

*Extract from:*

# UNITED NATIONS JURIDICAL YEARBOOK

1994

Part Two. Legal activities of the United Nations and related intergovernmental organizations

Chapter IV. Treaties concerning international law concluded under the auspices of the United Nations and related intergovernmental organizations



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## Chapter IV

### TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS

#### A. Treaties concerning international law concluded under the auspices of the United Nations

##### 1. AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION.<sup>1</sup> DONE AT MARRAKECH ON 15 APRIL 1994<sup>2</sup>

The *Parties* to this Agreement,

*Recognizing* that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

*Recognizing* further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,

*Being desirous* of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations,

*Resolved*, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts and all of the results of the Uruguay Round of Multilateral Trade Negotiations,

*Determined* to preserve the basic principles and to further the objectives underlying this multilateral trading system,

*Agree* as follows:

#### *Article I*

##### ESTABLISHMENT OF THE ORGANIZATION

The World Trade Organization (hereinafter referred to as "the WTO") is hereby established.

## *Article II*

### SCOPE OF THE WTO

1. The WTO shall provide the common institutional framework for the conduct of trade relations among its members in matters related to the agreements and associated legal instruments included in the annexes to this Agreement.

2. The agreements and associated legal instruments included in annexes 1, 2 and 3 (hereinafter referred to as “Multilateral Trade Agreements”) are integral parts of this Agreement, binding on all members.

3. The agreements and associated legal instruments included in annex 4 (hereinafter referred to as “Plurilateral Trade Agreements”) are also part of this Agreement for those members that have accepted them, and are binding on those members. The Plurilateral Trade Agreements do not create either obligations or rights for members that have not accepted them.

4. The General Agreement on Tariffs and Trade 1994 as specified in annex 1A (hereinafter referred to as “GATT 1994”) is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified (hereinafter referred to as “GATT 1947”).

## *Article III*

### FUNCTIONS OF THE WTO

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.

2. The WTO shall provide the forum for negotiations among its members concerning their multilateral trade relations in matters dealt with under the agreements in the annexes to this agreement. The WTO may also provide a forum for further negotiations among its members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the “Dispute Settlement Understanding” or “DSU”) in annex 2 to this Agreement.

4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the “TPRM”) provided for in annex 3 to this Agreement.

5. With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.

#### *Article IV*

##### STRUCTURE OF THE WTO

1. There shall be a Ministerial Conference composed of representatives of all the Members, which shall meet at least once every two years. The Ministerial Conference shall carry out the functions of the WTO and take actions necessary to this effect. The Ministerial Conference shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a member, in accordance with the specific requirements for decision-making in this Agreement and in the relevant Multilateral Trade Agreement.

2. There shall be a General Council composed of representatives of all the Members, which shall meet as appropriate. In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council. The General Council shall also carry out the functions assigned to it by this Agreement. The General Council shall establish its rules of procedure and approve the rules of procedure for the Committees provided for in paragraph 7.

3. The General Council shall convene as appropriate to discharge the responsibilities of the Dispute Settlement Body provided for in the Dispute Settlement Understanding. The Dispute Settlement Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfillment of those responsibilities.

4. The General Council shall convene as appropriate to discharge the responsibilities of the Trade Policy Review Body provided for in the TPRM. The Trade Policy Review Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfillment of those responsibilities.

5. There shall be a Council for Trade in Goods, a Council for Trade in Services and a Council for Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the “Council for TRIPS”), which shall operate under the general guidance of the General Council. The Council for Trade in Goods shall oversee the functioning of the Multilateral Trade Agreements in annex 1A. The Council for Trade in Services shall oversee the functioning of the General Agreement on Trade in Services (hereinafter referred to as “GATS”). The Council for TRIPS shall oversee the functioning of the Agreement on Trade-related Aspects of Intellectual Property Rights (hereinafter referred to as the “Agreement on TRIPS”). These Councils shall carry out the functions assigned to them by their respective agreements and by the General Council. They shall establish their respective rules of procedure subject to the approval of the General Council. Membership in these Councils shall be open to representatives of all members. These Councils shall meet as necessary to carry out their functions.

6. The Council for Trade in Goods, the Council for Trade in Services and the Council for TRIPS shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of their respective Councils.

7. The Ministerial Conference shall establish a Committee on Trade and Development, a Committee on Balance-of-Payments Restrictions and a Committee on Budget, Finance and Administration, which shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to them by the General Council, and may establish such additional Committees with such functions as it may deem appropriate. As part of it

s functions, the Committee on Trade and Development shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed country members and report to the General Council for appropriate action. Membership in these Committees shall be open to representatives of all Members.

8. The bodies provided for under the Plurilateral Trade Agreements shall carry out the functions assigned to them under those Agreements and shall operate within the institutional framework of the WTO. These bodies shall keep the General Council informed of their activities on a regular basis.

#### *Article V*

##### RELATIONS WITH OTHER ORGANIZATIONS

1. The General Council shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO.

2. The General Council may make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the WTO.

#### *Article VI*

##### THE SECRETARIAT

1. There shall be a Secretariat of the WTO (hereinafter referred to as “the Secretariat”) headed by a Director-General.

2. The Ministerial Conference shall appoint the Director-General and adopt regulations setting out the powers, duties, conditions of service and term of office of the Director-General.

3. The Director-General shall appoint the members of the staff of the Secretariat and determine their duties and conditions of service in accordance with regulations adopted by the Ministerial Conference.

4. The responsibilities of the Director-General and of the staff of the Secretariat shall be exclusively international in character. In the discharge of their duties, the Director-General and the staff of the Secretariat shall not seek or accept instructions from any government or any other authority external to the WTO. They shall refrain from any action which might adversely reflect on their position as international officials. The Members of the WTO shall respect the international character of the responsibilities of the Director-General and of the staff of the Secretariat and shall not seek to influence them in the discharge of their duties.

#### *Article VII*

##### BUDGET AND CONTRIBUTIONS

1. The Director-General shall present to the Committee on Budget, Finance and Administration the annual budget estimate and financial statement of the WTO. The Committee on Budget, Finance and Administration shall review the annual budget estimate and the financial statement presented by the Director-General and make recommendations thereon to the General Council. The annual budget estimate shall be subject to approval by the General Council.

2. The Committee on Budget, Finance and Administration shall propose to the General Council financial regulations which shall include provisions setting out:

(a) The scale of contributions apportioning the expenses of the WTO among its members; and

(b) The measures to be taken in respect of Members in arrears.

The financial regulations shall be based, as far as practicable, on the regulations and practices of GATT 1947.

3. The General Council shall adopt the financial regulations and the annual budget estimate by a two-thirds majority comprising more than half of the Members of the WTO.

4. Each Member shall promptly contribute to the WTO its share in the expenses of the WTO in accordance with financial regulations adopted by the General Council.

### *Article VIII*

#### STATUS OF THE WTO

1. The WTO shall have legal personality and shall be accorded by each of its members such legal capacity as may be necessary for the exercise of its functions.

2. The WTO shall be accorded by each of its members such privileges and immunities as are necessary for the exercise of its functions.

3. The officials of the WTO and the representatives of the members shall similarly be accorded by each of its members such privileges and immunities as are necessary for the independent exercise of their functions in connection with the WTO.

4. The privileges and immunities to be accorded by a Member to the WTO, its officials and the representatives of its members shall be similar to the privileges and immunities stipulated in the Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations on 21 November 1947.

5. The WTO may conclude a headquarters agreement.

### *Article IX*

#### DECISION-MAKING

1. The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.\* Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States\*\*

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\* The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision.

\*\* The number of votes of the European Communities and their member States shall in no case exceed the number of the member States of the European Communities.



which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement.\*\*\*

2. The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in annex 1, they shall exercise their authority on the basis of a recommendation by the Council overseeing the functioning of that Agreement. The decision to adopt an interpretation shall be taken by a three-fourths majority of the Members. This paragraph shall not be used in a manner that would undermine the amendment provisions in article X.

3. In exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a member by this Agreement or any of the Multilateral Trade Agreements, provided that any such decision shall be taken by three fourths of the members unless otherwise provided for in this paragraph.

(a) A request for a waiver concerning this Agreement shall be submitted to the Ministerial Conference for consideration pursuant to the practice of decision-making by consensus. The Ministerial Conference shall establish a time period, which shall not exceed 90 days, to consider the request. If consensus is not reached during the time-period, any decision to grant a waiver shall be taken by three fourths\*\*\*\* of the members.

(b) A request for a waiver concerning the Multilateral Trade Agreements in annexes 1A or 1B or 1C and their annexes shall be submitted initially to the Council for Trade in Goods, the Council for Trade in Services or the Council for TRIPS, respectively, for consideration during a time period which shall not exceed 90 days. At the end of the time period, the relevant Council shall submit a report to the Ministerial Conference.

4. A decision by the Ministerial Conference granting a waiver shall state the exceptional circumstances justifying the decision, the terms and conditions governing the application of the waiver, and the date on which the waiver shall terminate. Any waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates. In each review, the Ministerial Conference shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Ministerial Conference, on the basis of the annual review, may extend, modify or terminate the waiver.

5. Decisions under a Plurilateral Trade Agreement, including any decisions on interpretations and waivers, shall be governed by the provisions of the Agreement.

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\*\*\* Decisions by the General Council when convened as the Dispute Settlement Body shall be taken only in accordance with the provisions of paragraph 4 of article 2 of the Dispute Settlement Understanding.

\*\*\*\* A decision to grant a waiver in respect of any obligation subject to a transition period or a period for staged implementation that the requesting Member has not performed by the end of the relevant period shall be taken only by consensus.

## *Article X*

### AMENDMENTS

1. Any member of the WTO may initiate a proposal to amend the provisions of this Agreement or the Multilateral Trade Agreements in annex 1 by submitting such proposal to the Ministerial Conference. The Councils listed in paragraph 5 of article IV may also submit to the Ministerial Conference proposals to amend the provisions of the corresponding Multilateral Trade Agreements in annex 1 the functioning of which they oversee. Unless the Ministerial Conference decides on a longer period, for a period of 90 days after the proposal has been tabled formally at the Ministerial Conference any decision by the Ministerial Conference to submit the proposed amendment to the Members for acceptance shall be taken by consensus. Unless the provisions of paragraphs 2, 5 or 6 apply, that decision shall specify whether the provisions of paragraphs 3 or 4 shall apply. If consensus is reached, the Ministerial Conference shall forthwith submit the proposed amendment to the Members for acceptance. If consensus is not reached at a meeting of the Ministerial Conference within the established period, the Ministerial Conference shall decide by a two-thirds majority of the members whether to submit the proposed amendment to the Members for acceptance. Except as provided in paragraphs 2, 5 and 6, the provisions of paragraph 3 shall apply to the proposed amendment, unless the Ministerial Conference decides by a three-fourths majority of the members that the provisions of paragraph 4 shall apply.

2. Amendments to the provisions of this Article and to the provisions of the following Articles shall take effect only upon acceptance by all members:

Article IX of this Agreement;

Articles I and II of GATT 1994;

Article II:1 of GATS;

Article 4 of the Agreement on TRIPS.

3. Amendments to provisions of this Agreement, or of the Multilateral Trade Agreements in annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would alter the rights and obligations of the members, shall take effect for the members that have accepted them upon acceptance by two thirds of the members and thereafter for each other member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the members that any amendment made effective under this paragraph is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a member with the consent of the Ministerial Conference.

4. Amendments to provisions of this Agreement or of the Multilateral Trade Agreements in annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would not alter the rights and obligations of the members, shall take effect for all members upon acceptance by two thirds of the members.

5. Except as provided in paragraph 2 above, amendments to Parts I, II and III of GATS and the respective annexes shall take effect for the members that have accepted them upon acceptance by two thirds of the members and thereafter for each member upon acceptance by it. The Ministerial Conference may decide by a three-fourths

majority of the members that any amendment made effective under the preceding provision is of such a nature that any member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a member with the consent of the Ministerial Conference. Amendments to Parts IV, V and VI of GATS and the respective annexes shall take effect for all members upon acceptance by two thirds of the members.

6. Notwithstanding the other provisions of this article, amendments to the Agreement on TRIPS meeting the requirements of paragraph 2 of article 71 thereof may be adopted by the Ministerial Conference without further formal acceptance process.

7. Any member accepting an amendment to this Agreement or to a Multilateral Trade Agreement in annex 1 shall deposit an instrument of acceptance with the Director-General of the WTO within the period of acceptance specified by the Ministerial Conference.

8. Any Member of the WTO may initiate a proposal to amend the provisions of the Multilateral Trade Agreements in annexes 2 and 3 by submitting such proposal to the Ministerial Conference. The decision to approve amendments to the Multilateral Trade Agreement in annex 2 shall be made by consensus and these amendments shall take effect for all members upon approval by the Ministerial Conference. Decisions to approve amendments to the Multilateral Trade Agreement in annex 3 shall take effect for all members upon approval by the Ministerial Conference.

9. The Ministerial Conference, upon the request of the members parties to a trade agreement, may decide exclusively by consensus to add that agreement to annex 4. The Ministerial Conference, upon the request of the members parties to a Plurilateral Trade Agreement, may decide to delete that Agreement from annex 4.

10. Amendments to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

#### *Article XI*

##### ORIGINAL MEMBERSHIP

1. The contracting parties to GATT 1947 as of the date of entry into force of this Agreement and the European Communities, which accept this Agreement and the Multilateral Trade Agreements and for which Schedules of Concessions and Commitments are annexed to GATT 1994 and for which Schedules of Specific Commitments are annexed to GATS shall become original Members of the WTO.

2. The least-developed countries recognized as such by the United Nations will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capacities.

#### *Article XII*

##### ACCESSION

1. Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.

2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the members of the WTO.

3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that agreement.

### *Article XIII*

#### NON-APPLICATION OF MULTILATERAL TRADE AGREEMENTS BETWEEN PARTICULAR MEMBERS

1. This Agreement and the Multilateral Trade Agreements in annexes 1 and 2 shall not apply as between any member and any other member if either of the members, at the time either becomes a member, does not consent to such application.

2. Paragraph 1 may be invoked between original members of the WTO which were contracting parties to GATT 1947 only where article XXXV of that Agreement had been invoked earlier and was effective as between those contracting parties at the time of entry into force for them of this Agreement.

3. Paragraph 1 shall apply between a member and another member which has acceded under article XII only if the member not consenting to the application has so notified the Ministerial Conference before the approval of the agreement on the terms of accession by the Ministerial Conference.

4. The Ministerial Conference may review the operation of this article in particular cases at the request of any member and make appropriate recommendations.

5. Non-application of a Plurilateral Trade Agreement between parties to that Agreement shall be governed by the provisions of that Agreement.

### *Article XIV*

#### ACCEPTANCE, ENTRY INTO FORCE AND DEPOSIT

1. This Agreement shall be open for acceptance, by signature or otherwise, by contracting parties to GATT 1947, and the European Communities, which are eligible to become original members of the WTO in accordance with article XI of this Agreement. Such acceptance shall apply to this Agreement and the Multilateral Trade Agreements annexed hereto. This Agreement and the Multilateral Trade Agreements annexed hereto shall enter into force on the date determined by Ministers in accordance with paragraph 3 of the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations and shall remain open for acceptance for a period of two years following that date unless the Ministers decide otherwise. An acceptance following the entry into force of this Agreement shall enter into force on the thirtieth day following the date of such acceptance.

2. A member which accepts this Agreement after its entry into force shall implement those concessions and obligations in the Multilateral Trade Agreements that are to be implemented over a period of time starting with the entry into force of this Agreement as if it had accepted this Agreement on the date of its entry into force.

3. Until the entry into force of this Agreement, the text of this Agreement and the Multilateral Trade Agreements shall be deposited with the Director-General to the contracting parties to GATT 1947. The Director-General shall promptly furnish a certified true copy of this Agreement and the Multilateral Trade Agreements, and

a notification of each acceptance thereof, to each Government and the European Communities having accepted this Agreement. This Agreement and the Multilateral Trade Agreements, and any amendments thereto, shall, upon the entry into force of this Agreement, be deposited with the Director-General of the WTO.

4. The acceptance and entry into force of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement. Such Agreements shall be deposited with the Director-General to the contracting parties to GATT 1947. Upon the entry into force of this Agreement, such Agreements shall be deposited with the Director-General of the WTO.

#### *Article XV*

##### WITHDRAWAL

1. Any member may withdraw from this Agreement. Such withdrawal shall apply both to this Agreement and the Multilateral Trade Agreements and shall take effect upon the expiration of six months from the date on which written notice of withdrawal is received by the Director-General of the WTO.

2. Withdrawal from a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

#### *Article XVI*

##### MISCELLANEOUS PROVISIONS

1. Except as otherwise provided under this Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the contracting parties to GATT 1947 and the bodies established in the framework of GATT 1947.

