for overall construction site activities, is not present at the site, he shall nominate a competent person or body at the site with the authority and means necessary to ensure on his behalf co-ordination and compliance with the measures, as foreseen in subparagraph (a) above;

(c) each employer shall remain responsible for the application of the prescribed measures in respect of the workers placed under his authority.

2. Whenever employers or self-employed persons undertake activities simultaneously at one construction site they shall have the duty to co-operate in the application of the prescribed safety and health measures, as may be specified by national laws or regulations.

#### Article 9

Those concerned with the design and planning of a construction project shall take into account the safety and health of the construction workers in accordance with national laws, regulations and practice.

#### Article 10

National laws or regulations shall provide that workers shall have the right and the duty at any workplace to participate in ensuring safe working conditions to the extent of their control over the equipment and methods of work and to express views on the working procedures adopted as they may affect safety and health.

#### Article 11

National laws or regulations shall provide that workers shall have the duty to:

(a) co-operate as closely as possible with their employer in the application of the prescribed safety and health measures;

(b) take reasonable care for their own safety and health and that of other persons who may be affected by their acts or omissions at work;

(c) use facilities placed at their disposal and not misuse anything provided for their own protection or the protection of others;

(d) report forthwith to their immediate supervisor, and to the workers' safety representative where one exists, any situation which they believe could present a risk, and which they cannot properly deal with themselves;

(e) comply with the prescribed safety and health measures.

#### Article 12

1. National laws or regulations shall provide that a worker shall have the right to remove himself from danger when he has good reason to believe that there is an imminent and serious danger to his safety or

health, and the duty so to inform his supervisor immediately.

2. Where there is an imminent danger to the safety of workers the employer shall take immediate steps to stop the operation and evacuate workers as appropriate.

### III: Preventive and protective measures

#### Article 13

##### SAFETY OF WORKPLACES

1. All appropriate precautions shall be taken to ensure that all workplaces are safe and without risk of injury to the safety and health of workers.

2. Safe means of access to and egress from workplaces shall be provided and maintained, and indicated where appropriate.

3. All appropriate precautions shall be taken to protect persons present at or in the vicinity of a construction site from all risks which may arise from such site.

#### Article 14

##### SCAFFOLDS AND LADDERS

1. Where work cannot safely be done on or from the ground or from part of a building or other permanent structure, a safe and suitable scaffold shall be provided and maintained, or other equally safe and suitable provision shall be made.

2. In the absence of alternative safe means of access to elevated working places, suitable and sound ladders shall be provided. They shall be properly secured against inadvertent movement.

3. All scaffolds and ladders shall be constructed and used in accordance with national laws and regulations.

4. Scaffolds shall be inspected by a competent person in such cases and at such times as shall be prescribed by national laws or regulations.

#### Article 15

##### LIFTING APPLIANCES AND GEAR

1. Every lifting appliance and item of lifting gear, including their constituent elements, attachments, anchorages and supports, shall:

(a) be of good design and construction, sound material and adequate strength for the purpose for which they are used;

(b) be properly installed and used;

(c) be maintained in good working order;

(d) be examined and tested by a competent person at such times and in such cases as shall be prescribed by national laws or regulations; the results of these examinations and tests shall be recorded;

(e) be operated by workers who have received appropriate training in accordance with national laws and regulations.

2. No person shall be raised, lowered or carried by a lifting appliance unless it is constructed, installed and used for that purpose in accordance with national laws and regulations, except in an emergency situation in which serious personal injury or fatality may occur, and for which the lifting appliance can be safely used.

#### Article 16

##### TRANSPORT, EARTH-MOVING AND MATERIALS-HANDLING EQUIPMENT

1. All vehicles and earth-moving or materials-handling equipment shall:

- (a) be of good design and construction taking into account as far as possible ergonomic principles;
- (b) be maintained in good working order;
- (c) be properly used;
- (d) be operated by workers who have received appropriate training in accordance with national laws and regulations.

2. On all construction sites on which vehicles, earth-moving or materials-handling equipment are used:

- (a) safe and suitable access ways shall be provided for them; and
- (b) traffic shall be so organised and controlled as to secure their safe operation.

#### Article 17

##### PLANT, MACHINERY, EQUIPMENT AND HAND TOOLS

1. Plant, machinery and equipment, including hand tools, both manual and power driven, shall:

- (a) be of good design and construction, taking into account as far as possible ergonomic principles;
- (b) be maintained in good working order;
- (c) be used only for work for which they have been designed unless a use outside the initial design purposes has been assessed by a competent person who has concluded that such use is safe;
- (d) be operated by workers who have received appropriate training.

2. Adequate instructions for safe use shall be provided where appropriate by the manufacturer or the employer, in a form understood by the users.

3. Pressure plant and equipment shall be examined and tested by a competent person in cases and at times prescribed by national laws or regulations.

#### Article 18

##### WORK AT HEIGHTS INCLUDING ROOFWORK

1. Where necessary to guard against danger, or where the height of a structure or its slope exceeds that prescribed by national laws or regulations, preventive measures shall be taken against the fall of workers and tools or other objects or materials.

2. Where workers are required to work on or near roofs or other places covered with fragile material, through which they are liable to fall, preventive measures shall be taken against their inadvertently stepping on or falling through the fragile material.

#### Article 19

##### EXCAVATIONS, SHAFTS, EARTHWORKS, UNDERGROUND WORKS AND TUNNELS

Adequate precautions shall be taken in any excavation, shaft, earthworks, underground works or tunnel:

- (a) by suitable shoring or otherwise to guard against danger to workers from a fall or dislodgement of earth, rock or other material;
- (b) to guard against dangers arising from the fall of persons, materials or objects or the inrush of water into the excavation, shaft, earthworks, underground works or tunnel;
- (c) to secure adequate ventilation at every workplace so as to maintain an atmosphere fit for respiration and to limit any fumes, gases, vapours, dust or other impurities to levels which are not dangerous or injurious to health and are within limits laid down by national laws or regulations;
- (d) to enable the workers to reach safety in the event of fire, or an inrush of water or material;
- (e) to avoid risk to workers arising from possible underground dangers such as the circulation of fluids or the presence of pockets of gas, by undertaking appropriate investigations to locate them.

#### Article 20

##### COFFERDAMS AND CAISSONS

1. Every cofferdam and caisson shall be:

- (a) of good construction and suitable and sound material and of adequate strength;
- (b) provided with adequate means for workers to reach safety in the event of an inrush of water or material.

2. The construction, positioning, modification or dismantling of a cofferdam or caisson shall take place only under the immediate supervision of a competent person.