2. To the extent practicable, the Secretariat of GATT 1947 shall become the Secretariat of the WTO, and the Director-General to the contracting parties to GATT 1947, until such time as the Ministerial Conference has appointed a Director-General in accordance with paragraph 2 of article VI of this Agreement, shall serve as Director-General of the WTO.

3. In the event of a conflict between a provision of this Agreement and a provision of any of the Multilateral Trade Agreements, the provision of this Agreement shall prevail to the extent of the conflict.

4. Each member shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed Agreements.

5. No reservations may be made in respect of any provision of this Agreement. Reservations in respect of any of the provisions of the Multilateral Trade Agreements may only be made to the extent provided for in those Agreements. Reservations in respect of a provision of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

6. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Marrakech this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

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#### EXPLANATORY NOTES:

The terms “country” or “countries” as used in this Agreement and the Multilateral Trade Agreements are to be understood to include any separate customs territory Member of the WTO.

In the case of a separate customs territory member of the WTO, where an expression in this Agreement and the Multilateral Trade Agreements is qualified by the term “national,” such expression shall be read as pertaining to that customs territory, unless otherwise specified.

## 2. AGREEMENT RELATING TO THE IMPLEMENTATION OF PART XI OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA<sup>3</sup> OF 10 DECEMBER 1982. DONE AT NEW YORK ON 28 JULY 1994<sup>4</sup>

*The States Parties to this Agreement,*

*Recognizing* the important contribution of the United Nations Convention on the Law of the Sea of 10 December 1982<sup>5</sup> (hereinafter referred to as “the Convention”) to the maintenance of peace, justice and progress for all peoples of the world,

*Reaffirming* that the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as “the Area”), as well as the resources of the Area, are the common heritage of mankind,

*Mindful* of the importance of the Convention for the protection and preservation of the marine environment and of the growing concern for the global environment,

*Having considered* the report of the Secretary-General of the United Nations on the results of the informal consultations among States held from 1990 to 1994 on outstanding issues relating to Part XI and related provisions of the Convention (hereinafter referred to as “Part XI”),

*Noting* the political and economic changes, including market-oriented approaches, affecting the implementation of Part XI,

*Wishing* to facilitate universal participation in the Convention,

*Considering* that an agreement relating to the implementation of Part XI would best meet that objective,

*Have agreed* as follows:

### Article 1

#### IMPLEMENTATION OF PART XI

1. The States Parties to this Agreement undertake to implement Part XI in accordance with this Agreement.
2. The Annex forms an integral part of this Agreement.

### Article 2

#### RELATIONSHIP BETWEEN THIS AGREEMENT AND PART XI

1. The provisions of this Agreement and Part XI shall be interpreted and applied together as a single instrument. In the event of any inconsistency between this Agreement and Part XI, the provisions of this Agreement shall prevail.

2. Articles 309 to 319 of the Convention shall apply to this Agreement as they apply to the Convention.

### *Article 3*

#### SIGNATURE

This Agreement shall remain open for signature at United Nations Headquarters by the States and entities referred to in article 305, paragraph 1(a), (c), (d), (e), and (f), of the Convention for 12 months from the date of its adoption.

### *Article 4*

#### CONSENT TO BE BOUND

1. After the adoption of this Agreement, any instrument of ratification or formal confirmation of or accession to the Convention shall also represent consent to be bound by this Agreement.

2. No State or entity may establish its consent to be bound by this Agreement unless it has previously established or establishes at the same time its consent to be bound by the Convention.

3. A State or entity referred to in article 3 may express its consent to be bound by this Agreement by:

- (a) Signature not subject to ratification, formal confirmation or the procedure set out in article 5;
- (b) Signature subject to ratification or formal confirmation, followed by ratification or formal confirmation;
- (c) Signature subject to the procedure set out in article 5; or
- (d) Accession.

4. Formal confirmation by the entities referred to in article 305, paragraph 1(f), of the Convention shall be in accordance with Annex IX of the Convention.

5. The instruments of ratification, formal confirmation or accession shall be deposited with the Secretary-General of the United Nations.

### *Article 5*

#### SIMPLIFIED PROCEDURE

1. A State or entity which has deposited before the date of the adoption of this Agreement an instrument of ratification or formal confirmation of or accession to the Convention and which has signed this Agreement in accordance with article 4, paragraph 3(c), shall be considered to have established its consent to be bound by this Agreement 12 months after the date of its adoption, unless that State or entity notifies the depositary in writing before that date that it is not availing itself of the simplified procedure set out in this article.

2. In the event of such notification, consent to be bound by this Agreement shall be established in accordance with article 4, paragraph 3(b).

## *Article 6*

### ENTRY INTO FORCE

1. This Agreement shall enter into force 30 days after the date on which 40 States have established their consent to be bound in accordance with articles 4 and 5, provided that such States include at least seven of the States referred to in paragraph 1(a) of resolution II of the Third United Nations Conference on the Law of the Sea<sup>6</sup> (hereinafter referred to as “resolution II”) and that at least five of those States are developed States. If these conditions for entry into force are fulfilled before 16 November 1994, this Agreement shall enter into force on 16 November 1994.

2. For each State or entity establishing its consent to be bound by this Agreement after the requirements set out in paragraph 1 have been fulfilled, this Agreement shall enter into force on the thirtieth day following the date of establishment of its consent to be bound.

## *Article 7*

### PROVISIONAL APPLICATION

1. If on 16 November 1994 this Agreement has not entered into force, it shall be applied provisionally pending its entry into force by:

(a) States which have consented to its adoption in the General Assembly of the United Nations, except any such State which before 16 November 1994 notifies the depositary in writing either that it will not so apply this Agreement or that it will consent to such application only upon subsequent signature or notification in writing;

(b) States and entities which sign this Agreement, except any such State or entity which notifies the depositary in writing at the time of signature that it will not so apply this Agreement;

(c) States and entities which consent to its provisional application by so notifying the depositary in writing;

(d) States which accede to this Agreement.

2. All such States and entities shall apply this Agreement provisionally in accordance with their national or internal laws and regulations, with effect from 16 November 1994 or the date of signature, notification of consent or accession, if later.

3. Provisional application shall terminate upon the date of entry into force of this Agreement. In any event, provisional application shall terminate on 16 November 1998 if at that date the requirement in article 6, paragraph 1, of consent to be bound by this Agreement by at least seven of the States (of which at least five must be developed States) referred to in paragraph 1(a) of resolution II has not been fulfilled.

## *Article 8*

### STATES PARTIES

1. For the purposes of this Agreement, “States Parties” means States which have consented to be bound by this Agreement and for which this Agreement is in force.



2. This Agreement applies *mutatis mutandis* to the entities referred to in article 305, paragraph 1(c), (d), (e) and (f), of the Convention which become Parties to this Agreement in accordance with the conditions relevant to each, and to that extent “States Parties” refers to those entities.

#### Article 9

##### DEPOSITARY

The Secretary-General of the United Nations shall be the depositary of this Agreement.

#### Article 10

##### AUTHENTIC TEXTS

The original of this Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

DONE AT NEW YORK, this ... day of July, one thousand nine hundred and ninety-four.

#### ANNEX

##### Section 1. Costs to States Parties and Institutional Arrangements

1. The International Seabed Authority (hereinafter referred to as “the Authority”) is the organization through which States Parties to the Convention shall, in accordance with the regime for the Area established in Part XI and this Agreement, organize and control activities in the Area, particularly with a view to administering the resources of the Area. The powers and functions of the Authority shall be those expressly conferred upon it by the Convention. The Authority shall have such incidental powers, consistent with the Convention, as are implicit in, and necessary for, the exercise of those power and functions with respect to activities in the Area.

2. In order to minimize costs to State Parties, all organs and subsidiary bodies to be established under the Convention and this Agreement shall be cost-effective. This principle shall also apply to the frequency, duration and scheduling of meetings.

3. The setting up and the functioning of the organs and subsidiary bodies of the Authority shall be based on an evolutionary approach, taking into account the functional needs of the organs and subsidiary bodies concerned in order that they may discharge effectively their respective responsibilities at various stages of the development of activities in the Area.

4. The early functions of the Authority upon entry into force of the Convention shall be carried out by the Assembly, the Council, the Secretariat, the Legal and Technical Commission and the Finance Committee. The functions of the Economic Planning Commission shall be performed by the Legal and Technical Commission until such time as the Council decides otherwise or until the approval of the first plan of work for exploitation.

5. Between the entry into force of the Convention and the approval of the first plan of work for exploitation, the Authority shall concentrate on:

(a) Processing of applications for approval of plans of work for exploration in accordance with Part XI and this Agreement;

(b) Implementation of decisions of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea (hereinafter referred to as “the Preparatory Commission”) relating to the registered pioneer investors and their certifying States, including their rights and obligations, in accordance with article 308, paragraph 5, of the Convention and resolution II, paragraph 13;

(c) Monitoring of compliance with plans of work for exploration approved in the form of contracts;

(d) Monitoring and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects;

(e) Study of the potential impact of mineral production from the Area on the economies of developing land-based producers of those mineral which are likely to be most seriously affected, with a view to minimizing their difficulties and assisting them in their economic adjustment, taking into account the work done in this regard by the Preparatory Commission;

(f) Adoption of rules, regulations and procedures necessary for the conduct of activities in the Area as they progress. Notwithstanding the provisions of Annex III, article 17, paragraph 2(b) and (c), of the Convention, such rules, regulations and procedures shall take into account the terms of this Agreement, the prolonged delay in commercial deep seabed mining and the likely pace of activities in the Area;

(g) Adoption of rules, regulations and procedures incorporating applicable standards for the protection and preservation of the marine environment;

(h) Promotion and encouragement of the conduct of marine scientific research with respect to activities in the Area and the collection and dissemination of the results of such research and analysis, when available, with particular emphasis on research related to the environmental impact of activities in the Area;

(i) Acquisition of scientific knowledge and monitoring of the development of marine technology relevant to the activities in the Area, in particular technology relating to the protection and preservation of the marine environment;

(j) Assessment of available data relating to prospecting and exploration;

(k) Timely elaboration of rules, regulations and procedures for exploitation, including those relating to the protection and preservation of the marine environment.

6. (a) An application for approval of a plan of work for exploration shall be considered by the Council following the receipt of a recommendation on the application from the Legal and Technical Commission. The processing of an application for approval of a plan of work for exploration shall be in accordance with the provisions of the Convention, including Annex III thereof, and this Agreement, and subject to the following:

- (i) A plan of work for exploration submitted on behalf of a State or entity, or any component of such entity, referred to in resolution II, paragraph 1(a) (ii) or (iii), other than a registered pioneer investor, which had already undertaken substantial activities in the Area prior to the entry into force of the Convention, or its successor in interest, shall be considered to have met the financial and technical qualifications necessary for approval of a plan of work if the sponsoring State or States certify that the applicant has expended an amount equivalent to at least US\$ 30 million in research and exploration activities and has expended no less than 10 per cent of that amount in the location, survey and evaluation of

the area referred to in the plan of work. If the plan of work otherwise satisfies the requirements of the Convention and any rules, regulations and procedures adopted pursuant thereto, it shall be approved by the Council in the form of a contract. The provisions of section 3, paragraph 11, of this Annex shall be interpreted and applied accordingly;

- (ii) Notwithstanding the provisions of resolution II, paragraph 8(a), a registered pioneer investor may request approval of a plan of work for exploration within 36 months of the entry into force of the Convention. The plan of work for exploration shall consist of documents, reports and other data submitted to the Preparatory Commission both before and after registration and shall be accompanied by a certificate of compliance, consisting of a factual report describing the status of fulfilment of obligations under the pioneer investor regime, issued by the Preparatory Commission in accordance with resolution II, paragraph 11(a). Such a plan of work shall be considered to be approved. Such an approved plan of work shall be in the form of a contract concluded between the Authority and the registered pioneer investor in accordance with Part XI and this Agreement. The fee of US\$ 250,000 paid pursuant to resolution II, paragraph 7(a), shall be deemed to be the fee relating to the exploration phase pursuant to section 8, paragraph 3, of this Annex. Section 3, paragraph 11, of this Annex shall be interpreted and applied accordingly;
  - (iii) In accordance with the principle of non-discrimination, a contract with a State or entity or any component of such entity referred to in subparagraph (a) (i) shall include arrangements which shall be similar to and no less favourable than those agreed with any registered pioneer investor referred to in subparagraph (a) (ii). If any of the States or entities or any components of such entities referred to in subparagraph (a) (i) are granted more favourable arrangements, the Council shall make similar and no less favourable arrangements with regard to the rights and obligations assumed by the registered pioneer investors referred to in subparagraph (a) (ii), provided that such arrangements do not affect or prejudice the interests of the Authority;
  - (iv) A State sponsoring an application for a plan of work pursuant to the provisions of subparagraph (a) (i) or (ii) may be a State Party or a State which is applying this Agreement provisionally in accordance with article 7, or a State which is a member of the Authority on a provisional basis in accordance with paragraph 12;
  - (v) Resolution II, paragraph 8(c), shall be interpreted and applied in accordance with subparagraph (a) (iv).
- (b) The approval of a plan of work for exploration shall be in accordance with article 153, paragraph 3, of the Convention.
7. An application for approval of a plan of work shall be accompanied by an assessment of the potential environmental impacts of the proposed activities and by a description of a programme for oceanographic and baseline environmental studies in accordance with the rules, regulations and procedures adopted by the Authority.
8. An application for approval of a plan of work for exploration, subject to paragraph 6(a) (i) or (ii), shall be processed in accordance with the procedures set out in section 3, paragraph 11, of this Annex.
9. A plan of work for exploration shall be approved for a period of 15 years. Upon the expiration of a plan of work for exploration, the contractor shall apply for a plan of work for exploitation unless the contractor has already done so or has obtained an extension for the plan of work for exploration. Contractors may apply for such extensions for periods of not more than five years each. Such extensions shall be approved if the contractor has made

efforts in good faith to comply with the requirements of the plan of work but for reasons beyond the contractor's control has been unable to complete the necessary preparatory work for proceeding to the exploitation stage or if the prevailing economic circumstances do not justify proceeding to the exploitation stage.

10. Designation of a reserved area for the Authority in accordance with Annex III, article 8, of the Convention shall take place in connection with approval of an application for a plan of work for exploration or approval of an application for a plan of work for exploration and exploitation.

11. Notwithstanding the provisions of paragraph 9, an approved plan of work for exploration which is sponsored by at least one State provisionally applying this Agreement shall terminate if such a State ceases to apply this Agreement provisionally and has not become a member on a provisional basis in accordance with paragraph 12 or has not become a State Party.

12. Upon the entry into force of this Agreement, States and entities referred to in article 3 of this Agreement which have been applying it provisionally in accordance with article 7 and for which it is not in force may continue to be members of the Authority on a provisional basis pending its entry into force for such States and entities, in accordance with the following subparagraphs:

(a) If this Agreement enters into force before 16 November 1996, such States and entities shall be entitled to continue to participate as members of the Authority on a provisional basis upon notification to the depositary of the Agreement by such a State or entity of its intention to participate as a member on a provisional basis. Such membership shall terminate either on 16 November 1996 or upon the entry into force of this Agreement and the Convention for such member, whichever is earlier. The Council may, upon the request of the State or entity concerned, extend such membership beyond 16 November 1996 for a further period or periods not exceeding a total of two years provided that the Council is satisfied that the State or entity concerned has been making efforts in good faith to become a party to the Agreement and the Convention;

(b) If this Agreement enters into force after 15 November 1996, such States and entities may request the Council to grant continued membership in the Authority on a provisional basis for a period or periods not extending beyond 16 November 1998. The Council shall grant such membership with effect from the date of the request if it is satisfied that the State or entity has been making efforts in good faith to become a party to the Agreement and the Convention;

(c) States and entities which are members of the Authority on a provisional basis in accordance with subparagraph (a) or (b) shall apply the terms of Part XI and this Agreement in accordance with their national or internal laws, regulations and annual budgetary appropriations and shall have the same rights and obligations as other members, including:

(i) The obligation to contribute to the administrative budget of the Authority in accordance with the scale of assessed contributions;

(ii) The right to sponsor an application for approval of a plan of work for exploration. In the case of entities whose components are natural or juridical persons possessing the nationality of more than one State, a plan of work for exploration shall not be approved unless all the States whose natural or juridical persons comprise those entities are States Parties or members on a provisional basis;

(d) Notwithstanding the provisions of paragraph 9, an approved plan of work in the form of a contract for exploration which was sponsored pursuant to subparagraph (c) (ii) by a State which was a member on a provisional basis shall terminate if such membership ceases and the State or entity has not become a State Party;

(e) If such a member has failed to make its assessed contributions or otherwise failed to comply with its obligations in accordance with this paragraph, its membership on a provisional basis shall be terminated.

13. The reference in Annex III, article 10, of the Convention to performance which has not been satisfactory shall be interpreted to mean that the contractor has failed to comply with the requirements of an approved plan of work in spite of a written warning or warnings from the Authority to the contractor to comply therewith.

14. The Authority shall have its own budget. Until the end of the year following the year during which this Agreement enters into force, the administrative expenses of the Authority shall be met through the budget of the United Nations. Thereafter, the administrative expenses of the Authority shall be met by assessed contributions of its members, including any members on a provisional basis, in accordance with articles 171, subparagraph (a), and 173 of the Convention and this Agreement, until the Authority has sufficient funds from other sources to meet those expenses. The Authority shall not exercise the power referred to in article 174, paragraph 1, of the Convention to borrow funds to finance its administrative budget.

15. The Authority shall elaborate and adopt, in accordance with article 162, paragraph 2(o) (ii), of the Convention, rules, regulations and procedures based on the principles contained in sections 2, 5, 6, 7 and 8 of this Annex, as well as any additional rules, regulations and procedures necessary to facilitate the approval of plans of work for exploration or exploitation, in accordance with the following subparagraphs:

(a) The Council may undertake such elaboration any time it deems that all or any of such rules, regulations or procedures are required for the conduct of activities in the Area, or when it determines that commercial exploitation is imminent, or at the request of a State whose national intends to apply for approval of a plan of work for exploitation;

(b) If a request is made by a State referred to in subparagraph (a) the Council shall, in accordance with article 162, paragraph 2(o), of the Convention, complete the adoption of such rules, regulations and procedures within two years of the request;

(c) If the Council has not completed the elaboration of the rules, regulations and procedures relating to exploitation within the prescribed time and an application for approval of a plan of work for exploitation is pending, it shall none the less consider and provisionally approve such plan of work based on the provisions of the Convention and any rules, regulations and procedures that the Council may have adopted provisionally, or on the basis of the norms contained in the Convention and the terms and principles contained in this Annex as well as the principle of non-discrimination among contractors.

16. The draft rules, regulations and procedures and any recommendations relating to the provisions of Part XI, as contained in the reports and recommendations of the Preparatory Commission, shall be taken into account by the Authority in the adoption of rules, regulations and procedures in accordance with Part XI and this Agreement.

17. The relevant provisions of Part XI, section 4, of the Convention shall be interpreted and applied in accordance with this Agreement.

## **Section 2. The Enterprise**

1. The Secretariat of the Authority shall perform the functions of the Enterprise until it begins to operate independently of the Secretariat. The Secretary-General of the Authority shall appoint from within the staff of the Authority an interim Director-General to oversee the performance of these functions by the Secretariat.

These functions shall be:

(a) Monitoring and review of trends and developments relating to deep seabed mining activities, including regular analysis of world metal market conditions and metal prices, trends and prospects;

(b) Assessment of the results of the conduct of marine scientific research with respect to activities in the Area, with particular emphasis on research related to the environmental impact of activities in the Area;

(c) Assessment of available data relating to prospecting and exploration, including the criteria for such activities;

(d) Assessment of technological developments relevant to activities in the Area, in particular technology relating to the protection and preservation of the marine environment;

(e) Evaluation of information and data relating to areas reserved for the Authority;

(f) Assessment of approaches to joint-venture operations;

(g) Collection of information on the availability of trained manpower;

(h) Study of managerial policy options for the administration of the Enterprise at different stages of its operations.

2. The Enterprise shall conduct its initial deep seabed mining operations through joint ventures. Upon the approval of a plan of work for exploitation for an entity other than the Enterprise, or upon receipt by the Council of an application for a joint-venture operation with the Enterprise, the Council shall take up the issue of the functioning of the Enterprise independently of the Secretariat of the Authority. If joint-venture operations with the Enterprise accord with sound commercial principles, the Council shall issue a directive pursuant to article 170, paragraph 2, of the Convention providing for such independent functioning.

3. The obligations of States Parties to fund one mine site of the Enterprise as provided for in Annex IV, article 11, paragraph 3, of the Convention shall not apply and States Parties shall be under no obligation to finance any of the operations in any mine site of the Enterprise or under its joint-venture arrangements.

4. The obligations applicable to contractors shall apply to the Enterprise. Notwithstanding the provisions of article 153, paragraph 3, and Annex III, article 3, paragraph 5, of the Convention, a plan of work for the Enterprise upon its approval shall be in the form of a contract concluded between the Authority and the Enterprise.

5. A contractor which has contributed a particular area to the Authority as a reserved area has the right of first refusal to enter into a joint-venture arrangement with the Enterprise for exploration and exploitation of that area. If the Enterprise does not submit an application for a plan of work for activities in respect of such a reserved area within 15 years of the commencement of its functions independent of the Secretariat of the Authority or within 15 years of the date on which that area is reserved for the Authority, whichever is the later, the contractor which contributed the area shall be entitled to apply for a plan of work for that area provided it offers in good faith to include the Enterprise as a joint-venture partner.

6. Article 170, paragraph 4, Annex IV and other provisions of the Convention relating to the Enterprise shall be interpreted and applied in accordance with this section.

### **Section 3. Decision-making**

1. The general policies of the Authority shall be established by the Assembly in collaboration with the Council.

2. As a general rule, decision-making in the organs of the Authority should be by consensus.

3. If all efforts to reach a decision by consensus have been exhausted, decisions by voting in the Assembly on questions of procedure shall be taken by a majority of members present and voting, and decisions on questions of substance shall be taken by a two-thirds majority of members present and voting, as provided for in article 159, paragraph 8, of the Convention.

4. Decisions of the Assembly on any matter for which the Council also has competence or on any administrative, budgetary or financial matter shall be based on the recommendations of the Council. If the Assembly does not accept the recommendation of the Council on any matter, it shall return the matter to the Council for further consideration. The Council shall reconsider the matter in the light of the views expressed by the Assembly.

5. If all efforts to reach a decision by consensus have been exhausted, decisions by voting in the Council on questions of procedure shall be taken by a majority of members present and voting, and decisions on questions of substance, except where the Convention provides for decisions by consensus in the Council, shall be taken by a two-thirds majority of members present and voting, provided that such decisions are not opposed by a majority in any one of the chambers referred to in paragraph 9. In taking decisions the Council shall seek to promote the interests of all the members of the Authority.

6. The Council may defer the taking of a decision in order to facilitate further negotiation whenever it appears that all efforts at achieving consensus on a question have not been exhausted.

7. Decisions by the Assembly or the Council having financial or budgetary implications shall be based on the recommendations of the Finance Committee.

8. The provisions of article 161, paragraph 8(b) and (c), of the Convention shall not apply.

9. (a) Each group of States elected under paragraph 15(a) to (c) shall be treated as a chamber for the purposes of voting in the Council. The developing States elected under paragraph 15 (d) and (e) shall be treated as a single chamber for the purposes of voting in the Council.

(b) Before electing the members of the Council, the Assembly shall establish lists of countries fulfilling the criteria for membership in the groups of States in paragraph 15 (a) to (d). If a State fulfills the criteria for membership in more than one group, it may only be proposed by one group for election to the Council and it shall represent only that group in voting in the Council.

10. Each group of States in paragraph 15(a) to (d) shall be represented in the Council by those members nominated by that group. Each group shall nominate only as many candidates as the number of seats required to be filled by that group. When the number of potential candidates in each of the groups referred to in paragraph 15(a) to (e) exceeds the number of seats available in each of those respective groups, as a general rule, the principle of rotation shall apply. State members of each of those groups shall determine how this principle shall apply in those groups.

11. (a) The Council shall approve a recommendation by the Legal and Technical Commission for approval of a plan of work unless by a two-thirds majority of its members present and voting, including a majority of members present and voting in each of the chambers of the Council, the Council decides to disapprove a plan of work. If the Council does not take a decision on a recommendation for approval of a plan of work within a prescribed period, the recommendation shall be deemed to have been approved by the Council at the end of that period. The prescribed period shall normally be 60 days unless the Council decides to provide for a longer period. If the Commission recommends the disapproval of a plan of work or does not make a recommendation, the Council may nevertheless approve the plan of work in accordance with its rules of procedure for decision-making on questions of substance.

(b) The provisions of article 162, paragraph (j), of the Convention shall not apply.

12. Where a dispute arises relating to the disapproval of a plan of work, such dispute shall be submitted to the dispute settlement procedures set out in the Convention.

13. Decisions by voting in the Legal and Technical Commission shall be by a majority of members present and voting.

14. Part XI, section 4, subsections B and C, of the Convention shall be interpreted and applied in accordance with this section.

15. 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 in value terms of total world consumption or have had net imports of more than 2 per cent in value terms of total world imports of the commodities produced from the categories of minerals to be derived from the Area, provided that the four members shall include one State from the Eastern European region having the largest economy in that region in terms of gross domestic product and the State, on the date of entry into force of the Convention, having the largest economy in terms of gross domestic product, if such States wish to be represented in this group;

(b) Four members from among the eight States Parties which have made the largest investments in preparation for and in the conduct of activities in the Area, either directly or through their nationals;

(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, island States, 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 Europe, Latin America and the Caribbean and Western Europe and Others.

16. The provisions of article 161, paragraph 1, of the Convention shall not apply.

#### **Section 4. Review Conference**

The provisions relating to the Review Conference in article 155, paragraphs 1, 3 and 4, of the Convention shall not apply. Notwithstanding the provisions of article 314, paragraph 2, of the Convention, the Assembly, on the recommendation of the Council, may undertake at any time a review of the matters referred to in article 155, paragraph 1, of the Convention. Amendments relating to this Agreement and Part XI shall be subject to the procedures contained in articles 314, 315 and 316 of the Convention, provided that the principles, regime and other terms referred to in article 155, paragraph 2, of the Convention shall be maintained and the rights referred to in paragraph 5 of that article shall not be affected.

#### **Section 5. Transfer of Technology**

1. In addition to the provisions of article 144 of the Convention, transfer of technology for the purposes of Part XI shall be governed by the following principles:

(a) The Enterprise, and developing States wishing to obtain deep seabed mining technology, shall seek to obtain such technology on fair and reasonable commercial terms and conditions on the open market, or through joint-venture arrangements;

(b) If the Enterprise or developing States are unable to obtain deep seabed mining technology, the Authority may request all or any of the contractors and their respective



sponsoring State or States to cooperate with it in facilitating the acquisition of deep seabed mining technology by the Enterprise or its joint venture, or by a developing State or States seeking to acquire such technology on fair and reasonable commercial terms and conditions, consistent with the effective protection of intellectual property rights. States Parties undertake to cooperate fully and effectively with the Authority for this purpose and to ensure that contractors sponsored by them also cooperate fully with the Authority.

(c) As a general rule, States Parties shall promote international technical and scientific cooperation with regard to activities in the Area either between the parties concerned or by developing training, technical assistance and scientific cooperation programmes in marine science and technology and the protection and preservation of the marine environment.

2. The provisions of Annex III, article 5, of the Convention shall not apply.

#### **Section 6. Production Policy**

1. The production policy of the Authority shall be based on the following principles:

(a) Development of the resources of the Area shall take place in accordance with sound commercial principles;

(b) The provisions of the General Agreement on Tariffs and Trade, its relevant codes and successor or superseding agreements shall apply with respect to activities in the Area;

(c) In particular, there shall be no subsidization of activities in the Area except as may be permitted under the agreements referred to in subparagraph (b). Subsidization for the purpose of these principles shall be defined in terms of the agreements referred to in subparagraph (b);

(d) There shall be no discrimination between minerals derived from the Area and from other sources. There shall be no preferential access to markets for such mineral or for imports of commodities produced from such minerals, in particular:

(i) By the use of tariff or non-tariff barriers; and

(ii) Given by States Parties to such minerals or commodities produced by their state enterprises or by natural or juridical persons which possess their nationality or are controlled by them or their nationals;

(e) The plan of work for exploitation approved by the Authority in respect of each mining area shall indicate an anticipated production schedule which shall include the estimated maximum amounts of minerals that would be produced per year under the plan of work;

(f) The following shall apply to the settlement of disputes concerning the provisions of the agreements referred to in subparagraph (b):

(i) Where the States Parties concerned are parties to such agreements, they shall have recourse to the dispute settlement procedures of those agreements;

(ii) Where one or more of the States Parties concerned are not parties to such agreements, they shall have recourse to the dispute settlement procedures set out in the Convention;

(g) In circumstances where a determination is made under the agreements referred to in subparagraph (b) that a State Party has engaged in subsidization which is prohibited or has resulted in adverse effects on the interests of another State Party and appropriate

steps have not been taken by the relevant State Party or States Parties, a State Party may request the Council to take appropriate measures.

2. The principles contained in paragraph 1 shall not affect the rights and obligations under any provision of the agreements referred to in paragraph 1(b), as well as the relevant free trade and customs union agreements, in relations between States Parties which are parties to such agreements.

3. The acceptance by a contractor of subsidies other than those which may be permitted under the agreements referred to in paragraph 1(b) shall constitute a violation of the fundamental terms of the contract forming a plan of work for the carrying out of activities in the Area.

4. Any State Party which has reason to believe that there has been a breach of the requirements of paragraphs 1(b) to (d) or 3 may initiate dispute settlement procedures in conformity with paragraph 1(f) or (g).

5. A State Party may at any time bring to the attention of the Council activities which in its view are inconsistent with the requirements of paragraph 1(b) to (d).

6. The Authority shall develop rules, regulations and procedures which ensure the implementation of the provisions of this section, including relevant rules, regulations and procedures governing the approval of plans of work.

7. The provisions of article 151, paragraphs 1 to 7 and 9, article 162, paragraph 2(q), article 165, paragraph 2(n), and Annex III, article 6, paragraph 5, and article 7, of the Convention shall not apply.

#### **Section 7. Economic Assistance**

1. The policy of the Authority of assisting developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area, shall be based on the following principles:

(a) The Authority shall establish an economic assistance fund from a portion of the funds of the Authority which exceeds those necessary to cover the administrative expenses of the Authority. The amount set aside for this purpose shall be determined by the Council from time to time, upon the recommendation of the Finance Committee. Only funds from payments received from contractors, including the Enterprise, and voluntary contributions shall be used for the establishment of the economic assistance fund;

(b) Developing land-based producer States whose economies have been determined to be seriously affected by the production of minerals from the deep seabed shall be assisted from the economic assistance fund of the Authority;

(c) The Authority shall provide assistance from the fund to affected developing land-based producer States, where appropriate, in cooperation with existing global or regional development institutions which have the infrastructure and expertise to carry out such assistance programmes;

(d) The extent and period of such assistance shall be determined on a case-by-case basis. In doing so, due consideration shall be given to the nature and magnitude of the problems encountered by affected developing land-based producer States.

2. Article 151, paragraph 10, of the Convention shall be implemented by means of measures of economic assistance referred to in paragraph 1. Article 160, paragraph 2(l), article 162, paragraph 2(n), article 164, paragraph 2(d), article 171, subparagraph (f), and article 173, paragraph 2(c), of the convention shall be interpreted accordingly.

## **Section 8. Financial Terms of Contracts**

1. The following principles shall provide the basis for establishing rules, regulations and procedures for financial terms of contracts:

(a) The system of payments to the Authority shall be fair both to the contractor and to the Authority and shall provide adequate means of determining compliance by the contractor with such system;

(b) The rates of payments under the system shall be within the range of those prevailing in respect of land-based mining of the same or similar minerals in order to avoid giving deep seabed miners an artificial competitive advantage or imposing on them a competitive disadvantage;

(c) The system should not be complicated and should not impose major administrative costs on the Authority or on a contractor. Consideration should be given to the adoption of a royalty system or a combination of a royalty and profit-sharing system. If alternative systems are decided upon, the contractor has the right to choose the system applicable to its contract. Any subsequent change in choice between alternative systems, however, shall be made by agreement between the Authority and the contractor;

(d) An annual fixed fee shall be payable from the date of commencement of commercial production. This fee may be credited against other payments due under the system adopted in accordance with subparagraph (c). The amount of the fee shall be established by the Council;

(e) The system of payments may be revised periodically in the light of changing circumstances. Any changes shall be applied in a non-discriminatory manner. Such changes may apply to existing contracts only at the election of the contractor. Any subsequent change in choice between alternative systems shall be made by agreement between the Authority and the contractor;

(f) Disputes concerning the interpretation or application of the rules and regulations based on these principles shall be subject to the dispute settlement procedures set out in the Convention.

2. The provisions of Annex III, article 13, paragraphs 3 to 10, of the Convention shall not apply.

3. With regard to the implementation of Annex III, article 13, paragraph 2, of the Convention, the fee for processing applications for approval of a plan of work limited to one phase, either the exploration phase or the exploitation phase, shall be US\$ 250,000.

## **Section 9. The Finance Committee**

1. There is hereby established a Finance Committee. The Committee shall be composed of 15 members with appropriate qualifications relevant to financial matters. States Parties shall nominate candidates of the highest standards of competence and integrity.