3. Every cofferdam and caisson shall be inspected by a competent person at prescribed intervals.

*Article 21*

## WORK IN COMPRESSED AIR

1. Work in compressed air shall be carried out only in accordance with measures prescribed by national laws or regulations.
2. Work in compressed air shall be carried out only by workers whose physical aptitude for such work has been established by a medical examination and when a competent person is present to supervise the conduct of the operations.

*Article 22*

## STRUCTURAL FRAMES AND FRAMEWORK

1. The erection of structural frames and components, formwork, falsework and shoring shall be carried out only under the supervision of a competent person.
2. Adequate precautions shall be taken to guard against danger to workers arising from any temporary state of weakness or instability of a structure.
3. Formwork, falsework and shoring shall be so designed, constructed and maintained that it will safely support all loads that may be imposed on it.

*Article 23*

## WORK OVER WATER

Where work is done over or in close proximity to water there shall be adequate provision for:

- (a) preventing workers from falling into water;
- (b) the rescue of workers in danger of drowning;
- (c) safe and sufficient transport.

*Article 24*

## DEMOLITION

When the demolition of any building or structure might present danger to workers or to the public:

- (a) appropriate precautions, methods and procedures shall be adopted, including those for the disposal of waste or residues, in accordance with national laws or regulations;
- (b) the work shall be planned and undertaken only under the supervision of a competent person.

*Article 25*

## LIGHTING

Adequate and suitable lighting, including portable lighting where appropriate, shall be provided at every workplace and any other place on the construction site where a worker may have to pass.

*Article 26*

## ELECTRICITY

1. All electrical equipment and installations shall be constructed, installed and maintained by a competent person, and so used as to guard against danger.
2. Before construction is commenced and during the progress thereof adequate steps shall be taken to ascertain the presence of and to guard against danger to workers from any live electrical cable or apparatus which is under, over or on the site.
3. The laying and maintenance of electrical cables and apparatus on construction sites shall be governed by the technical rules and standards applied at the national level.

*Article 27*

## EXPLOSIVES

Explosives shall not be stored, transported, handled or used except:

- (a) under conditions prescribed by national laws or regulations; and
- (b) by a competent person, who shall take such steps as are necessary to ensure that workers and other persons are not exposed to risk of injury.

*Article 28*

## HEALTH HAZARDS

1. Where a worker is liable to be exposed to any chemical, physical or biological hazard to such an extent as is liable to be dangerous to health, appropriate preventive measures shall be taken against such exposure.
2. The preventive measures referred to in paragraph 1 above shall comprise:
  - (a) the replacement of hazardous substances by harmless or less hazardous substances wherever possible; or
  - (b) technical measures applied to the plant, machinery, equipment or process; or
  - (c) where it is not possible to comply with subparagraphs (a) or (b) above, other effective measures, including the use of personal protective equipment and protective clothing.
3. Where workers are required to enter any area in which a toxic or harmful substance may be present, or in which there may be an oxygen deficiency, or a flammable atmosphere, adequate measures shall be taken to guard against danger.
4. Waste shall not be destroyed or otherwise disposed of on a construction site in a manner which is liable to be injurious to health.

*Article 29*

## FIRE PRECAUTIONS

1. The employer shall take all appropriate measures to:

- (a) avoid the risk of fire;
- (b) combat quickly and efficiently any outbreak of fire;
- (c) bring about a quick and safe evacuation of persons.

2. Sufficient and suitable storage shall be provided for flammable liquids, solids and gases.

*Article 30*

## PERSONAL PROTECTIVE EQUIPMENT AND PROTECTIVE CLOTHING

1. Where adequate protection against risk of accident or injury to health, including exposure to adverse conditions, cannot be ensured by other means, suitable personal protective equipment and protective clothing, having regard to the type of work and risks, shall be provided and maintained by the employer, without cost to the workers, as may be prescribed by national laws or regulations.

2. The employer shall provide the workers with the appropriate means to enable them to use the individual protective equipment, and shall ensure its proper use.

3. Protective equipment and protective clothing shall comply with standards set by the competent authority taking into account as far as possible ergonomic principles.

4. Workers shall be required to make proper use of and to take good care of the personal protective equipment and protective clothing provided for their use.

*Article 31*

## FIRST AID

The employer shall be responsible for ensuring that first aid, including trained personnel, is available at all times. Arrangements shall be made for ensuring the removal for medical attention of workers who have suffered an accident or sudden illness.

*Article 32*

## WELFARE

1. At or within reasonable access of every construction site an adequate supply of wholesome drinking water shall be provided.

2. At or within reasonable access of every construction site, the following facilities shall, depending on the number of workers and the duration of the work, be provided and maintained:

- (a) sanitary and washing facilities;

- (b) facilities for changing and for the storage and drying of clothing;

- (c) accommodation for taking meals and for taking shelter during interruption of work due to adverse weather conditions.

3. Men and women workers should be provided with separate sanitary and washing facilities.

*Article 33*

## INFORMATION AND TRAINING

Workers shall be adequately and suitably:

- (a) informed of potential safety and health hazards to which they may be exposed at their workplace;

- (b) instructed and trained in the measures available for the prevention and control of, and protection against, those hazards.

*Article 34*

## REPORTING OF ACCIDENTS AND DISEASES

National laws or regulations shall provide for the reporting to the competent authority within a prescribed time of occupational accidents and diseases.

**IV: Implementation***Article 35*

Each Member shall:

- (a) take all necessary measures, including the provision of appropriate penalties and corrective measures, to ensure the effective enforcement of the provisions of the Convention;

- (b) provide appropriate inspection services to supervise the application of the measures to be taken in pursuance of the Convention and provide these services with the resources necessary for the accomplishment of their task, or satisfy itself that appropriate inspection is carried out.

**V: Final provisions***Article 36*

This Convention revises the Safety Provisions (Building) Convention, 1937.

*Article 37*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 38*

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 ratification has been registered.

#### Article 39

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 shall 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 40

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 41

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 42

At such times as it 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 43

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 39 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 44

The English and French versions of the text of this Convention are equally authoritative.