2. No two members of the Finance Committee shall be nationals of the same State Party.

3. Members of the Finance Committee shall be elected by the Assembly and due account shall be taken of the need for equitable geographical distribution and the representation of special interests. Each group of States referred to in section 3, paragraph 15(a), (b), (c) and (d), of this Annex shall be represented on the Committee by at least one member. Until the Authority has sufficient funds other than assessed contributions to meet its administrative expenses, the membership of the Committee shall include representatives of the five largest financial contributors to the administrative budget of the Authority. Thereafter, the election of one member

from each group shall be on the basis of nomination by the members of the respective group, without prejudice to the possibility of further members being elected from each group.

4. Members of the Finance Committee shall hold office for a term of five years. They shall be eligible for re-election for a further term.

5. In the event of the death, incapacity or resignation of a member of the Finance Committee prior to the expiration of the term of office, the Assembly shall elect for the remainder of the term a member from the same geographical region or group of States.

6. Members of the Finance Committee shall have no financial interest in any activity relating to matters upon which the Committee has the responsibility to make recommendations. They shall not disclose, even after the termination of their functions, any confidential information coming to their knowledge by reason of their duties for the Authority.

7. Decisions by the Assembly and the Council on the following issues shall take into account recommendations of the Finance Committee:

(a) Draft financial rules, regulations and procedures of the organs of the Authority and the financial management and internal financial administration of the Authority;

(b) Assessment of contributions of members to the administrative budget of the Authority in accordance with article 160, paragraph 2(e), of the Convention;

(c) All relevant financial matters, including the proposed annual budget prepared by the Secretary-General of the Authority in accordance with article 172 of the Convention and the financial aspects of the implementation of the programmes of work of the Secretariat;

(d) The administrative budget;

(e) Financial obligations of States Parties arising from the implementation of this Agreement and Part XI as well as the administrative and budgetary implications of proposals and recommendations involving expenditure from the funds of the Authority;

(f) Rules, regulations and procedures on the equitable sharing of financial and other economic benefits derived from activities in the Area and the decisions to be made thereon.

8. Decisions in the Finance Committee on questions of procedure shall be taken by a majority of members present and voting. Decisions on questions of substance shall be taken by consensus.

9. The requirement of article 162, paragraph 2(y), of the Convention to establish a subsidiary organ to deal with financial matters shall be deemed to have been fulfilled by the establishment of the Finance Committee in accordance with this section.

### 3. CONVENTION ON THE SAFETY OF UNITED NATIONS AND ASSOCIATED PERSONNEL.<sup>7</sup> DONE AT NEW YORK ON 9 DECEMBER 1994<sup>8</sup>

*The States Parties to this Convention,*

*Deeply concerned* over the growing number of deaths and injuries resulting from deliberate attacks against United Nations and associated personnel,

*Bearing in mind* that attacks against, or other mistreatment of, personnel who act on behalf of the United Nations are unjustifiable and unacceptable, by whomsoever committed,

*Recognizing* that United Nations operations are conducted in the common interest of the international community and in accordance with the principles and purposes of the Charter of the United Nations,

*Acknowledging* the important contribution that United Nations and associated personnel make in respect of United Nations efforts in the fields of preventive diplomacy, peacemaking, peace-keeping, peace-building and humanitarian and other operations,

*Conscious* of the existing arrangements for ensuring the safety of United Nations and associated personnel, including the steps taken by the principal organs of the United Nations, in this regard,

*Recognizing* none the less that existing measures of protection for United Nations and associated personnel are inadequate,

*Acknowledging* that the effectiveness and safety of United Nations operations are enhanced where such operations are conducted with the consent and cooperation of the host State,

*Appealing* to all States in which United Nations and associated personnel are deployed and to all others on whom such personnel may rely, to provide comprehensive support aimed at facilitating the conduct and fulfilling the mandate of United Nations operations,

*Convinced* that there is an urgent need to adopt appropriate and effective measures for the prevention of attacks committed against United Nations and associated personnel and for the punishment of those who have committed such attacks,

*Have agreed* as follows:

#### *Article 1*

##### DEFINITIONS

For the purposes of this Convention:

(a) “United Nations personnel” means:

- (i) Persons engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a United Nations operation;
- (ii) Other officials and experts on mission of the United Nations or its specialized agencies or the International Atomic Energy Agency who are present in an official capacity in the area where a United Nations operation is being conducted;

(b) “Associated personnel” means:

- (i) Persons assigned by a Government or an intergovernmental organization with the agreement of the competent organ of the United Nations;
- (ii) Persons engaged by the Secretary-General of the United Nations or by a specialized agency or by the International Atomic Energy Agency;
- (iii) Persons deployed by a humanitarian non-governmental organization or agency under an agreement with the Secretary-General of the United Nations or with a specialized agency or with the International Atomic Energy Agency, to carry out activities in support of the fulfillment of the mandate of a United Nations operation;

(c) “United Nations operation” means an operation established by the competent organ of the United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and control:

- (i) Where the operation is for the purpose of maintaining or restoring international peace and security; or
- (ii) Where the Security Council or the General Assembly has declared, for the purposes of this Convention, that there exists an exceptional risk to the safety of the personnel participating in the operation;

(d) “Host State” means a State in whose territory a United Nations operation is conducted;

(e) “Transit State” means a State, other than the host State, in whose territory United Nations and associated personnel or their equipment are in transit or temporarily present in connection with a United Nations operation.

## *Article 2*

### SCOPE OF APPLICATION

1. This Convention applies in respect of United Nations and associated personnel and United Nations operations, as defined in article 1.

2. This Convention shall not apply to a United Nations operation authorized by the Security Council as an enforcement action under Chapter VII of the Charter of the United Nations in which any of the personnel are engaged as combatants against organized armed forces and to which the law of international armed conflict applies.

## *Article 3*

### IDENTIFICATION

1. The military and police components of a United Nations operation and their vehicles, vessels and aircraft shall bear distinctive identification. Other personnel, vehicles, vessels and aircraft involved in the United Nations operation shall be appropriately identified unless otherwise decided by the Secretary-General of the United Nations.

2. All United Nations and associated personnel shall carry appropriate identification documents.

## *Article 4*

### AGREEMENTS ON THE STATUS OF THE OPERATION

The host State and the United Nations shall conclude as soon as possible an agreement on the status of the United Nations operation and all personnel engaged in the operation including, *inter alia*, provisions on privileges and immunities for military and police components of the operation.

### *Article 5*

#### TRANSIT

A transit State shall facilitate the unimpeded transit of United Nations and associated personnel and their equipment to and from the host State.

### *Article 6*

#### RESPECT FOR LAWS AND REGULATIONS

1. Without prejudice to such privileges and immunities as they may enjoy or to the requirements of their duties, United Nations and associated personnel shall:

- (a) Respect the laws and regulations of the host State and the transit State; and
- (b) Refrain from any action or activity incompatible with the impartial and international nature of their duties.

2. The Secretary-General of the United Nations shall take all appropriate measures to ensure the observance of these obligations.

### *Article 7*

#### DUTY TO ENSURE THE SAFETY AND SECURITY OF UNITED NATIONS AND ASSOCIATED PERSONNEL

1. United Nations and associated personnel, their equipment and premises shall not be made the object of attack or of any action that prevents them from discharging their mandate.

2. States Parties shall take all appropriate measures to ensure the safety and security of United Nations and associated personnel. In particular, States Parties shall take all appropriate steps to protect United Nations and associated personnel who are deployed in their territory from the crimes set out in article 9.

3. States Parties shall cooperate with the United Nations and other States Parties, as appropriate, in the implementation of this Convention, particularly in any case where the host State is unable itself to take the required measures.

### *Article 8*

#### DUTY TO RELEASE OR RETURN UNITED NATIONS AND ASSOCIATED PERSONNEL CAPTURED OR DETAINED

Except as otherwise provided in an applicable status-of-forces agreement, if United Nations or associated personnel are captured or detained in the course of the performance of their duties and their identification has been established, they shall not be subjected to interrogation and they shall be promptly released and returned to United Nations or other appropriate authorities. Pending their release such personnel shall be treated in accordance with universally recognized standards of human rights and the principles and spirit of the Geneva Conventions of 1949.

## *Article 9*

### CRIMES AGAINST UNITED NATIONS AND ASSOCIATED PERSONNEL

#### 1. The intentional commission of:

(a) A murder, kidnapping or other attack upon the person or liberty of any United Nations or associated personnel;

(b) A violent attack upon the official premises, the private accommodation or the means of transportation of any United Nations or associated personnel likely to endanger his or her person or liberty;

(c) A threat to commit any such attack with the object of compelling a physical or juridical person to do or to refrain from doing any act;

(d) An attempt to commit any such attack; and

(e) An act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organizing or ordering others to commit such attack,

shall be made by each State Party a crime under its national law.

2. Each State Party shall make the crimes set out in paragraph 1 punishable by appropriate penalties which shall take into account their grave nature.

## *Article 10*

### ESTABLISHMENT OF JURISDICTION

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 9 in the following cases:

(a) When the crime 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. A State Party may also establish its jurisdiction over any such crime when it is committed:

(a) By a stateless person whose habitual residence is in that State; or

(b) With respect to a national of that State; or

(c) In an attempt to compel that State to do or to abstain from doing any act.

3. Any State Party which has established jurisdiction as mentioned in paragraph 2 shall notify the Secretary-General of the United Nations. If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General of the United Nations.

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 9 in cases where the alleged offender is present in its territory and it does not extradite such person pursuant to article 15 to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2.



5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### *Article 11*

##### PREVENTION OF CRIMES AGAINST UNITED NATIONS AND ASSOCIATE PERSONNEL

States Parties shall cooperate in the prevention of the crimes set out in article 9, particularly by:

(a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories; and

(b) Exchanging information in accordance with national law and coordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

#### *Article 12*

##### COMMUNICATION OF INFORMATION

1. Under the conditions provided for in its national law, the State Party in whose territory a crime set out in article 9 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to the Secretary-General of the United Nations and, directly or through the Secretary-General, to the State or States concerned all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever a crime set out in article 9 has been committed, any State Party which has information concerning the victim and circumstances of the crime shall endeavor to transmit such information, under the conditions provided for in its national law, fully and promptly to the Secretary-General of the United Nations and the State or States concerned.

#### *Article 13*

##### MEASURES TO ENSURE PROSECUTION OR EXTRADITION

1. Where the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its national law to ensure that person's presence for the purpose of prosecution or extradition.

2. Measures taken in accordance with paragraph 1 shall be notified, in conformity with national law and without delay, to the Secretary-General of the United Nations and, either directly or through the Secretary-General, to:

(a) The State where the crime was committed;

(b) The State or States of which the alleged offender is a national or, if such person is a stateless person, in whose territory that person has his or her habitual residence;

(c) The State or States of which the victim is a national; and

(d) Other interested States.

#### *Article 14*

##### PROSECUTION OF ALLEGED OFFENDERS

The State Party in whose territory the alleged offender is present shall, if it does not extradite that person, 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 law of that State. Those authorities shall take their decision in the same manner as in the case of an ordinary offence of a grave nature under the law of that State.

#### *Article 15*

##### EXTRADITION OF ALLEGED OFFENDERS

1. To the extent that the crimes set out in article 9 are not extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every 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 crimes. Extradition shall be subject to the conditions provided in the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the conditions provided in the law of the requested State.

4. Each of those crimes shall be treated, for the purposes 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 which have established their jurisdiction in accordance with paragraph 1 or 2 of article 10.

#### *Article 16*

##### MUTUAL ASSISTANCE IN CRIMINAL MATTERS

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceeding brought in respect of the crimes set out in article 9, including assistance in obtaining evidence at their disposal necessary for the proceedings. The law of the requested State shall apply in all cases.

2. The provisions of paragraph 1 shall not affect obligations concerning mutual assistance embodied in any other treaty.

#### *Article 17*

##### FAIR TREATMENT

1. Any person regarding whom investigations or proceedings are being carried out in connection with any of the crimes set out in article 9 shall be guaranteed fair treatment, a fair trial and full protection of his or her rights at all stages of the investigations or proceedings.

2. Any alleged offender shall be entitled:

- (a) To communicate without delay with the nearest appropriate representative of the State or States of which such person is a national or which is otherwise entitled to protect that person's rights or, if such person is a stateless person, of the State which, at that person's request, is willing to protect that person's rights; and
- (b) To be visited by a representative of that State or those States.

#### *Article 18*

##### NOTIFICATION OF OUTCOME OF PROCEEDINGS

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to other States Parties.

#### *Article 19*

##### DISSEMINATION

The States Parties undertake to disseminate this Convention as widely as possible and, in particular, to include the study thereof, as well as relevant provisions of international humanitarian law, in their programmes of military instruction.

#### *Article 20*

##### SAVINGS CLAUSES

Nothing in this Convention shall affect:

- (a) The applicability of international humanitarian law and universally recognized standards of human rights as contained in international instruments in relation to the protection of the United Nations operations and United Nations and associated personnel or the responsibility of such personnel to respect such law and standards;
- (b) The rights and obligations of States, consistent with the Charter of the United Nations, regarding the consent to entry of persons into their territories;
- (c) The obligation of United Nations and associated personnel to act in accordance with the terms of the mandate of a United Nations operation;
- (d) The right of States which voluntarily contribute personnel to a United Nations operation to withdraw their personnel from participation in such operation; or
- (e) The entitlement to appropriate compensation payable in the event of death, disability, injury or illness attributable to peace-keeping service by persons voluntarily contributed by States to United Nations operations.

#### *Article 21*

##### RIGHT OF SELF-DEFENSE

Nothing in this Convention shall be construed so as to derogate from the right to act in self-defence.

## *Article 22*

### DISPUTE SETTLEMENT

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by application in conformity with the Statute of the Court.

2. 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 all or part of paragraph 1. The other States Parties shall not be bound by paragraph 1 or the relevant part thereof with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

## *Article 23*

### REVIEW MEETINGS

At the request of one or more States Parties, and if approved by a majority of States Parties, the Secretary-General of the United Nations shall convene a meeting of the States Parties to review the implementation of the Convention, and any problems encountered with regard to its application.

## *Article 24*

### SIGNATURE

This convention shall be open for signature by all States, until 31 December 1995, at United Nations Headquarters in New York.

## *Article 25*

### RATIFICATION, ACCEPTANCE OR APPROVAL

This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

## *Article 26*

### ACCESSION

This Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

#### Article 27

##### ENTRY INTO FORCE

1. This Convention shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval or accession have been deposited with the Secretary-General of the United Nations.

2. For each state ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, 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 28

##### DENUNCIATION

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

#### Article 29

##### 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, who shall send certified copies thereof to all States.

#### 4. PROTOCOL TO THE 1979 CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION, ON FURTHER REDUCTION OF SULPHUR EMISSIONS.<sup>9</sup> DONE AT OSLO ON 14 JUNE 1994<sup>10</sup>

*The Parties,*

*Determined* to implement the Convention on Long-range Transboundary Air Pollution,

*Concerned* that emissions of sulphur and other air pollutants continue to be transported across international boundaries and, in exposed parts of Europe and North America, are causing widespread damage to natural resources of vital environmental and economic importance, such as forests, soils and waters, and to materials, including historic monuments, and, under certain circumstances, have harmful effects on human health,

*Resolved* to take precautionary measures to anticipate, prevent or minimize emissions of air pollutants and mitigate their adverse effects,

*Convinced* that where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that such precautionary measures to deal with emissions of air pollutants should be cost-effective,

*Mindful* that measures to control emissions of sulphur and other air pollutants would also contribute to the protection of the sensitive Arctic environment,

*Considering* 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, nitrogen oxides, and other pollutants,

*Conscious* of the need for a cost-effective regional approach to combating air pollution that takes account of the variations in effects and abatement costs between countries,

*Desiring* to take further and more effective action to control and reduce sulphur emissions,

*Cognizant* that any sulphur control policy, however cost-effective it may be at the regional level, will result in a relatively heavy economic burden on countries with economies that are in transition to a market economy,

*Bearing in mind* that measures taken to reduce sulphur emissions should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international competition and trade,

*Taking into consideration* existing scientific and technical data on emissions, atmospheric processes and effects on the environment of sulphur oxides, as well as on abatement costs,

*Aware* that in addition to emissions of sulphur, emissions of nitrogen oxides and of ammonia are also causing acidification of the environment,

*Noting* that under the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992, there is agreement to establish national policies and take corresponding measures to combat climate change, which can be expected to lead to reductions of sulphur emissions,

*Affirming* the need to ensure environmentally sound and sustainable development,

*Recognizing* the need to continue scientific and technical cooperation to elaborate further the approach based on critical loads and critical levels, including efforts to assess several air pollutants and various effects on the environment, materials and human health,

*Underlining* that scientific and technical knowledge is developing and that it will be necessary to take such developments into account when reviewing the adequacy of the obligations entered into under the present Protocol and deciding on further action,

*Acknowledging* the Protocol on the Reduction of Sulphur Emissions or Their Transboundary Fluxes by at least 30 per cent, adopted in Helsinki on 8 July 1985, and the measure already taken by many countries which have had the effect of reducing sulphur emissions,