## JOINT PROTOCOL RELATING TO THE APPLICATION OF THE VIENNA CONVENTION AND THE PARIS CONVENTION\* [53]

Vienna, 21 September 1988

### The Contracting Parties

Having regard to the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963;

Having regard to the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 29 July 1960 as amended by the Additional Protocol of 28 January 1964 and by the Protocol of 16 November 1982;

Considering that the Vienna Convention and the Paris Convention are similar in substance and that no State is at present a Party to both Conventions;

Convinced that adherence to either Convention by Parties to the other Convention could lead to difficulties resulting from the simultaneous application of both Conventions to a nuclear incident; and

Desirous to establish a link between the Vienna Convention and the Paris Convention by mutually extending the benefit of the special regime of civil liability for nuclear damage set forth under each Convention and to eliminate conflicts arising from the simultaneous applications of both Conventions to a nuclear incident;

Have agreed as follows:

### Article I

In this Protocol:

(a) "Vienna Convention" means the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963 and any amendment thereto which is in force for a Contracting Party to this Protocol;

(b) "Paris Convention" means the Paris Convention on Third Party Liability in the Field of Nuclear Energy of 29 July 1960 and any amendment thereto which is in force for a Contracting Party to this Protocol.

### Article II

For the purpose of this Protocol:

(a) The operator of a nuclear installation situated in the territory of a Party to the Vienna Convention shall be liable in accordance with that Convention for nuclear damage suffered in the territory of a Party to both the Paris Convention and this Protocol;

(b) The operator of a nuclear installation situated in the territory of a Party to the Paris Convention shall be liable in accordance with that Convention for nuclear damage suffered in the territory of a Party to both the Vienna Convention and this Protocol.

\* Vienna Convention on Civil Liability for Nuclear Damage, Vienna, 1963; Paris Convention on Third Party Liability in the Field of Nuclear Energy, 1960.

### Article III

1. Either the Vienna Convention or the Paris Convention shall apply to a nuclear incident to the exclusion of the other.

2. In the case of a nuclear incident occurring in a nuclear installation, the applicable Convention shall be that to which the State is a Party within whose territory that installation is situated.

3. In the case of a nuclear incident outside a nuclear installation and involving nuclear material in the course of carriage, the applicable Convention shall be that to which the State is a Party within whose territory the nuclear installation is situated whose operator is liable pursuant to either Article II(1)(b) and (c) of the Vienna Convention or Article 4(a) and (b) of the Paris Convention.

### Article IV

1. Articles I to XV of the Vienna Convention shall be applied, with respect to the Contracting Parties to this Protocol which are Parties to the Paris Convention, in the same manner as between Parties to the Vienna Convention.

2. Articles 1 to 14 of the Paris Convention shall be applied, with respect to the Contracting Parties to this Protocol which are Parties to the Vienna Convention, in the same manner as between Parties to the Paris Convention.

### Article V

This Protocol shall be open for signature, from 21 September 1988 until the date of its entry into force, at the Headquarters of the International Atomic Energy Agency by all States which have signed, ratified or acceded to either the Vienna Convention or the Paris Convention.

### Article VI

1. This Protocol is subject to ratification, acceptance, approval or accession. Instruments of ratification, acceptance or approval shall only be accepted from States Party to either the Vienna Convention or the Paris Convention. Any such State which has not signed this Protocol may accede to it.

2. The instruments of ratification, acceptance, approval or accession shall be deposited with the Director General of the International Atomic Energy Agency, who is hereby designated as the depositary of this Protocol.

### Article VII

1. This Protocol shall come into force three months after the date of deposit of instruments of ratification, acceptance, approval or accession by at least five States Party to the Vienna Convention and five States Party to the Paris Convention. For each

State ratifying, accepting, approving or acceding to this Protocol after the deposit of the above-mentioned instruments this Protocol shall enter into force three months after the date of deposit of the instrument of ratification, acceptance, approval or accession.

2. This Protocol shall remain in force as long as both the Vienna Convention and the Paris Convention are in force.

#### *Article VIII*

1. Any Contracting Party may denounce this Protocol by written notification to the depositary.

2. Denunciation shall take effect one year after the date on which the notification is received by the depositary.

#### *Article IX*

1. Any Contracting Party which ceases to be a Party to either the Vienna Convention or the Paris Convention shall notify the depositary of the termination of the application of that Convention with respect to it and of the date such termination takes effect.

2. This Protocol shall cease to apply to a Contracting Party which has terminated application of either the Vienna Convention or the Paris Convention on the date such termination takes effect.

#### *Article X*

The depositary shall promptly notify Contracting Parties and States invited to the Conference on the relationship between the Paris Convention and the Vienna Convention as well as the Secretary General of the Organization for Economic Co-operation and Development of:

- (a) Each signature of this Protocol;
- (b) Each deposit of an instrument of ratification, acceptance, approval or accession concerning this Protocol;
- (c) The entry into force of this Protocol;
- (d) Any denunciation; and
- (e) Any information received pursuant to Article IX.

#### *Article XI*

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, who shall send certified copies to Contracting Parties and States invited to the Conference on the relationship between the Paris Convention and the Vienna Convention as well as the Secretary General of the Organization for Economic Co-operation and Development.

In witness whereof the undersigned being duly authorized by their respective Governments for that purpose have signed the present Joint Protocol.

Done at Vienna this twenty-first day of September, one thousand nine hundred and eighty-eight.

## **BASLE CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL [54]**

**Basle, 22 March 1989**

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 their disposal,

Noting that States should ensure that the generator should carry out duties with regard 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 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;

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 2 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,
- within 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 which 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 sub-regions, 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 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.

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 inter-governmental 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 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 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 vote 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 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 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 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 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 Basle 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 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 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 date 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 purposes 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

##### DEPOSITARY

The Secretary-General of the United Nations shall be the Depositary 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 Basle on the 22nd day of March 1989.

**Annex I****CATEGORIES OF WASTES TO BE CONTROLLED***Waste Streams*

- 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 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 phosphorous compounds
- Y38 Organic cyanides
- Y39 Phenols; phenol compounds including chloro-phenols
- Y40 Ethers
- Y41 Halogenated organic solvents
- Y42 Organic solvents excluding halogenated solvents
- Y43 Any congener of polychlorinated dibenzofuran
- Y44 Any congener of polychlorinated dibenzop-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

**Annex III****LIST OF HAZARDOUS CHARACTERISTICS**

<i>UN Class*</i>	<i>Code</i>	<i>Characteristics</i>
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 a 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-

\* Corresponds to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1/Rev.5, United Nations, New York, 1988).

- cup test, or not more than 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 human health if swallowed or inhaled or by skin contact.
- 6.2 H6.2 Infectious substances  
Substances or wastes containing viable micro organisms 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 bio-accumulation 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.

#### Tests

The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterize potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in Annex 1, in order to decide if these materials exhibit any of the characteristics listed in this Annex.

#### Annex IV: A

##### DISPOSAL OPERATIONS

*Operations which do not lead to the possibility of resource recovery, recycling, reclamation, direct re-use or alternative uses*

Section A encompasses all such disposal operations which occur in practice.