*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 Cooperative 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. “Commission” means the United Nations Economic Commission for Europe;
5. “Parties” means, unless the context otherwise requires, the Parties to the present Protocol;
6. “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 Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP), adopted in Geneva on 28 September 1984;
7. “SOMA” means a sulphur oxides management area designated in annex III under the conditions laid down in article 2, paragraph 3;
8. “Critical load” means a quantitative estimate of an 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;
9. “Critical levels” means the concentration of pollutants in the atmosphere above which direct adverse effects on receptors, such as human beings, plants, ecosystems or materials, may occur, according to present knowledge;
10. “Critical sulphur deposition” means a quantitative estimate of the exposure to oxidized sulphur compounds, taking into account the effects of base cation uptake and base cation deposition, below which significant harmful effects on specified sensitive elements of the environment do not occur, according to present knowledge;
11. “Emission” means the discharge of substances into the atmosphere;
12. “Sulphur emissions” means all emissions of sulphur compounds expressed as kilotonnes of sulphur dioxide (kt SO<sub>2</sub>) to the atmosphere originating from anthropogenic sources excluding from ships in international traffic outside territorial waters;
13. “Fuel” means any solid, liquid or gaseous combustible material with the exception of domestic refuse and toxic or dangerous waste;
14. “Stationary combustion source” means any technical apparatus or group of technical apparatus that is co-located on a common site and is or could be discharging waste gases through a common stack, in which fuels are oxidized in order to use the heat generated;

15. "Major new stationary combustion source" means any stationary combustion source the construction or substantial modification of which is authorized after 31 December 1995 and the thermal input of which, when operating at rated capacity, is at least 50 MWth. It is a matter for the competent national authorities to decide whether a modification is substantial or not, taking into account such factors as the environmental benefits of the modification;

16. "Major existing stationary combustion source" means any existing stationary combustion source the thermal input of which, when operating at rated capacity, is at least 50 MWth;

17. "Gas oil" means any petroleum product within HS 2710, or any petroleum product which, by reason of its distillation limits, falls within the category of middle distillates intended for use as fuel and of which at least 85 per cent by volume, including distillation losses, distils at 350° C;

18. "Emission limit value" means the permissible concentration of sulphur compounds expressed as sulphur dioxide in the waste gases from a stationary combustion source expressed in terms of mass per volume of the waste gases expressed in mg SO<sub>2</sub>/Nm<sup>3</sup>, assuming an oxygen content by volume in the waste gas of 3 per cent in the case of liquid and gaseous fuels and 6 per cent in the case of solid fuels;

19. "Emission limitation" means the permissible total quantity of sulphur compounds expressed as sulphur dioxide discharged from a combustion source or group of combustion sources located either on a common site or within a defined geographical area, expressed in kilotonnes per year;

20. "Desulphurization rate" means the ratio of the quantity of sulphur which is separated at the combustion source site over a given period to the quantity of sulphur contained in the fuel which is introduced into the combustion source facilities and which is used over the same period;

21. "Sulphur budget" means a matrix of calculated contributions to the deposition of oxidized sulphur compounds in receiving areas, originating from the emissions from specified areas.

## *Article 2*

### BASIC OBLIGATIONS

1. The Parties shall control and reduce their sulphur emissions in order to protect human health and the environment from adverse effects, in particular acidifying effects, and to ensure, as far as possible, without entailing excessive costs, that depositions of oxidized sulphur compounds in the long term do not exceed critical loads for sulphur given, in annex I, as critical sulphur depositions, in accordance with present scientific knowledge.

2. As a first step, the Parties shall, as a minimum, reduce and maintain their annual sulphur emissions in accordance with the timing and levels specified in annex II.

3. In addition, any Party:

(a) Whose total land area is greater than 2 million square kilometres;

(b) Which has committed itself under paragraph 2 above to a national sulphur emission ceiling no greater than the lesser of its 1990 emissions or its obligation in the 1985 Helsinki Protocol on the Reduction of Sulphur Emissions or Their Transboundary Fluxes by at least 30 per cent, as indicated in annex II;



(c) Whose annual sulphur emissions that contribute to acidification in areas under the jurisdiction of one or more other Parties originate only from within areas under its jurisdiction that are listed as SOMAs in annex III, and has presented documentation to this effect; and

(d) Which has specified upon signature of, or accession to, the present Protocol its intention to act in accordance with this paragraph,

shall, as a minimum, reduce and maintain its annual sulphur emissions in the area so listed in accordance with the timing and levels specified in annex II.

4. Furthermore, the Parties shall make use of the most effective measures for the reduction of sulphur emissions, appropriate in their particular circumstances, for new and existing sources, which include, *inter alia*:

— Measures to increase energy efficiency;

— Measures to increase the use of renewable energy;

— Measures to reduce the sulphur content of particular fuels and to encourage the use of fuel with a low sulphur content, including the combined use of high-sulphur with low-sulphur or sulphur-free fuel;

— Measures to apply best available control technologies not entailing excessive cost,

using the guidance in annex IV.

5. Each Party, except those Parties subject to the United States/Canada Air Quality Agreement of 1991, shall as a minimum:

(a) Apply emission limit values at least as stringent as those specified in annex V to all major new stationary combustion sources;

(b) No later than 1 July 2004 apply, as far as possible without entailing excessive costs, emission limit values at least as stringent as those specified in annex V to those major existing stationary combustion sources the thermal input of which is above 500 MWth taking into account the remaining lifetime of a plant, calculated from the date of entry into force of the present Protocol, or apply equivalent emission limitations or other appropriate provisions, provided that these achieve the sulphur emission ceilings specified in annex II and, subsequently, further approach the critical loads as given in annex I, and no later than 1 July 2004 apply emission limit values or emission limitations to those major existing stationary combustion sources the thermal input of which is between 50 and 500 MWth using annex V as guidance;

(c) No later than two years after the date of entry into force of the present Protocol apply national standards for the sulphur content of gas oil at least as stringent as those specified in annex V. In cases where the supply of gas oil cannot otherwise be ensured, a State may extend the time period given in this subparagraph to a period of up to ten years. In this case it shall specify, in a declaration to be deposited together with the instrument of ratification, acceptance, approval or accession, its intention to extend the time period.

6. The Parties may, in addition, apply economic instruments to encourage the adoption of cost-effective approaches to the reduction of sulphur emissions.

7. The Parties to this Protocol may, at a session of the Executive Body, in accordance with rules and conditions which the Executive Body shall elaborate and adopt, decide whether two or more Parties may jointly implement the obligations set out in annex II. These rules and conditions shall ensure the fulfillment of the obligations set out in paragraph 2 above and also promote the achievement of the environmental objectives set out in paragraph 1 above.

8. The Parties shall, subject to the outcome of the first review provided for under article 8 and no later than one year after the completion of that review, commence negotiations on further obligations to reduce emissions.

### *Article 3*

#### EXCHANGE OF TECHNOLOGY

1. The Parties shall, consistent with their national laws, regulations and practices, facilitate the exchange of technologies and techniques, including those that increase energy efficiency, the use of renewable energy and the processing of low-sulphur fuels, to reduce sulphur emissions, particularly through the promotion of:

- (a) The commercial exchange of available technology;
- (b) Direct industrial contacts and cooperation, including joint ventures;
- (c) The exchange of information and experience;
- (d) The provision of technical assistance.

2. In promoting the activities specified in paragraph 1 above, the Parties shall create favourable conditions by facilitating contacts and cooperation 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 sulphur emissions.

### *Article 4*

#### NATIONAL STRATEGIES, POLICIES, PROGRAMMES, MEASURES AND INFORMATION

1. Each Party shall, in order to implement its obligations under article 2:

(a) Adopt national strategies, policies and programmes, no later than six months after the present Protocol enters into force for it, and

(b) Take and apply national measures to control and reduce its sulphur emissions.

2. Each Party shall collect and maintain information on:

(a) Actual levels of sulphur emissions, and of ambient concentrations and depositions of oxidized sulphur and other acidifying compounds, taking into account, for those Parties within the geographical scope of EMEP, the work plan of EMEP, and

(b) The effects of depositions of oxidized sulphur and other acidifying compounds.

## *Article 5*

### REPORTING

1. Each Party shall report, through the Executive Secretary of the Commission, to the Executive Body, on a periodic basis as determined by the Executive Body, information on:

(a) The implementation of national strategies, policies, programmes and measures referred to in article 4, paragraph 1;

(b) The levels of national annual sulphur emissions, in accordance with guidelines adopted by the Executive Body, containing emission data for all relevant source categories; and

(c) The implementation of other obligations that it has entered into under the present Protocol,

in conformity with a decision regarding format and content to be adopted by the Parties at a session of the Executive Body. The terms of this decision shall be reviewed as necessary to identify any additional elements regarding the format and/or content of the information that are to be included in the reports.

2. Each Party within the geographical scope of EMEP shall report, through the Executive Secretary of the Commission, to EMEP, on a periodic basis to be determined by the Steering Body of EMEP and approved by the Parties at a session of the Executive Body, information on the levels of sulphur emissions with temporal and spatial resolution as specified by the Steering Body of EMEP.

3. In good time before each annual session of the Executive Body, EMEP shall provide information on:

(a) Ambient concentrations and deposition of oxidized sulphur compounds; and

(b) Calculations of sulphur budgets.

Parties in areas outside the geographical scope of EMEP shall make available similar information if requested to do so by the Executive Body.

4. The Executive Body shall, in accordance with article 10, paragraph 2(b), of the Convention, arrange for the preparation of information on the effects of depositions of oxidized sulphur and other acidifying compounds.

5. The Parties shall, at sessions of the Executive Body, arrange for the preparation, at regular intervals, of revised information on calculated and internationally optimized allocations of emission reductions for the States within the geographical scope of EMEP, with integrated assessment models, with a view to reducing further, for the purposes of article 2, paragraph 1, of the present Protocol, the difference between actual depositions of oxidized sulphur compounds and critical load values.

## *Article 6*

### RESEARCH, DEVELOPMENT AND MONITORING

The Parties shall encourage research, development, monitoring and cooperation related to:

(a) The international harmonization of methods for the establishment of critical loads and critical levels and the elaboration of procedures for such harmonization;

- (b) The improvement of monitoring techniques and systems and of the modeling of transport, concentrations and deposition of sulphur compounds;
- (c) Strategies for the further reduction of sulphur emissions based on critical loads and critical levels as well as on technical developments, and the improvement of integrated assessment modeling to calculate internationally optimized allocations of emission reductions taking into account an equitable distribution of abatement costs;
- (d) The understanding of the wider effects of sulphur emissions on human health, the environment, in particular acidification, and materials, including historic and cultural monuments, taking into account the relationship between sulphur oxides, nitrogen oxides, ammonia, volatile organic compounds and tropospheric ozone;
- (e) Emission abatement technologies, and technologies and techniques to enhance energy efficiency, energy conservation and the use of renewable energy;
- (f) The economic evaluation of benefits for the environment and human health resulting from the reduction of sulphur emissions.

#### *Article 7*

##### COMPLIANCE

1. An Implementation Committee is hereby established to review the implementation of the present Protocol and compliance by the Parties with their obligations. It shall report to the Parties at sessions of the Executive Body and may make such recommendations to them as it considers appropriate.
2. Upon consideration of a report, and any recommendations, of the Implementation Committee, the Parties, taking into account the circumstances of a matter and in accordance with Convention practice, may decide upon and call for action to bring about full compliance with the present Protocol, including measures to assist a Party's compliance with the Protocol, and to further the objectives of the Protocol.
3. The Parties shall, at the first session of the Executive Body after the entry into force of the present Protocol, adopt a decision that sets out the structure and functions of the Implementation Committee as well as procedures for its review of compliance.
4. The application of the compliance procedure shall be without prejudice to the provisions of article 9 of the present Protocol.

#### *Article 8*

##### REVIEWS BY THE PARTIES AT SESSIONS OF THE EXECUTIVE BODY

1. The Parties shall, at sessions of the Executive Body, pursuant to article 10, paragraph 2(a), of the Convention, review the information supplied by the Parties and EMEP, the data on the effects of depositions of sulphur and other acidifying compounds and the reports of the Implementation Committee referred to in article 7, paragraph 1, of the present Protocol.
2. (a) The Parties shall, at sessions of the Executive Body, keep under review the obligations set out in the present Protocol, including:

- (i) Their obligations in relation to their calculated and internationally optimized allocations of emission reductions referred to in article 5, paragraph 5; and
  - (ii) The adequacy of the obligations and the progress made towards the achievement of the objectives of the present Protocol;
- (b) Reviews shall take into account the best available scientific information on acidification, including assessments of critical loads, technological developments, changing economic conditions and the fulfillment of the obligations on emission levels;
- (c) In the context of such reviews, any Party whose obligations on sulphur emission ceilings under annex II hereto do not conform to the calculated and internationally optimized allocations of emission reductions for that Party, required to reduce the difference between depositions of sulphur in 1990 and critical sulphur depositions within the geographical scope of EMEP by at least 60 per cent, shall make every effort to undertake revised obligations;
- (d) The procedures, methods and timing for such reviews shall be specified by the Parties at a session of the Executive Body. The first such review shall be completed in 1997.

#### *Article 9*

##### SETTLEMENT OF DISPUTES

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the present Protocol, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. The parties to the dispute shall inform the Executive Body of their dispute.

2. When ratifying, accepting, approving or acceding to the present Protocol, or at any time thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Protocol, it recognizes one or both of the following means of dispute settlement as compulsory *ipso facto* and without agreement, in relation to any Party accepting the same obligation:

- (a) Submission of the dispute to the International Court of Justice;
- (b) Arbitration in accordance with procedures to be adopted by the Parties at a session of the Executive Body as soon as practicable, in an annex on arbitration.

A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b) above.

3. A declaration made under paragraph 2 above shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

4. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the arbitral tribunal, unless the parties to the dispute agree otherwise.

5. Except in a case where the parties to a dispute have accepted the same means of dispute settlement under paragraph 2, if after twelve months following notification by one Party to another that a dispute exists between them, the Parties concerned have not been able to settle their dispute through the means mentioned in paragraph 1 above, the dispute shall be submitted, at the request of any of the parties to the dispute, to conciliation.

6. For the purpose of paragraph 5, a conciliation commission shall be created. The commission shall be composed of an equal number of members appointed by each party concerned or, where parties in conciliation share the same interest, by the group sharing that interest, and a chairman chosen jointly by the members so appointed. The commission shall render a recommendatory award, which the parties shall consider in good faith.

#### *Article 10*

##### ANNEXES

The annexes to the present Protocol shall form an integral part of the Protocol. Annexes I and IV are recommendatory in character.

#### *Article 11*

##### AMENDMENTS AND ADJUSTMENTS

1. Any Party may propose amendments to the present Protocol. Any Party to the Convention may propose an adjustment to annex II to the present Protocol to add to it its name, together with emission levels, sulphur emission ceilings and percentage emission reductions.

2. Such proposed amendments and adjustments shall be submitted in writing to the Executive Secretary of the Commission, who shall communicate them to all Parties. The Parties shall discuss the proposed amendments and adjustments at the next session of the Executive Body, provided that those proposals have been circulated by the Executive Secretary to the Parties at least ninety days in advance.

3. Amendments to the present Protocol and to its annexes II, III and V shall be adopted by consensus of the Parties present at a session 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 with the Depositary their instruments of acceptance thereof. Amendments shall enter into force for any other Party on the ninetieth day after the date on which that Party has deposited its instrument of acceptance thereof.

4. Amendments to the annexes to the present Protocol, other than to the annexes referred to in paragraph 3 above, shall be adopted by consensus of the Parties present at a session of the Executive Body. On the expiry of ninety days from the date of its communication by the Executive Secretary of the Commission, an amendment to any such annex shall become effective for those Parties which have not submitted to the Depositary a notification in accordance with the provisions of paragraph 5 below, provided that at least sixteen Parties have not submitted such a notification.

5. Any Party that is unable to approve an amendment to an annex, other than to an annex referred to in paragraph 3 above, shall so notify the Depositary in writing within ninety days from the date of the communication of its adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendment to such an annex shall become effective for that Party.

6. Adjustments to annex II shall be adopted by consensus of the Parties present at a session of the Executive Body and shall become effective for all Parties to the present Protocol on the ninetieth day following the date on which the Executive Secretary of the Commission notifies those Parties in writing of the adoption of the adjustment.

#### *Article 12*

##### SIGNATURE

1. The present Protocol shall be open for signature at Oslo on 14 June 1994, then at United Nations Headquarters in New York until 12 December 1994 by States members 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 and are listed in annex II.

2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and fulfill 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 13*

##### 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 12 December 1994 by the States and organizations that meet the requirements of article 12, paragraph 1.

#### *Article 14*

##### DEPOSITARY

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 with the depositary.

2. For each State and organization referred to in article 12, 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 THEREOF the undersigned, being duly authorized thereto, have signed the present Protocol.

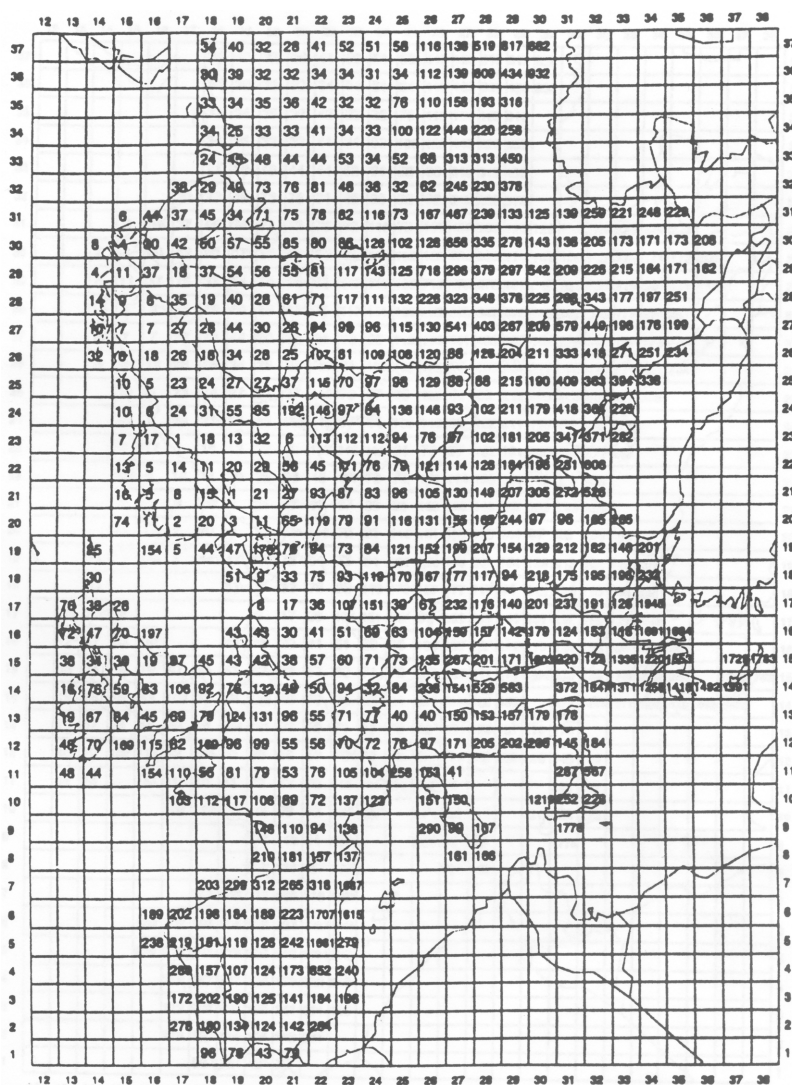
DONE at Oslo, this fourteenth day of June one thousand nine hundred and ninety-four.



## ANNEX I

### Critical Sulphur Deposition

(5-percentile in centigrams of sulphur per square metre per year)



## ANNEX II

### Sulphur Emission Ceilings and Percentage Emission Reductions

The sulphur emission ceilings listed in the table below give the obligations referred to in paragraphs 2 and 3 of article 2 of the present Protocol. The 1980 and 1990 emission levels and the percentage emission reductions listed are given for information purposes only.

	Emission levels kt SO <sub>2</sub> per year		Sulphur emission ceilings kt SO <sub>2</sub> per year			Percentage emission reductions (base year 1980)		
	1980	1990	2000	2005	2010	2000	2005	2010
Austria	397	90	78			80		
Belarus	740		456	400	370	38	46	50
Belgium	828	443	248	232	215	0	72	74
Bulgaria	2050	2020	1374	1230	1127	33	40	45
Canada — national	4614	3700	3200			30		
—SOMA	3245		1750			46		
Croatia	150	160	133	125	117	11	17	22
Czech Republic	2257	1876	1128	902	632	50	60	72
Denmark	451	180	90			80		
Finland	584	260	116			80		
France	3348	1202	868	770	737	74	77	78
Germany	7494	5803	1300	990		83	87	
Greece	400	510	595	580	570	0	3	4
Hungary	1632	1010	898	816	653	45	50	60
Ireland	222	168	155			30		
Italy	3800		1330	1042		65	73	
Liechtenstein	0.4	0.1	0.1			75		
Luxembourg	24		10			68		
Netherlands	466	207	106			77		
Norway	142	54	34			76		
Poland	4100	3210	2583	2173	1397	37	47	66
Portugal	266	284	304	294		0	3	
Russian Federation	7161	4460	4440	4297	4297	38	40	40
Slovakia	843	539	337	295	240	60	65	72
Slovenia	235	195	130	94	71	45	60	70
Spain	3319	2316	2143			35		
Sweden	507	130	100			80		
Switzerland	126	62	60			52		
Ukraine	3850		2310			40		
United Kingdom	4890	3780	2449	1470	980	50	70	80
European Community	25513		9598			62		

## NOTES

(a) If, in a given year before 2005, a Party finds that, due to a particularly cold winter, a particularly dry summer and an unforeseen short-term loss of capacity in the power supply system, domestically or in a neighboring country, it cannot comply with its

obligations under this annex, it may fulfill those obligations by averaging its national annual sulphur emissions for the year in question, the year preceding that year and the year following it, provided that the emission level in any single year is not more than 20 per cent above the sulphur emission ceiling.

The reason for exceedance in any given year and the method by which the three-year average figure will be achieved, shall be reported to the Implementation Committee.

(b) For Greece and Portugal percentage emission reductions given are based on the sulphur emission ceilings indicated for the year 2000.

(c) European part within the EMEP area.

### ANNEX III

#### SOMAs

The following SOMA is listed for the purposes of the present Protocol:

##### *South-east Canada SOMA*

This is an area of 1 million km<sup>2</sup> which includes all the territory of the provinces of Prince Edward Island, Nova Scotia and New Brunswick, all the territory of the province of Quebec south of a straight line between Havre-St. Pierre on the north coast of the Gulf of Saint Lawrence and the point where the Quebec-Ontario boundary intersects the James Bay coastline, and all the territory of the province of Ontario south of a straight line between the point where the Ontario-Quebec boundary intersects the James Bay coastline and Nipigon River near the north shore of Lake Superior.

### ANNEX IV

#### Control Technologies for Sulphur Emissions from Stationary Sources

##### I. INTRODUCTION

1. The aim of this annex is to provide guidance for identifying sulphur control options and technologies for giving effect to the obligations of the present Protocol.

2. The annex is based on information on general options for the reduction of sulphur emissions and in particular on emission control technology performance and costs contained in official documentation of the Executive Body and its subsidiary bodies.

3. Unless otherwise indicated, the reduction measures listed are considered, on the basis of operational experience of several years in most cases, to be the most well-established and economically feasible best available technologies. However, the continuously expanding experience of low-emission measures and technologies at new plants as well as of the retrofitting of existing plants will necessitate regular review of this annex.

4. Although the annex lists a number of measures and technologies spanning a wide range of costs and efficiencies, it cannot be considered as an exhaustive statement of control options. Moreover, the choice of control measures and technologies for any particular case will depend on a number of factors, including cur-

rent legislation and regulatory provisions and, in particular, control technology requirements, primary energy patterns, industrial infrastructure, economic circumstances and specific in-plant conditions.

5. The annex mainly addresses the control of oxidized sulphur emissions considered as the sum of sulphur dioxide ( $\text{SO}_2$ ) and sulphur trioxide ( $\text{SO}_3$ ), expressed as  $\text{SO}_2$ . The share of sulphur emitted as either sulphur oxides or other sulphur compounds from non-combustion processes and other sources is small compared to sulphur emissions from combustion.

6. When measures or technologies are planned for sulphur sources emitting other components, in particular nitrogen oxides ( $\text{NO}_x$ ), particulates, heavy metals and volatile organic compounds (VOCs), it is worthwhile to consider them in conjunction with pollutant-specific control options in order to maximize the overall abatement effect and minimize the impact of the environment and, especially, to avoid the transfer of air pollution problems to other media (such as waste water and solid waste).

## II. MAJOR STATIONARY SOURCES FOR SULPHUR EMISSIONS

7. Fossil fuel combustion processes are the main source of anthropogenic sulphur emissions from stationary sources. In addition, some non-combustion processes may contribute considerably to the emissions. The major stationary source categories, based on EMEP/CORINAIR'90, include:

- (i) Public power, cogeneration and district heating plants:
  - (a) Boilers;
  - (b) Stationary combustion turbines and internal combustion engines;
- (ii) Commercial, institutional and residential combustion plants:
  - (a) Commercial boilers;
  - (b) Domestic heaters;
- (iii) Industrial combustion plants and processes with combustion:
  - (a) Boilers and process heaters;
  - (b) Processes, e.g., metallurgical operations such as roasting and sintering, coke oven plants, processing of titanium dioxide ( $\text{TiO}_2$ ), etc.;
  - (c) Pulp production;
- (iv) Non-combustion processes, e.g., sulphuric acid production, specific organic synthesis processes, treatment of metallic surfaces;
- (v) Extraction, processing and distribution of fossil fuels;
- (vi) Waste treatment and disposal, e.g., thermal treatment of municipal and industrial waste.

8. Overall data (1990) for the ECE region indicate that about 88 per cent of total sulphur emissions originate from all combustion processes (20 per cent from industrial combustion), 5 per cent from production processes and 7 per cent from oil refineries. The power plant sector in many countries is the major single contributor to sulphur emissions. In some countries, the industrial sector (including refineries) is also an important SO<sub>2</sub> emitter. Although emissions from refineries in the ECE region are relatively small, their impact on sulphur emissions from other sources is large due to the sulphur in the oil products. Typically 60 per cent of the sulphur intake present in the crudes remains in the products, 30 per cent is recovered as elemental sulphur and 10 per cent is emitted from refinery stacks.

### III. GENERAL OPTIONS FOR REDUCTION OF SULPHUR EMISSIONS FROM COMBUSTION

9. General options for reduction of sulphur emissions are:

(i) Energy management measures:\*

(a) Energy saving

The rational use of energy (improved energy efficiency/process operation, co-generation and/or demand-side management) usually results in a reduction in sulphur emissions.

(b) Energy mix

In general, sulphur emissions can be reduced by increasing the proportion of non-combustion energy sources (i.e. hydro, nuclear, wind, etc.) to the energy mix. However, further environmental impacts have to be considered.

(ii) Technological options:

(a) Fuel switching

The SO<sub>2</sub> emissions during combustion are directly related to the sulphur content of the fuel used.

Fuel switching (e.g. from high- to low-sulphur coals and/or liquid fuels, or from coal to gas) leads to lower sulphur emissions, but there may be certain restrictions, such as the availability of low-sulphur fuels and the adaptability of existing combustion systems to different fuels. In many ECE countries, some coal or oil combustion plants are being replaced by gas-fired combustion plants. Dual-fuel plants may facilitate fuel switching.

(b) Fuel cleaning

Cleaning of natural gas is state-of-the-art technology and widely applied for operational reasons.

Cleaning of process gas (acid refinery gas, coke oven gas, biogas, etc.) is also state-of-the-art technology.

Desulphurization of liquid fuels (light and middle fractions) is state-of-the-art technology.

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\*Options (i)(a) and (b) are integrated in the energy structure and policy of a Party. Implementation status, efficiency and costs per sector are not considered here.

Desulphurization of heavy fractions is technically feasible, nevertheless, the crude properties should be kept in mind. Desulphurization of atmospheric residue (bottom products from atmospheric crude distillation units) for the production of low-sulphur fuel oil is not, however, commonly practised, processing low-sulphur crude is usually preferable. Hydro-cracking and full conversion technology have matured and combine high sulphur retention with improved yield of light products. The number of full conversion refineries is as yet limited. Such refineries typically recover 80 to 90 per cent of the sulphur intake and convert all residues into light products or other marketable products. For this type of refinery, energy consumption and investment costs are increased. Typical sulphur content for refinery products is given in table 1 below.

TABLE I  
*Sulphur content from refinery products*  
(S content (%))

	Typical present values	Anticipated future values
Gasoline	0.1	0.05
Jet kerosene	0.1	0.01
Diesel	0.05 – 0.3	< 0.05
Heating oil	0.1 – 0.2	< 0.1
Fuel oil	0.2 – 1.5	< 1
Marine diesel	0.5 – 1.0	< 0.5
Bunker oil	3.0 – 5.0	< 1 (coastal areas) < 2 (high seas)

Current technologies to clean hard coal can remove approximately 50 per cent of the inorganic sulphur (depending on coal properties) but none of the organic sulphur. More effective technologies are being developed which, however, involve higher specific investment and costs. Thus the efficiency of sulphur removal by coal cleaning is limited compared to flue gas desulphurization. There may be a country-specific optimization potential for the best combination of fuel cleaning and flue gas cleaning.

(c) Advanced combustion technologies

These combustion technologies with improved thermal efficiency and reduced sulphur emissions include: fluidized-bed combustion (FBC); bubbling (BFBC), circulating (CFBC) and pressurized (PFBC); integrated gasification combined-cycle (IGCC); and combined-cycle gas turbines (CCGT).

Stationary combustion turbines can be integrated into combustion systems in existing conventional power plants which can increase overall efficiency by 5 to 7 per cent, leading, for example, to a significant reduction in SO<sub>2</sub> emissions. However, major alterations to the existing furnace system become necessary.

Fluidized-bed combustion is a combustion technology for burning hard coal and brown coal, but it can also burn other solid fuels such as petroleum coke and low-grade fuels such as waste, peat and wood. Emissions can additionally be reduced by integrated combustion control in the system due to the addition of lime/limestone to the bed material. The total installed capacity of FBC has reached approximately 30,000 MW<sub>th</sub> (250 to 350 plants), including 8,000 MW<sub>th</sub> in the capacity range of greater than 50 MW<sub>th</sub>. By-products from this process may cause problems with respect to use and/or disposal, and further development is required.

The IGCC process includes coal gasification and combined-cycle power generation in a gas and steam turbine. The gasified coal is burnt in the combustion chamber of the gas turbine. Sulphur emission control is achieved by the use of state-of-the-art technology for raw gas cleaning facilities upstream of the gas turbine. The technology also exists for heavy oil residues and bitumen emulsions. The installed capacity is presently about 1,000 MW<sub>el</sub> (5 plants).

Combined-cycle gas-turbine power stations using natural gas as fuel with an energy efficiency of approximately 48 to 52 per cent are currently being planned.

#### (d) Process and combustion modifications

Combustion modifications comparable to the measures used for NO<sub>x</sub> emission control do not exist, as during combustion the organically and/or inorganically bound sulphur is almost completely oxidized (a certain percentage depending on the fuel properties and combustion technology is retained in the ash).

In this annex dry additive processes for conventional boilers are considered as process modifications due to the injection of an agent into the combustion unit. However, experience has shown that, when applying these processes, thermal capacity is lowered, the Ca/S ratio is high and sulphur removal low. Problems with the further utilization of the by-product have to be considered, so that this solution should usually be applied as an intermediate measure and for smaller units (table 2).

The table was established mainly for large combustion installations in the public sector. However, the control options are also valid for other sectors with similar exhaust gases.

#### (e) Flue gas desulphurization (FGD) processes

These processes aim at removing already formed sulphur oxides, and are also referred to as secondary measures. The state-of-the-art technologies for flue gas treatment processes are all based on the removal of sulphur by wet, dry or semi-dry and catalytic chemical processes.

To achieve the most efficient programme for sulphur emission reductions beyond the energy management measures listed in (i) above a combination of technological options identified in (ii) above should be considered.

In some cases options for reducing sulphur emissions may also result in the reduction of emissions of CO<sub>2</sub>, NO<sub>x</sub> and other pollutants.

In public power, cogeneration and district heating plants, flue gas treatment processes used include: lime/limestone wet scrubbing (LWS); spray dry absorption (SDA); Wellman Lord process (WL); ammonia scrubbing (AS); and combined NO<sub>x</sub>/SO<sub>x</sub> removal processes (activated carbon process (AC) and combined catalytic NO<sub>x</sub>/SO<sub>x</sub> removal).

In the power generation sector, LWS and SDA cover 85 per cent and 10 per cent, respectively, of the installed FGD capacity.