- 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 or 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 Section A
- D9 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 in Section A, (e.g., evaporation, drying, calcination, neutralisation, 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 Section A
- D14 Repackaging prior to submission to any of the operations in Section A
- D15 Storage pending any of the operations in Section A

#### Annex IV: B

*Operations which may lead to resource recovery, recycling, reclamation, direct re-use or alternative uses*

Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and which otherwise would have been destined for operations included in Section A.

- R1 Use as a fuel (other than in direct incineration) or other means to generate energy
- R2 Solvent reclamation/regeneration
- R3 Recycling/reclamation of organic substances which are not used as solvents
- R4 Recycling/reclamation of metals and metal compounds
- R5 Recycling/reclamation of other inorganic materials
- R6 Regeneration of acids or bases
- R7 Recovery of components used for pollution abatement
- R8 Recovery of components from catalysts
- R9 Used oil re-refining or other reuses of previously used oil
- R10 Land treatment resulting in benefit to agriculture or ecological improvement
- R11 Uses of residual materials obtained from any of the operations numbered R1-R10
- R12 Exchange of wastes for submission to any of the operations numbered R1-R11
- R13 Accumulation of material intended for any operation in Section B

#### Annex V: A

INFORMATION TO BE PROVIDED ON NOTIFICATION

- Reason for waste export

- Exporter of the waste<sup>1</sup>
- Generator(s) of the waste and site of generation<sup>1</sup>
- Disposer of the waste and actual site of disposal<sup>1</sup>
- Intended carrier(s) of the waste or their agents, if known<sup>1</sup>
- Country of export of the waste  
Competent authority<sup>2</sup>
- Expected countries of transit  
Competent authority<sup>2</sup>
- Country of import of the waste  
Competent authority<sup>2</sup>
- General or single notification
- Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit)<sup>3</sup>
- Means of transport envisaged (road, rail, sea, air, inland waters)
- Information relating to insurance<sup>4</sup>
- Designation and physical description of the waste including Y number and UN number and its composition<sup>5</sup> and information on any special handling requirements including emergency provisions in case of accidents
- Type of packaging envisaged (e.g., bulk, drummed, tanker)
- Estimated quantity in weight/volume<sup>6</sup>
- Process by which the waste is generated<sup>7</sup>
- For wastes listed in Annex I, classifications from Annex III: hazardous characteristic, H number, and UN class
- Method of disposal as per Annex IV
- Declaration by the generator and exporter that the information is correct

#### Notes

<sup>1</sup> Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted.

<sup>2</sup> Full name and address, telephone, telex or telefax number.

<sup>3</sup> In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.

<sup>4</sup> Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.

<sup>5</sup> The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.

<sup>6</sup> In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.

<sup>7</sup> Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

20. Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there was no reason to believe that the wastes will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import.

21. Information concerning the contract between the exporter and disposer.

#### Annex V: B

##### INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

1. Exporter of the waste<sup>1</sup>
2. Generator(s) of the waste and site of generation<sup>1</sup>
3. Disposer of the waste and actual site of disposal<sup>1</sup>
4. Carrier(s) of the waste<sup>1</sup> or his agent(s)
5. Subject of general or single notification
6. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste
7. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated
8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)
9. Information on special handling requirements including emergency provision in case of accidents
10. Type and number of packages
11. Quantity in weight/volume
12. Declaration by the generator or exporter that the information is correct
13. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties
14. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal.

#### Notes

The information required on the movement document shall where possible be integrated in one document with that required under transport rules. Where this is not possible the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

<sup>1</sup> Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.

#### Annex VI

##### ARBITRATION

###### Article 1

Unless the agreement referred to in Article 20 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with Articles 2 to 10 below.

###### Article 2

The claimant Party shall notify the Secretariat that the Parties have agreed to submit the dispute to arbitration pursuant to paragraph 2 or paragraph 3 of Article 20 and include, in particular, the Articles of the Convention the interpretation or application of which are at issue. The Secretariat shall forward the information thus received to all Parties to the Convention.

###### Article 3

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, nor have his 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.

###### 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 Secretary-General of the United Nations shall, at the request of either Party, designate him within a further two months' period.

2. 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 inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the Party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

###### Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention.

2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

*Article 6*

1. The decisions of the arbitral tribunal both on procedure and on substance, shall be taken by majority vote of its members.
2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the Parties, recommend essential interim measures of protection.
3. The Parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.
4. The absence or default of a Party in the dispute shall not constitute an impediment to the proceedings.

*Article 7*

The tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

*Article 8*

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.

*Article 9*

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 10*

1. The 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.
2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the Parties to the dispute.
3. 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.

## CHRONOLOGICAL INDEX OF TREATIES IN VOLUMES I AND II\*

Volume/ Treaty Number	Title	Basic Data	Text
	<b>1933</b>		
I.1	Convention Relative to the Preservation of Fauna and Flora in their Natural State, London, 1933.	3	57
	<b>1940</b>		
I.2	Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, Washington, 1940.	3	64
	<b>1946</b>		
I.3	International Convention for the Regulation of Whaling, Washington, 1946 (as amended in 1959).	4	67
	<b>1949</b>		
I.4	Convention for the Establishment of an Inter-American Tropical Tuna Commission, Washington, 1949.	5	76
I.5	Agreement for the Establishment of a General Fisheries Council for the Mediterranean, Rome, 1949 (as amended in 1963).	5	80
	<b>1950</b>		
I.6	International Convention for the Protection of Birds, Paris, 1950.	6	84
	<b>1951</b>		
I.7	Convention for the Establishment of the European and Mediterranean Plant Protection Organization, Paris, 1951 (as amended in 1955).	6	86
I.8	International Plant Protection Convention, Rome, 1951.	7	90
	<b>1952</b>		
I.9	Agreement Concerning Measures for Protection of the Stocks of Deep-Sea Prawns ( <i>Pandalus borealis</i> ), European Lobsters ( <i>Homarus vulgaris</i> ), Norway Lobsters ( <i>Nephrops norvegicus</i> ) and Crabs ( <i>Cancer pagurus</i> ), Oslo, 1952 (as amended in 1959).	8	94
I.10	International Convention for the High Seas Fisheries of the North Pacific Ocean, Tokyo, 1952.	9	96
	<b>1954</b>		
I.11	International Convention for the Prevention of Pollution of the Sea by Oil, London, 1954 (as amended in 1962 and 1969).	9	101
I.12	Phyto-Sanitary Convention for Africa South of the Sahara, London, 1954.	11	115
	<b>1956</b>		
I.13	Plant Protection Agreement for the Southeast Asia and Pacific Region, Rome, 1956 (as amended in 1967).	12	117
	<b>1957</b>		
I.67	Convention on Conservation of North Pacific Fur Seals, Washington, 1957 (as amended in 1976).	47	460

\* Volume I relates to *Selected Multilateral Treaties in the Field of the Environment*, United Nations Environment Programme, 1983. Volume II relates to the present publication.