TABLE 2

*Emissions of sulphur oxides obtained from the application  
of technological options to fossil-fuelled boilers*

	Uncontrolled emissions		Additive injection		Wet scrubbing <sup>a</sup>		Spray dry absorption <sup>b</sup>	
Reduction efficiency (%)			up to 60		75		up to 90	
Energy efficiency (kW/10 <sup>3</sup> m <sup>3</sup> /h)			0.1 – 1		6 – 10		3 – 6	
Total installed capacity (ECE Eur)(MW)					194,000		16,000	
Type of by-product			Mix of Ca salts and fly ashes		Gypsum (sludge/waste water)		Mix of CaSO <sub>2</sub> * 1/2 H <sub>2</sub> O and fly ashe)	
Specific investment (cost ECU (1980/kW)			20 – 50		60– 250		90 – 220	
	mg/m <sup>c</sup>	g/kWh	mg/m <sup>c</sup>	g/kWh	mg/m <sup>c</sup>	g/kWh	mg/m <sup>c</sup>	g/kWh
Hard coal <sup>d</sup>	1,000–10,000	3.5–35	400–4,000	1.4–14	-400 (<200, 1% S)	<1.4 <0.7	-400 (<200, 1% S)	<1.4 <0.7
Brown coal <sup>d</sup>	1,000–20,000	4.2–84	400–8,000	1.7–33.6	-400 (<200, 1% S)	<1.7 <0.8	-400 (<200, 1% S)	<1.7 <0.8
Heavy oil <sup>d</sup>	1,000–10,000	2.8–28	400–4,000	1.1–11	-400 (<200, 1% s)	<1.1 <0.6	-400 (<200, 1% S)	<1.1 <0.6
	Ammonia scrubbing <sup>b</sup>		Wellman Lord <sup>a</sup>		Activated carbon <sup>a</sup>		Combined catalytic <sup>a</sup>	
Reduction efficiency (%)	up to 90		95		95		95	
Energy efficiency (kW/10 <sup>3</sup> m <sup>3</sup> /h)	3–10		10–15		4–8		2	
Total installed capacity (ECE Eur)(MW)	200		2,000		700		1,300	
Type of by-product	Ammonia fertilizer		Elemental S Sulphuric acid (99 vol.%)		Elemental S Sulphuric acid (99 vol.%)		Sulphuric acid (70 vol.%)	
Specific investment (cost ECU(1990/kW)	230–270 <sup>e</sup>		200–300 <sup>e</sup>		280–320 <sup>e,f</sup>		320–350 <sup>e,f</sup>	
	mg/m <sup>c</sup>	g/kWh	mg/m <sup>c</sup>	g/kWh	mg/m <sup>c</sup>	g/kWh	mg/m <sup>c</sup>	g/kWh
Hard coal <sup>d</sup>	-400 (<200, 1% S)	<1.4 <0.7	-400 (<200, 1% S)	<1.4 <0.7	-400 (<200, 1% S)	<1.4 <0.7	-400 (<200, 1% S)	<1.4 <0.7
Brown coal <sup>d</sup>	-400 (<200, 1% S)	<1.7 <0.8	-400 (<200, 1% S)	<1.7 <0.8	-400 (<200, 1% S)	<1.7 <0.8	-400 (<200, 1% S)	<1.7 <0.8
Heavy oil <sup>d</sup>	-400 (<200, 1% S)	<1.1 <0.8	-400 (<200, 1% S)	<1.1 <0.8	-400 (<200, 1% S)	<1.1 <0.8	-400 (<200, 1% S)	<1.1 <0.8

<sup>a</sup>For high sulphur content in the fuel the removal efficiency has to be adapted. However, the scope for doing so may be process-specific. Availability of these processes is usually 95 per cent.

<sup>b</sup>Limited applicability for high-sulphur fuels.

<sup>c</sup>Emission in mg/m<sup>3</sup> (STP), dry, 6 per cent oxygen for solid fuels. Three per cent oxygen for liquid fuels.

<sup>d</sup>Conversion factor depends on fuel properties, specific fuel gas volume and thermal efficiency of boiler (conversion factors (m<sup>3</sup>/kWhel, thermal efficiency: 36 per cent) used: hard coal: 3.50; brown coal: 4.20; heavy oil: 2.80).

<sup>e</sup>Specific investment cost relates to a small sample of installations.

<sup>f</sup>Specific investment cost includes denitrification process.



Several new flue gas desulphurization processes, such as electron beam dry scrubbing (EBDS) and Mark 13A, have not yet passed the pilot stage.

Table 2 above shows the efficiency of the above-mentioned secondary measures based on the practical experience gathered from a large number of implemented plants. The implemented capacity as well as the capacity range are also mentioned. Despite comparable characteristics for several sulphur abatement technologies, local or plant-specific influences may lead to the exclusion of a given technology.

Table 2 also includes the usual investment cost ranges for the sulphur abatement technologies listed in sections (ii)(c), (d) and (e). However, when applying these technologies to individual cases it should be noted that investment costs of emission reduction measures will depend amongst other things on the particular technologies used, the required control systems, the plant size, the extent of the required reduction and the time-scale of planned maintenance cycles. The table thus gives only a broad range of investment costs. Investment costs for retrofit generally exceed those for new plants.

#### IV. CONTROL TECHNIQUES FOR OTHER SECTORS

10. The control techniques listed in section 9(ii)(a) to (e) are valid not only in the power plant sector but also in various other sectors of industry. Several years of operational experience have been acquired, in most cases in the power plant sector.

11. The application of sulphur abatement technologies in the industrial sector merely depends on the process's specific limitations in the relevant sectors. Important contributors to sulphur emissions and corresponding reduction measures are presented in table 3 below.

TABLE 3

<i>Source</i>	<i>Reduction measures</i>
Roasting of non-ferrous sulphides	Wet sulphuric acid catalytic process (WSA)
Viscose production	Double-contact process
Sulphuric acid production	Double-contact process, improved yield
Kraft pulp production	Variety of process-integrated measures

12. In the sectors listed in table 3, process-integrated measures, including raw material changes (if necessary combined with sector-specific flue gas treatment), can be used to achieve the most effective reduction of sulphur emissions.

13. Reported examples are the following:

(a) In new kraft pulp mills, sulphur emission of less than 1 kg of sulphur per tonne of pulp AD (air dried) can be achieved;\*

- (b) In sulphite pulp mills, 1 to 1.5 kg of sulphur per tonne of pulp AD can be achieved;
- (c) In the case of roasting of sulphides, removal efficiencies of 80 to 99 per cent for 10,000 to 200,000 m<sup>3</sup>/h units have been reported (depending on the process);
- (d) For one iron ore sintering plant, an FGD unit of 320,000 m<sup>3</sup>/h capacity achieves a clean gas value below 1000 mg SO<sub>x</sub>/Nm<sub>x</sub> at 6 per cent O<sub>2</sub>;
- (e) Coke ovens are achieving less than 400 mg SO<sub>x</sub>/Nm<sup>3</sup> at 6 per cent O<sub>2</sub>;
- (f) Sulphuric acid plants achieve a conversion rate larger than 99 per cent;
- (g) Advanced Claus plant achieves sulphur recovery of more than 99 per cent.

#### V. By-Products and Side-Effects

14. As efforts to reduce sulphur emissions from stationary sources are increased in the countries of the ECE region, the quantities of by-products will also increase.

15. Options which would lead to usable by-products should be selected. Furthermore, options that lead to increased thermal efficiency and minimize the waste disposal issue whenever possible should be selected. Although most by-products are usable or recyclable products such as gypsum, ammonia salts, sulphuric acid or sulphur, factors such as market conditions and quality standards need to be taken into account. Further utilization of FBC and SDA by-products have to be improved and investigated as disposal sites and disposal criteria limit disposal in several countries.

16. The following side-effects will not prevent the implementation of any technology or method but should be considered when several sulphur abatement options are possible:

- (a) Energy requirements of the gas treatment processes;
- (b) Corrosion attack due to the formation of sulphuric acid by the reaction of sulphur oxides with water vapour;
- (c) Increased use of water and waste water treatment;
- (d) Reagent requirements;
- (e) Solid waste disposal.

#### VI. MONITORING AND REPORTING

17. The measures taken to carry out national strategies and policies for the abatement of air pollution include: legislation and regulatory provisions, economic incentives and disincentives, as well as technological requirements (best available technology).

18. In general, standards are set, per emission source, according to plant size, operating mode, combustion technology, fuel type and whether it is a new or existing plant. An alternative approach also used is to set a target for the reduction of total sulphur emissions from a group of sources and to allow a choice of where to take action to reach this target (the bubble concept).

19. Efforts to limit the sulphur emissions to the levels set out in the national framework legislation have to be controlled by a permanent monitoring and reporting system and reported to the supervising authorities.

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\* Control of sulphur-to-sodium ration is required, i.e. removal of sulphur in the form of neutral salts and use of sulphur-free sodium make-up.

20. Several monitoring systems, using both continuous and discontinuous measurement methods, are available. However, quality requirements vary. Measurements are to be carried out by qualified institutes using measuring and monitoring systems. To this end, a certification system can provide the best assurance.

21. In the framework of modern automated monitoring systems and process control equipment, reporting does not create a problem. The collection of data for further use is a state-of-the-art technique; however, data to be reported to competent authorities differ from case to case. To obtain better comparability, data sets and prescribing regulations should be harmonized. Harmonization is also desirable for quality assurance of measuring and monitoring systems. This should be taken into account when comparing data.

22. To avoid discrepancies and inconsistencies, key issues and parameters, including the following, must be well defined:

- (a) Definition of standards expressed as ppmv, mg/Nm<sup>3</sup>, g/GJ, kg/h or kg/tonne of product. Most of these units need to be calculated and need specification in terms of gas temperature, humidity, pressure, oxygen content or heat input value;
- (b) Definition of the period over which standards are to be averaged, expressed as hours, months or a year;
- (c) Definition of failure times and corresponding emergency regulations regarding bypass of monitoring systems or shut-down of the installation;
- (d) Definition of methods for back-filling of data missed or lost as a result of equipment failure;
- (e) Definition of the parameter set to be measured. Depending on the type of industrial process, the necessary information may differ. This also involves the location of the measurement point within the system.

23. Quality control of measurements to be ensured.

## ANNEX V

### Emission and Sulphur Content Limit Values

*Emission limit values for major stationary combustion sources<sup>a</sup>*

	(i) <i>MW<sub>th</sub></i>	(ii) <i>Emission limit value (mg SO<sub>2</sub>/Nm<sup>3</sup>)<sup>b</sup></i>	(iii) <i>Desulphurization rate (%)</i>
1. Solid Fuels (based on 6% oxygen in flue gas)	50–100	2000	
	100–500	2000–400 (linear decrease)	40 (for 100–167 MW <sub>th</sub> ) 40–90 (linear increase for 167–500 MW <sub>th</sub> )
	>500	400	90
2. Liquid Fuels (based on 3% oxygen in flue gas)	50–300	1 700	
	300–500	1 700–400 (linear decrease)	90
	>500	400	90
3. Gaseous Fuels (based on 3% oxygen in flue gas)			
Gaseous fuels in general		35	
Liquefied gas		5	
Low calorific gases from gasification of refinery residues, coke oven gas, blast-furnace gas)		800	

B. Gas oil	Sulphur content (%)
Diesel for on-road vehicles	0.05
Other types	0.2

<sup>a</sup>As guidance, for a plant with a multi-fuel firing unit involving the simultaneous use of two or more types of fuels, the competent authorities shall set emission limit values taking into account the emission limit values from column (ii) relevant for each individual fuel, the rate of thermal input delivered by each fuel and, for refineries, the relevant specific characteristics of the plant. For refineries, such a combined limit value shall under no circumstances exceed 1700 mg SO<sub>2</sub>/Nm<sup>3</sup>.

<sup>b</sup>mg SO<sub>2</sub>/Nm<sup>3</sup> is defined at a temperature of 273° K and a pressure of 101.3 kPa, after correction for water vapour content.

In particular, the limit values shall not apply to the following plants:

- Plants in which the products of combustion are used for direct heating, drying, or any other treatment of objects or materials, e.g. reheating furnaces, furnaces for heat treatment;
- Post-combustion plants, i.e. any technical apparatus designed to purify the waste gases by combustion which is not operated as an independent combustion plant;
- Facilities for the regeneration of catalytic cracking catalysts;

- Facilities for the conversion of hydrogen sulphide into sulphur;
- Reactors used in the chemical industry;
- Coke battery furnaces;
- Cowpers;
- Waste incinerators;
- Plants powered by diesel, petrol and gas engines or by gas turbines, irrespective of the fuel used.

In a case where a Party, due to the high sulphur content of indigenous solid or liquid fuels, cannot meet the emission limit values set forth in column (ii), it may apply the desulphurization rates set forth in column (iii) or a maximum limit value of 800 mg SO<sub>2</sub>/Nm<sup>3</sup> (although preferably not more than 650 mg SO<sub>2</sub>/Nm<sup>3</sup>). The Party shall report any such application to the Implementation Committee in the calendar year in which it is made.

Where two or more separate new plants are installed in such a way that, taking technical and economic factors into account, their waste gases could, in the judgment of the competent authorities, be discharged through a common stack, the combination formed by such plants is to be regarded as a single unit.

## 5. UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA.<sup>11</sup> OPENED FOR SIGNATURE AT PARIS ON 14 OCTOBER 1994<sup>12</sup>

*The Parties to this Convention,*

*Affirming* that human beings in affected or threatened areas are at the centre of concerns to combat desertification and mitigate the effects of drought,

*Reflecting* the urgent concern of the international community, including States and international organizations, about the adverse impacts of desertification and drought,

*Aware* that arid, semi-arid and dry sub-humid areas together account for a significant proportion of the Earth's land area and are the habitat and source of livelihood for a large segment of its population,

*Acknowledging* that desertification and drought are problems of global dimension in that they affect all regions of the world and that joint action of the international community is needed to combat desertification and/or mitigate the effects of drought,

*Noting* the high concentration of developing countries, notably the least developed countries, among those experiencing serious drought and/or desertification, and the particularly tragic consequences of these phenomena in Africa,

*Noting also* that desertification is caused by complex interactions among physical, biological, political, social, cultural and economic factors,

*Considering* the impact of trade and relevant aspects of international economic relations on the ability of affected countries to combat desertification adequately,

*Conscious* that sustainable economic growth, social development and poverty eradication are priorities of affected developing countries, particularly in Africa, and are essential to meeting sustainability objectives,

*Mindful* that desertification and drought affect sustainable development through their interrelationships with important social problems such as poverty, poor health and nutrition, lack of food security, and those arising from migration, displacement of persons and demographic dynamics,

*Appreciating* the significance of the past efforts and experience of States and international organizations in combating desertification and mitigating the effects of drought, particularly in implementing the Plan of Action to Combat Desertification which was adopted at the United Nations Conference on Desertification in 1977,

*Realizing* that, despite efforts in the past, progress in combating desertification and mitigating the effects of drought has not met expectations and that a new and more effective approach is needed at all levels within the framework of sustainable development,

*Recognizing* the validity and relevance of decisions adopted at the United Nations Conference on Environment and Development, particularly of Agenda 21 and its chapter 12, which provide a basis for combating desertification,

*Reaffirming* in this light the commitments of developed countries as contained in paragraph 13 of chapter 33 of Agenda 21,

*Recalling* General Assembly resolution 47/188 of 22 December 1992, particularly the priority in it prescribed for Africa, and all other relevant United Nations resolutions, decisions and programmes on desertification and drought, as well as relevant declarations by African countries and those from other regions,

*Reaffirming* the Rio Declaration on Environment and Development, which states, in its principle 2, that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

*Recognizing* that national Governments play a critical role in combating desertification and mitigating the effects of drought and that progress in that respect depends on local implementation of action programmes in affected areas,

*Recognizing* also the importance and necessity of international cooperation and partnership in combating desertification and mitigating the effects of drought,

*Recognizing* the importance of the provision to affected developing countries, particularly in Africa, of effective means, *inter alia*, substantial financial resources, including new and additional funding, and access to technology, without which it will be difficult for them to implement fully their commitments under this Convention,

*Expressing concern* over the impact of desertification and drought on affected countries in Central Asia and the Transcaucasus,

*Stressing* the important role played by women in regions affected by desertification and/or drought, particularly in rural areas of developing countries, and the importance of ensuring the full participation of both men and women at all levels in programmes to combat desertification and mitigate the effects of drought,

*Emphasizing* the special role of non-governmental organizations and other major groups in programmes to combat desertification and mitigate the effects of drought,

*Bearing in mind* the relationship between desertification and other environmental problems of global dimension facing the international and national communities,

*Bearing also in mind* the contribution that combating desertification can make to achieving the objectives of the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and other related environmental conventions,

*Believing* that strategies to combat desertification and mitigate the effects of drought will be most effective if they are based on sound systematic observation and rigorous scientific knowledge and if they are continuously re-evaluated,

*Recognizing* the urgent need to improve the effectiveness and coordination of international cooperation to facilitate the implementation of national plans and priorities,

*Determined* to take appropriate action in combating desertification and mitigating the effects of drought for the benefit of present and future generations,

*Have agreed* as follows:

## **Part I**

### **INTRODUCTION**

#### *Article 1*

##### USE OF TERMS

For the purposes of this Convention:

(a) “Desertification” means land degradation in arid, semi-arid and dry sub-humid areas resulting from various factors, including climatic variations and human activities;

(b) “Combating desertification” includes activities which are part of the integrated development of land in arid, semi-arid and dry sub-humid areas for sustainable development which are aimed at:

- (i) Prevention and/or reduction of land degradation;
- (ii) Rehabilitation of partly degraded land; and
- (iii) Reclamation of desertified land;

(c) “Drought” means the naturally occurring phenomenon that exists when precipitation has been significantly below normal recorded levels, causing serious hydrological imbalances that adversely affect land resource production systems;

(d) “Mitigating the effects of drought” means activities related to the prediction of drought and intended to reduce the vulnerability of society and natural systems to drought as it relates to combating desertification;

(e) “Land” means the terrestrial bio-productive system that comprises soil, vegetation, other biota, and the ecological and hydrological processes that operate within the system;

(f) “Land degradation” means reduction or loss, in arid, semi-arid and dry sub-humid areas, of the biological or economic productivity and complexity of

rainfed cropland, irrigated cropland, or range, pasture, forest and woodlands resulting from land uses or from a process or combination of processes, including processes arising from human activities and habitation patterns, such as:

- (i) Soil erosion caused by wind and/or water;
- (ii) Deterioration of the physical, chemical and biological or economic properties of soil; and
- (iii) Long-term loss of natural vegetation;
- (g) “Arid, semi-arid and dry sub-humid areas” means areas, other than polar and sub-polar regions, in which the ratio of annual precipitation to potential evapotranspiration falls within the range from 0.05 to 0.65;
- (h) “Affected areas” means arid, semi-arid and/or dry sub-humid areas affected or threatened by desertification;
- (i) “Affected countries” means countries whose lands include, in whole or in part, affected areas;
- (j) “Regional economic integration organization” means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;
- (k) “Developed country Parties” means developed country Parties and regional economic integration organizations constituted by developed countries.