	<b>1958</b>		
I.14	Convention Concerning Fishing in the Waters of the Danube, Bucharest, 1958.	13	123
I.15	Convention on the Continental Shelf, Geneva, 1958.	13	127
I.16	Convention on the High Seas, Geneva, 1958.	14	129
I.17	Convention on Fishing and Conservation of the Living Resources of the High Seas, Geneva, 1958.	15	133
	<b>1959</b>		
I.18	North-East Atlantic Fisheries Convention, London, 1959.	16	136
I.19	Convention Concerning Fishing in the Black Sea, Varna, 1959.	17	141
I.20	Agreement for the Establishment on a Permanent Basis of a Latin-American Forest Research and Training Institute, Rome, 1959.	18	143
I.21	The Antarctic Treaty, Washington, 1959.	18	150
I.22	Agreement Concerning Co-operation in the Quarantine of Plants and Their Protection Against Pests and Diseases, Sofia, 1959.	19	153
	<b>1960</b>		
I.23	Convention Concerning the Protection of Workers Against Ionizing Radiations, Geneva, 1960.	19	156
I.24	Convention on Third Party Liability in the Field of Nuclear Energy, Paris, 1960 (including the additional Protocol of 1964).	20	159
	<b>1961</b>		
I.25	Protocol Concerning the Constitution of an International Commission for the Protection of the Mosel Against Pollution, Paris, 1961.	20	165
	<b>1962</b>		
I.26	Convention on the African Migratory Locust Organization, Kano, 1962.	21	167
I.27	Agreement Concerning Co-operation in Marine Fishing, Warsaw, 1962.	21	170
	<b>1963</b>		
I.28	Convention Supplementary to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy, Brussels, 1963 (as amended in 1964).	21	171
I.29	Agreement Concerning the International Commission for the Protection of the Rhine Against Pollution, Berne, 1963.	22	176
I.30	Vienna Convention on Civil Liability for Nuclear Damage, Vienna, 1963 (including Optional Protocol Concerning the Compulsory Settlement of Disputes, Vienna, 1963).	22	179
I.31	Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, Moscow, 1963.	23	185
I.32	Act Regarding Navigation and Economic Co-operation Between the States of the Niger Basin, Niamey, 1963.	24	186
I.33	Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Eastern Region of its Distribution Area in South-West Asia, Rome, 1963.	25	190

	<b>1964</b>		
I.32	Agreement Concerning the Niger Riger Commission and the Navigation and Transport on the River Niger, Niamey, 1964.	24	188
I.34	Convention for the International Council for the Exploration of the Sea, Copenhagen, 1964 (including Amending Protocol of 1970).	25	195
	<b>1965</b>		
I.35	Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Near East, Rome, 1965 (as amended in 1976 and 1977).	26	198
	<b>1966</b>		
I.36	International Convention for the Conservation of Atlantic Tunas, Rio de Janeiro, 1966.	26	202
	<b>1968</b>		
I.37	African Convention on the Conservation of Nature and Natural Resources, Algiers, 1968.	26	207
I.38	European Agreement on the Restriction of the Use of Certain Detergents in Washing and Cleaning Products, Strasbourg, 1968.	27	214
I.39	European Convention for the Protection of Animals During International Transport, Paris, 1968.	28	216
	<b>1969</b>		
I.40	European Convention on the Protection of the Archaeological Heritage, London, 1969.	28	221
I.41	Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil, Bonn, 1969.	29	223
I.42	Convention on the Conservation of the Living Resources of the Southeast Atlantic, Rome, 1969.	29	225
I.43	International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, Brussels, 1969.	30	230
I.44	International Convention on Civil Liability for Oil Pollution Damage, Brussels, 1969.	31	235
	<b>1970</b>		
I.45	Benelux Convention Concerning Hunting and the Protection of Birds, Brussels, 1970.	32	239
I.46	Agreement for the Establishment of a Commission for Controlling the Desert Locust in North-West Africa, Rome, 1970.	32	242
	<b>1971</b>		
I.47	Convention on Wetlands of International Importance Especially as Waterfowl Habitat, Ramsar, 1971.	32	246
I.48	Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil Thereof, London, Moscow, Washington, 1971.	33	249
I.49	Convention Concerning Protection Against Hazards of Poisoning Arising from Benzene, Geneva, 1971.	34	251
I.50	Convention Relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, Brussels, 1971.	34	253
I.11	Amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, Concerning the Protection of the Great Barrier Reef, London, 1971.	10	111

I.11	Amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, Concerning Tank Arrangements and Limitation of Tank Size, London, 1971.	10	111
I.51	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, Brussels, 1971.	35	255
	<b>1972</b>		
I.52	Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, Oslo, 1972.	36	266
I.53	Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons, and on their Destruction, London, Moscow, Washington, 1972.	36	269
I.54	Convention for the Conservation of Antarctic Seals, London, 1972.	38	272
I.55	Convention for the Protection of the World Cultural and Natural Heritage, Paris, 1972.	38	276
I.56	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, London, Mexico City, Moscow, Washington, 1972.	39	283
	<b>1973</b>		
I.57	Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973.	40	289
I.58	Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts, Gdansk, 1973.	41	317
I.59	International Convention for the Prevention of Pollution from Ships, London, 1973 (including Protocol of 1978).	42	320
I.60	Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, London, 1973.	42	400
I.61	Agreement on Conservation of Polar Bears, Oslo, 1973.	43	401
	<b>1974</b>		
I.62	The Nordic Environmental Protection Convention, Stockholm, 1974.	43	403
I.63	Convention on the Protection of the Marine Environment of the Baltic Sea Area, Helsinki, 1974.	44	405
I.64	Convention for the Prevention of Marine Pollution from Land-Based Sources, Paris, 1974.	44	430
I.65	Agreement on an International Energy Programme, Paris, 1974.	45	435
	<b>1976</b>		
I.66	Convention for the Protection of the Mediterranean Sea Against Pollution, Barcelona, 1976.	46	448
I.66	Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft, Barcelona, 1976.	46	454
I.66	Protocol Concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency, Barcelona, 1976.	46	457
II.1	European Convention for the Protection of Animals Kept for Farming Purposes, Strasbourg, 1976.	3	51

II.2	Agreement Concerning the Protection of the Waters of the Mediterranean Shores, Monaco, 1976.	3	53
I.68	Convention on Conservation of Nature in the South Pacific, Apia, 1976.	47	463
I.69	Convention on the Protection of the Archaeological, Historical and Artistic Heritage of the American Nations (Convention of San Salvador), Santiago, 1976.	48	466
I.70	Convention for the Protection of the Rhine Against Chemical Pollution, Bonn, 1976.	48	468
II.3	Convention on the Protection of the Rhine Against Pollution by Chlorides, Bonn, 1976.	4	55
	<b>1977</b>		
I.71	Convention on Civil Liability for Oil Pollution Damage Resulting from Exploration for and Exploitation of Seabed Mineral Resources, London, 1977.	49	474
I.72	Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, Geneva, 1977.	49	479
I.73	Convention Concerning the Protection of Workers Against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration, Geneva, 1977.	50	482
	<b>1978</b>		
I.59	Protocol Relating to the International Convention for the Prevention of Pollution from Ships (1973), London, 1978.	42	382
I.74	Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution, Kuwait, 1978.	51	486
I.74	Protocol Concerning Regional Co-operation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency, Kuwait, 1978.	51	492
I.75	Treaty for Amazonian Co-operation, Brasilia, 1978.	51	496
II.4	Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, Ottawa, 1978.	4	60
	<b>1979</b>		
II.5	European Convention for the Protection of Animals for Slaughter, Strasbourg, 1979.	5	70
I.76	Convention on the Conservation of Migratory Species of Wild Animals, Bonn, 1979.	52	500
I.77	Convention on the Conservation of European Wildlife and Natural Habitats, Berne, 1979.	53	509
I.78	Convention on Long-range Transboundary Air Pollution, Geneva, 1979 (see also Protocols of 1984, 1985 and 1988).	53	519
II.6	Convention for the Conservation and Management of the Vicuna, Lima, 1979.	6	74
	<b>1980</b>		
II.7	Convention on the Physical Protection of Nuclear Material, Vienna and New York, 1980.	6	75

II.8	Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-Based Sources, Athens, 1980.	7	81
II.9	Convention on the Conservation of Antarctic Marine Living Resources, Canberra, 1980.	8	86
II.10	European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities, Madrid, 1980.	9	93
II.11	Convention on Future Multilateral Co-operation in North-East Atlantic Fisheries, London, 1980.	10	107
II.12	Convention Creating the Niger Basin Authority, Faranah, 1980. (Convention supersedes the agreement signed in Niamey in November 1964 as amended in Niamey in February 1968 and June 1973 and in Lagos in January 1979.)	11	112
II.13	Protocol Relating to the Development Fund of the Niger Basin, Faranah, 1980.	12	117
	<b>1981</b>		
II.14	Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region, Abidjan, 1981.	12	118
II.15	Protocol Concerning Co-operation in Combating Pollution in Cases of Emergency, Abidjan, 1981.	13	123
II.16	Convention Concerning Occupational Safety and Health and the Working Environment, Geneva, 1981.	14	126
II.17	Convention for the Protection of the Marine Environment and Coastal Area of the South-East Pacific, Lima, 1981.	14	130
II.18	Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances in Cases of Emergency, Lima, 1981 (see also Protocols of 1983).	15	134
	<b>1982</b>		
II.21	Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment, Jeddah, 1982.	16	144
II.22	Protocol Concerning Regional Co-operation in Combating Pollution by Oil and Other Harmful Substances in Cases of Emergency, Jeddah, 1982.	17	150
II.23	Protocol Concerning Mediterranean Specially Protected Areas, Geneva, 1982.	18	154
II.24	Convention for the Conservation of Salmon in the North Atlantic Ocean, Reykjavik, 1982.	19	157
II.25	Benelux Convention on Nature Conservation and Landscape Protection, Brussels, 1982.	20	163
II.26	United Nations Convention on the Law of the Sea, Montego Bay, 1982.	20	165
	<b>1983</b>		
II.27	Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, Cartagena de Indias, 1983.	23	258
II.28	Protocol Concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region, Cartagena de Indias, 1983.	24	265

II.19	Supplementary Protocol to the Agreement on Regional Co-operation in Combating Pollution of the South-East Pacific by Hydrocarbons or Other Harmful Substances, Quito, 1983.	15	137
II.20	Protocol for the Protection of the South-East Pacific Against Pollution from Land-based Sources, Quito, 1983.	16	139
II.29	Agreement for Co-operation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances, Bonn, 1983.	25	268
II.30	International Tropical Timber Agreement, Geneva, 1983.	25	271
	<b>1984</b>		
II.31	Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), Geneva, 1984.	26	285
	<b>1985</b>		
II.34	Vienna Convention for the Protection of the Ozone Layer, Vienna, 1985 (see also Montreal Protocol of 1987).	29	301
II.36	Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region, Nairobi, 1985.	32	324
II.37	Protocol Concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region, Nairobi, 1985.	33	331
II.38	Protocol Concerning Co-operation in Combating Marine Pollution in Cases of Emergency in the Eastern African Region, Nairobi, 1985.	34	337
II.39	Convention Concerning Occupational Health Services, Geneva, 1985.	35	340
II.32	Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent, Helsinki, 1985.	27	288
II.40	ASEAN Agreement on the Conservation of Nature and Natural Resources, Kuala Lumpur, 1985.	35	343
II.41	South Pacific Nuclear Free Zone Treaty, Rarotonga, 1985.	36	352
	<b>1986</b>		
II.42	Convention Concerning Safety in the Use of Asbestos, Geneva, 1986.	37	359
II.43	Convention on Early Notification of a Nuclear Accident, Vienna, 1986.	37	363
II.44	Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, Vienna, 1986.	38	367
II.45	Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, Noumea, 1986.	39	372
II.46	Protocol for the Prevention of Pollution of the South Pacific Region by Dumping, Noumea, 1986.	40	381
II.47	Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, Noumea, 1986.	41	386

	<b>1987</b>		
II.48	Agreement on the Action Plan for the Environmentally Sound Management of the Common Zambezi River System, Harare, 1987.	42	389
II.35	Montreal Protocol on Substances that Deplete the Ozone Layer, Montreal, 1987 (see also Adjustment and Amendment of 1990).	30	309
II.49	European Convention for the Protection of Pet Animals, Strasbourg, 1987.	43	403
	<b>1988</b>		
II.50	Agreement on the Network of Aquaculture Centres in Asia and the Pacific, Bangkok, 1988.	43	408
II.51	Convention on the Regulation of Antarctic Mineral Resource Activities, Wellington, 1988.	44	415
II.52	Convention Concerning Safety and Health in Construction, Geneva, 1988.	45	440
II.53	Joint Protocol Relating to the Application of the Vienna Convention and the Paris Convention, Vienna, 1988.	45	447
II.33	Protocol to the 1979 Convention on Long-range Transboundary Air Pollution Concerning the Control of Emissions of Nitrogen Oxides or their Transboundary Fluxes, Sofia, 1988.	28	290
	<b>1989</b>		
II.54	Basle Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Basle, 1989.	46	449
	<b>1990</b>		
II.35a	Adjustment to the Montreal Protocol on Substances that Deplete the Ozone Layer (1987), London, 1990.	31	315
II.35b	Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer (1987), London, 1990.	32	316

## CLASSIFICATION OF TREATIES IN VOLUMES I AND II\*

Volume/ Treaty Number	Title	Basic Data	Text
<b>Antarctica</b>			
I.21	The Antarctic Treaty, Washington, 1959.	18	150
I.54	Convention for the Conservation of Antarctic Seals, London, 1972.	38	272
II.9	Convention on the Conservation of Antarctic Marine Living Resources, Canberra, 1980.	8	86
II.51	Convention on the Regulation of Antarctic Mineral Resource Activities, Wellington, 1988.	44	415
<b>Atmospheric Pollution</b> (see also <b>Nuclear Energy and Materials</b> and <b>Ozone Layer Protection</b> )			
I.31	Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, Moscow, 1963.	23	185
I.72	Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, Geneva, 1977.	49	479
I.73	Convention Concerning the Protection of Workers Against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration, Geneva, 1977.	50	482
I.78	Convention on Long-range Transboundary Air Pollution, Geneva, 1979.	53	519
II.31	Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on Long-term Financing of the Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), Geneva, 1984.	26	285
II.32	Protocol to the 1979 Convention on Long-range Transboundary Air Pollution on the Reduction of Sulphur Emissions or their Transboundary Fluxes by at least 30 per cent, Helsinki, 1985.	27	288
II.33	Protocol to the 1979 Convention on Long-range Transboundary Air Pollution Concerning the Control of Emissions of Nitrogen Oxides or their Transboundary Fluxes, Sofia, 1988.	28	290
<b>Biological Diversity – Fauna</b>			
I.1	Convention Relative to the Preservation of Fauna and Flora in their Natural State, London, 1933.	3	57
I.2	Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, Washington, 1940.	3	64
I.3	International Convention for the Regulation of Whaling, Washington, 1946 (as amended in 1959).	4	67
I.4	Convention for the Establishment of an Inter-American Tropical Tuna Commission, Washington, 1949.	5	76
I.6	International Convention for the Protection of Birds, Paris, 1950.	6	84
I.9	Agreement Concerning Measures for Protection of the Stocks of Deep-Sea Prawns ( <i>Pandalus borealis</i> ), European Lobsters ( <i>Homarus vulgaris</i> ), Norway Lobsters ( <i>Nephrops norvegicus</i> ) and Crabs ( <i>Cancer pagurus</i> ), Oslo, 1952 (as amended in 1959).	8	94
I.17	Convention on Fishing and Conservation of the Living Resources of the High Seas, Geneva, 1958.	15	133

\* Volume I relates to *Selected Multilateral Treaties in the Field of the Environment*, United Nations Environment Programme, 1983. Volume II relates to the present publication.



I.26	Convention on the African Migratory Locust Organization, Kano, 1962.	21	167
I.33	Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Eastern Region of its Distribution Area in South-West Asia, Rome, 1963.	25	190
I.35	Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Near East, Rome, 1965 (as amended in 1976 and 1977).	26	198
I.36	International Convention for the Conservation of Atlantic Tunas, Rio de Janeiro, 1966.	26	202
I.37	African Convention on the Conservation of Nature and Natural Resources, Algiers, 1968.	26	207
I.39	European Convention for the Protection of Animals During International Transport, Paris, 1968.	28	216
I.42	Convention on the Conservation of the Living Resources of the Southeast Atlantic, Rome, 1969.	29	225
I.45	Benelux Convention Concerning Hunting and the Protection of Birds, Brussels, 1970.	32	239
I.46	Agreement for the Establishment of a Commission for Controlling the Desert Locust in North-West Africa, Rome, 1970.	32	242
I.47	Convention on Wetlands of International Importance Especially as Waterfowl Habitat, Ramsar, 1971.	32	246
I.54	Convention for the Conservation of Antarctic Seals, London, 1972.	38	272
I.55	Convention for the Protection of the World Cultural and Natural Heritage, Paris, 1972.	38	276
I.57	Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973.	40	289
I.61	Agreement on Conservation of Polar Bears, Oslo, 1973.	43	401
I.67	Convention on Conservation of North Pacific Fur Seals, Washington, 1957 (as amended in 1976).	47	460
I.76	Convention on the Conservation of Migratory Species of Wild Animals, Bonn, 1979.	52	500
I.77	Convention on the Conservation of European Wildlife and Natural Habitats, Berne, 1979.	53	509
II.1	European Convention for the Protection of Animals Kept for Farming Purposes, Strasbourg, 1976.	3	51
II.5	European Convention for the Protection of Animals for Slaughter, Strasbourg, 1979.	5	70
II.6	Convention for the Conservation and Management of the Vicuna, Lima, 1979.	6	74
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II.24	Convention for the Conservation of Salmon in the North Atlantic Ocean, Reykjavik, 1982.	19	157
II.25	Benelux Convention on Nature Conservation and Landscape Protection, Brussels, 1982.	20	163
II.37	Protocol Concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region, Nairobi, 1985.	33	331
II.40	ASEAN Agreement on the Conservation of Nature and Natural Resources, Kuala Lumpur, 1985.	35	343
II.45	Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, Noumea, 1986.	39	372
II.49	European Convention for the Protection of Pet Animals, Strasbourg, 1987.	43	403
II.50	Agreement on the Network of Aquaculture Centres in Asia and the Pacific, Bangkok, 1988.	43	408

<b>Biological Diversity – Flora</b>			
I.1	Convention Relative to the Preservation of Fauna and Flora in their Natural State, London, 1933.	3	57
I.2	Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, Washington, 1940.	3	64
I.7	Convention for the Establishment of the European and Mediterranean Plant Protection Organization, Paris, 1951 (as amended in 1955).	6	86
I.8	International Plant Protection Convention, Rome, 1951.	7	90
I.12	Phyto-Sanitary Convention for Africa South of the Sahara, London, 1954.	11	115
I.13	Plant Protection Agreement for the Southeast Asia and Pacific Region, Rome, 1956 (as amended in 1967).	12	117
I.20	Agreement for the Establishment on a Permanent Basis of a Latin-American Forest Research and Training Institute, Rome, 1959.	18	143
I.22	Agreement Concerning Co-operation in the Quarantine of Plants and Their Protection Against Pests and Diseases, Sofia, 1959.	19	153
I.37	African Convention on the Conservation of Nature and Natural Resources, Algiers, 1968.	26	207
I.47	Convention on Wetlands of International Importance Especially as Waterfowl Habitat, Ramsar, 1971.	32	246
I.55	Convention for the Protection of the World Cultural and Natural Heritage, Paris, 1972.	38	276
I.57	Convention on International Trade in Endangered Species of Wild Fauna and Flora, Washington, 1973.	40	289
I.62	The Nordic Environmental Protection Convention, Stockholm, 1974.	43	403
I.68	Convention on Conservation of Nature in the South Pacific, Apia, 1976.	47	463
I.77	Convention on the Conservation of European Wildlife and Natural Habitats, Berne, 1979.	53	509
II.25	Benelux Convention on Nature Conservation and Landscape Protection, Brussels, 1982.	20	163
II.30	International Tropical Timber Agreement, Geneva, 1983.	25	271
II.37	Protocol Concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region, Nairobi, 1985.	33	331
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II.45	Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, Noumea, 1986.	39	372
<b>Cultural Heritage</b>			
I.40	European Convention on the Protection of the Archaeological Heritage, London, 1969.	28	221
I.55	Convention for the Protection of the World Cultural and Natural Heritage, Paris, 1972.	38	276
I.69	Convention on the Protection of the Archaeological, Historical and Artistic Heritage of the American Nations (Convention of San Salvador), Santiago, 1976.	48	466
<b>Energy</b>			
I.24	Convention on Third Party Liability in the Field of Nuclear Energy, Paris, 1960 (including the additional Protocol of January 1964).	20	159
I.28	Convention Supplementary to the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy, Brussels, 1963 (as amended in 1964).	21	171
I.65	Agreement on an International Energy Programme, Paris, 1974.	45	435

<b>Fisheries</b>		
I.3	International Convention for the Regulation of Whaling, Washington, 1946 (as amended in 1959).	4 67
I.4	Convention for the Establishment of an Inter-American Tropical Tuna Commission, Washington, 1949.	5 76
I.5	Agreement for the Establishment of a General Fisheries Council for the Mediterranean, Rome, 1949 (as amended in 1963).	5 80
I.9	Agreement Concerning Measures for Protection of the Stocks of Deep-Sea Prawns ( <i>Pandalus borealis</i> ), European Lobsters ( <i>Homarus vulgaris</i> ), Norway Lobsters ( <i>Nephrops norvegicus</i> ) and Crabs ( <i>Cancer pagurus</i> ), Oslo, 1952 (as amended in 1959).	8 94
I.10	International Convention for the High Seas Fisheries of the North Pacific Ocean, Tokyo, 1952.	9 96
I.14	Convention Concerning Fishing in the Waters of the Danube, Bucharest, 1958.	13 123
I.15	Convention on the Continental Shelf, Geneva, 1958.	13 127
I.16	Convention on the High Seas, Geneva, 1958.	14 129
I.17	Convention on Fishing and Conservation of the Living Resources of the High Seas, Geneva, 1958.	15 133
I.18	North-East Atlantic Fisheries Convention, London, 1959.	16 136
I.19	Convention Concerning Fishing in the Black Sea, Varna, 1959.	17 141
I.27	Agreement Concerning Co-operation in Marine Fishing, Warsaw, 1962.	21 170
I.36	International Convention for the Conservation of Atlantic Tunas, Rio de Janeiro, 1966.	26 202
I.58	Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts, Gdansk, 1973.	41 317
II.4	Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, Ottawa, 1978.	4 60
II.9	Convention on the Conservation of Antarctic Marine Living Resources, Canberra, 1980.	8 86
II.11	Convention on Future Multilateral Co-operation in North-East Atlantic Fisheries, London, 1980.	10 107
II.24	Convention for the Conservation of Salmon in the North Atlantic Ocean, Reykjavik, 1982.	19 157
II.26	United Nations Convention on the Law of the Sea, Montego Bay, 1982.	20 165
II.50	Agreement on the Network of Aquaculture Centres in Asia and the Pacific, Bangkok, 1988.	43 408
<b>Forest Resources</b>		
(see also <b>Biological Diversity – Flora</b> )		
I.20	Agreement for the Establishment on a Permanent Basis of a Latin-American Forest Research and Training Institute, Rome, 1959.	18 143
I.75	Treaty for Amazonian Co-operation, Brasilia, 1978.	51 496
II.30	International Tropical Timber Agreement, Geneva, 1983.	25 271
<b>Marine Environment – Global Treaties</b>		
I.3	International Convention for the Regulation of Whaling, Washington, 1946 (as amended in 1959).	4 67
I.11	International Convention for the Prevention of the Pollution of the Sea by Oil, London, 1954 (as amended in 1962 and 1969).	9 101
I.11	Amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, Concerning Tank Arrangements and Limitation of Tank Size, London, 1971.	10 111
I.15	Convention on the Continental Shelf, Geneva, 1958.	13 127
I.16	Convention on the High Seas, Geneva, 1958.	14 129
I.17	Convention on Fishing and Conservation of the Living Resources of the High Seas, Geneva, 1958.	15 133

I.21	The Antarctic Treaty, Washington, 1959.	18	150
I.31	Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water, Moscow, 1963.	23	185
I.34	Convention for the International Council for the Exploration of the Sea, Copenhagen, 1964 (including Amending Protocol of 1970).	25	195
I.43	International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, Brussels, 1969.	30	230
I.44	International Convention on Civil Liability for Oil Pollution Damage, Brussels, 1969.	31	235
I.48	Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-bed and the Ocean Floor and in the Subsoil Thereof, London, Moscow, Washington, 1971.	33	249
I.50	Convention Relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, Brussels, 1971.	34	253
I.51	International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, Brussels, 1971.	35	255
I.56	Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, London, Mexico City, Moscow, Washington, 1972.	39	283
I.59	International Convention for the Prevention of Pollution from Ships, London, 1973 (including Protocol of 1978).	42	320/ 382
I.60	Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, London, 1973.	42	400
II.26	United Nations Convention on the Law of the Sea, Montego Bay, 1982.	20	165
	<b>Marine Pollution</b>		
I.11	International Convention for the Prevention of the Pollution of the Sea by Oil, London, 1954 (as amended in 1962 and 1969).	9	101
I.11	Amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, Concerning the Protection of the Great Barrier Reef, London, 1971.	10	111
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