## Article 2

### OBJECTIVE

1. The objective of this Convention is to combat desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification, particularly in Africa, through effective action at all levels, supported by international cooperation and partnership arrangements, in the framework of an integrated approach which is consistent with Agenda 21, with a view to contributing to the achievement of sustainable development in affected areas.

2. Achieving this objective will involve long-term integrated strategies that focus simultaneously, in affected areas, on improved productivity of land, and the rehabilitation, conservation and sustainable management of land and water resources, leading to improved living conditions, in particular at the community level.

## Article 3

### PRINCIPLES

In order to achieve the objective of this Convention and to implement its provisions, the Parties shall be guided, *inter alia*, by the following:

(a) The Parties should ensure that decisions on the design and implementation of programmes to combat desertification and/or mitigate the effects of drought are taken with the participation of populations and local communities



and that an enabling environment is created at higher levels to facilitate action at national and local levels;

(b) The Parties should, in a spirit of international solidarity and partnership, improve cooperation and coordination at subregional, regional and international levels, and better focus financial, human, organizational and technical resources where they are needed;

(c) The Parties should develop, in a spirit of partnership, cooperation among all levels of government, communities, non-governmental organizations and landholders to establish a better understanding of the nature and value of land and scarce water resources in affected areas and to work towards their sustainable use; and

(d) The Parties should take into full consideration the special needs and circumstances of affected developing country Parties, particularly the least developed among them.

## **Part II**

### **GENERAL PROVISIONS**

#### *Article 4*

##### GENERAL OBLIGATIONS

1. The Parties shall implement their obligations under this Convention, individually or jointly, either through existing or prospective bilateral and multilateral arrangements or a combination thereof, as appropriate, emphasizing the need to coordinate efforts and develop a coherent long-term strategy at all levels.

2. In pursuing the objective of this Convention, the Parties shall:

(a) Adopt an integrated approach addressing the physical, biological and socio-economic aspects of the processes of desertification and drought;

(b) Give due attention, within the relevant international and regional bodies, to the situation of affected developing country Parties with regard to international trade, marketing arrangements and debt with a view to establishing an enabling international economic environment conducive to the promotion of sustainable development;

(c) Integrate strategies for poverty eradication into efforts to combat desertification and mitigate the effects of drought;

(d) Promote cooperation among affected country Parties in the fields of environmental protection and the conservation of land and water resources, as they relate to desertification and drought;

(e) Strengthen subregional, regional and international cooperation;

(f) Cooperate within relevant intergovernmental organizations;

(g) Determine institutional mechanisms, if appropriate, keeping in mind the need to avoid duplication; and

(h) Promote the use of existing bilateral and multilateral financial mechanisms and arrangements that mobilize and channel substantial financial resources to affected developing country Parties in combating desertification and mitigating the effects of drought.

3. Affected developing country Parties are eligible for assistance in the implementation of the Convention.

#### *Article 5*

##### OBLIGATIONS OF AFFECTED COUNTRY PARTIES

In addition to their obligations pursuant to article 4, affected country Parties undertake to:

(a) Give due priority to combating desertification and mitigating the effects of drought, and allocate adequate resources in accordance with their circumstances and capabilities;

(b) Establish strategies and priorities, within the framework of sustainable development plans and/or policies, to combat desertification and mitigate the effects of drought;

(c) Address the underlying causes of desertification and pay special attention to the socio-economic factors contributing to desertification processes;

(d) Promote awareness and facilitate the participation of local populations, particularly women and youth, with the support of non-governmental organizations, in efforts to combat desertification and mitigate the effects of drought; and

(e) Provide an enabling environment by strengthening, as appropriate, relevant existing legislation and, where they do not exist, enacting new laws and establishing long-term policies and action programmes.

#### *Article 6*

##### OBLIGATIONS OF DEVELOPED COUNTRY PARTIES

In addition to their general obligations pursuant to article 4, developed Country Parties undertake to:

(a) Actively support, as agreed, individually or jointly, the efforts of affected developing country Parties, particularly those in Africa, and the least developed countries, to combat desertification and mitigate the effects of drought;

(b) Provide substantial financial resources and other forms of support to assist affected developing country Parties, particularly those in Africa, effectively to develop and implement their own long-term plans and strategies to combat desertification and mitigate the effects of drought;

(c) Promote the mobilization of new and additional funding pursuant to article 20, paragraph 2(b);

(d) Encourage the mobilization of funding from the private sector and other non-governmental sources; and

(e) Promote and facilitate access by affected country Parties, particularly affected developing country Parties, to appropriate technology, knowledge and know-how.

#### *Article 7*

##### PRIORITY FOR AFRICA

In implementing this Convention, the Parties shall give priority to affected African country Parties, in the light of the particular situation prevailing in that region, while not neglecting affected developing country Parties in other regions.

#### *Article 8*

##### RELATIONSHIP WITH OTHER CONVENTIONS

1. The Parties shall encourage the coordination of activities carried out under this Convention and, if they are Parties to them, under other relevant international agreements, particularly the United Nations Framework Convention on Climate Change and the Convention on Biological Diversity, in order to derive maximum benefit from activities under each agreement while avoiding duplication of effort. The Parties shall encourage the conduct of joint programmes, particularly in the fields of research, training, systematic observation and information collection and exchange, to the extent that such activities may contribute to achieving the objectives of the agreements concerned.

2. The provisions of this Convention shall not affect the rights and obligations of any Party deriving from a bilateral, regional or international agreement into which it has entered prior to the entry into force of this Convention for it.

### **Part III**

#### **ACTION PROGRAMMES, SCIENTIFIC AND TECHNICAL COOPERATION AND SUPPORTING MEASURES**

##### **SECTION 1. ACTION PROGRAMMES**

#### *Article 9*

##### BASIC APPROACH

1. In carrying out their obligations pursuant to article 5, affected developing country Parties and any other affected country Party in the framework of its regional implementation annex or, otherwise, that has notified the programme, shall, as appropriate, prepare, make public and implement national action programmes, utilizing and building, to the extent possible, on existing relevant successful plans and programmes, and subregional and regional action programmes, as the central element of the strategy to combat desertification and mitigate the effects of drought.

Such programmes shall be updated through a continuing participatory process on the basis of lessons from field action, as well as the results of research. The preparation of national action programmes shall be closely interlinked with other efforts to formulate national policies for sustainable development.

2. In the provision by developed country Parties of different forms of assistance under the terms of article 6, priority shall be given to supporting, as agreed, national, subregional and regional action programmes of affected developing country Parties, particularly those in Africa, either directly or through relevant multilateral organizations or both.

3. The Parties shall encourage organs, funds and programmes of the United Nations system and other relevant intergovernmental organizations, academic institutions, the scientific community and non-governmental organizations in a position to cooperate, in accordance with their mandates and capabilities, to support the elaboration, implementation and follow-up of action programmes.

#### Article 10

##### NATIONAL ACTION PROGRAMMES

1. The purpose of national action programmes is to identify the factors contributing to desertification and practical measures necessary to combat desertification and mitigate the effects of drought.

2. National action programmes shall specify the respective roles of government, local communities and land users and the resources available and needed. They shall, *inter alia*:

(a) Incorporate long-term strategies to combat desertification and mitigate the effects of drought, emphasize implementation and be integrated with national policies for sustainable development;

(b) Allow for modifications to be made in response to changing circumstances and be sufficiently flexible at the local level to cope with different socioeconomic, biological and geophysical conditions;

(c) Give particular attention to the implementation of preventive measures for lands that are not yet degraded or which are only slightly degraded;

(d) Enhance national climatological, meteorological and hydrological capabilities and the means to provide for drought early warning;

(e) Promote policies and strengthen institutional frameworks which develop cooperation and coordination, in a spirit of partnership, between the donor community, governments at all levels, local populations and community groups, and facilitate access by local populations to appropriate information and technology;

(f) Provide for effective participation at the local, national and regional levels of non-governmental organizations and local populations, both women and men, particularly resource users, including farmers and pastoralists and their representative organizations, in policy planning, decision-making, and implementation and review of national action programmes; and

(g) Require regular review of, and progress reports on, their implementation.

3. National action programmes may include, *inter alia*, some or all of the following measures to prepare for and mitigate the effects of drought:

(a) Establishment and/or strengthening, as appropriate, of early warning systems, including local and national facilities and joint systems at the subregional and regional levels, and mechanisms for assisting environmentally displaced persons;

(b) Strengthening of drought preparedness and management, including drought contingency plans at the local, national, subregional and regional levels, which take into consideration seasonal to interannual climate predictions;

(c) Establishment and/or strengthening, as appropriate, of food security systems, including storage and marketing facilities, particularly in rural areas;

(d) Establishment of alternative livelihood projects that could provide incomes in drought prone areas; and

(e) Development of sustainable irrigation programmes for both crops and livestock.

4. Taking into account the circumstances and requirements specific to each affected country Party, national action programmes include, as appropriate, *inter alia*, measures in some or all of the following priority fields as they relate to combating desertification and mitigating the effects of drought in affected areas and to their populations: promotion of alternative livelihoods and improvement of national economic environments with a view to strengthening programmes aimed at the eradication of poverty and at ensuring food security, demographic dynamics, sustainable management of natural resources, sustainable agricultural practices, development and efficient use of various energy sources, institutional and legal frameworks, strengthening of capabilities for assessment and systematic observation, including hydrological and meteorological services, and capacity building, education and public awareness.

#### Article 11

##### SUBREGIONAL AND REGIONAL ACTION PROGRAMMES

Affected country Parties shall consult and cooperate to prepare, as appropriate, in accordance with relevant regional implementation annexes, subregional and/or regional action programmes to harmonize, complement and increase the efficiency of national programmes. The provisions of article 10 shall apply *mutatis mutandis* to subregional and regional programmes. Such cooperation may include agreed joint programmes for the sustainable management of transboundary natural resources, scientific and technical cooperation, and strengthening of relevant institutions.

## Article 12

### INTERNATIONAL COOPERATION

Affected country Parties, in collaboration with other Parties and the international community, should cooperate to ensure the promotion of an enabling international environment in the implementation of the Convention. Such cooperation should also cover fields of technology transfer as well as scientific research and development, information collection and dissemination and financial resources.

## Article 13

### SUPPORT FOR THE ELABORATION AND IMPLEMENTATION OF ACTION PROGRAMMES

1. Measures to support action programmes pursuant to article 9 include, *inter alia*:

(a) Financial cooperation to provide predictability for action programmes, allowing for necessary long-term planning;

(b) Elaboration and use of cooperation mechanisms which better enable support at the local level, including action through non-governmental organizations, in order to promote the replicability of successful pilot programme activities where relevant;

(c) Increased flexibility in project design, funding and implementation in keeping with the experimental, iterative approach indicated for participatory action at the local community level; and

(d) As appropriate, administrative and budgetary procedures that increase the efficiency of cooperation and of support programmes.

2. In providing such support to affected developing country Parties, priority shall be given to African country Parties and to least developed country Parties.

## Article 14

### COORDINATION IN THE ELABORATION AND IMPLEMENTATION OF ACTION PROGRAMMES

1. The Parties shall work closely together, directly and through relevant inter-governmental organizations, in the elaboration and implementation of action programmes.

2. The Parties shall develop operational mechanisms, particularly at the national and field levels, to ensure the fullest possible coordination among developed country Parties, developing country Parties and relevant intergovernmental and non-governmental organizations, in order to avoid duplication, harmonize interventions and approaches, and maximize the impact of assistance. In affected developing country Parties, priority will be given to coordinating activities related to international cooperation in order to maximize the efficient use of resources, to ensure responsive assistance, and to facilitate the implementation of national action programmes and priorities under this Convention.

## Article 15

### REGIONAL IMPLEMENTATION ANNEXES

Elements for incorporation in action programmes shall be selected and adapted to the socio-economic, geographical and climatic factors applicable to affected country Parties or regions, as well as to their level of development. Guidelines for the preparation of action programmes and their exact focus and content for particular subregions and regions are set out in the regional implementation annexes.

## SECTION 2. SCIENTIFIC AND TECHNICAL COOPERATION

## Article 16

### INFORMATION COLLECTION, ANALYSIS AND EXCHANGE

The Parties agree, according to their respective capabilities, to integrate and coordinate the collection, analysis and exchange of relevant short-term and long-term data and information to ensure systematic observation of land degradation in affected areas and to understand better and assess the processes and effects of drought and desertification. This would help accomplish, *inter alia*, early warning and advance planning for periods of adverse climatic variation in a form suited for practical application by users at all levels, including especially local populations. To this end, they shall, as appropriate:

- (a) Facilitate and strengthen the functioning of the global network of institutions and facilities for the collection, analysis and exchange of information, as well as for systematic observation at all levels, which shall, *inter alia*:
  - (i) Aim to use compatible standards and systems;
  - (ii) Encompass relevant data and stations, including in remote areas;
  - (iii) Use and disseminate modern technology for data collection, transmission and assessment on land degradation; and
  - (iv) Link national, subregional and regional data and information centres more closely with global information sources;
- (b) Ensure that the collection, analysis and exchange of information address the needs of local communities and those decision makers, with a view to resolving specific problems, and that local communities are involved in these activities;
- (c) Support and further develop bilateral and multilateral programmes and projects aimed at defining, conducting, assessing and financing the collection, analysis and exchange of data and information, including, *inter alia*, integrated sets of physical, biological, social and economic indicators;
- (d) Make full use of the expertise of competent intergovernmental and non-governmental organizations, particularly to disseminate relevant information and experiences among target groups in different regions;

- (e) Give full weight to the collection, analysis and exchange of socio-economic data, and their integration with physical and biological data;
- (f) Exchange and make fully, openly and promptly available information from all publicly available sources relevant to combating desertification and mitigating the effects of drought; and
- (g) Subject to their respective national legislation and/or policies, exchange information on local and traditional knowledge, ensuring adequate protection for it and providing appropriate return from the benefits derived from it, on an equitable basis and on mutually agreed terms, to the local populations concerned.

#### *Article 17*

##### RESEARCH AND DEVELOPMENT

1. The Parties undertake, according to their respective capabilities, to promote technical and scientific cooperation in the fields of combating desertification and mitigating the effects of drought through appropriate national, subregional, regional and international institutions. To this end, they shall support research activities that:

- (a) Contribute to increased knowledge of the processes leading to desertification and drought and the impact of, and distinction between, causal factors, both natural and human, with a view to combating desertification and mitigating the effects of drought, and achieving improved productivity as well as sustainable use and management of resources;
- (b) Respond to well-defined objectives, address the specific needs of local populations and lead to the identification and implementation of solutions that improve the living standards of people in affected areas;
- (c) Protect, integrate, enhance and validate traditional and local knowledge, know-how and practices, ensuring, subject to their respective national legislation and/or policies, that the owners of that knowledge will directly benefit on an equitable basis and on mutually agreed terms from any commercial utilization of it or from any technological development derived from that knowledge;
- (d) Develop and strengthen national, subregional and regional research capabilities in affected developing country Parties, particularly in Africa, including the development of local skills and the strengthening of appropriate capacities, especially in countries with a weak research base, giving particular attention to multidisciplinary and participative socio-economic research;
- (e) Take into account, where relevant, the relationship between poverty, migration caused by environmental factors, and desertification;
- (f) Promote the conduct of joint research programmes between national, subregional, regional and international research organizations, in both the public and private sectors, for the development of improved, affordable and accessible technologies for sustainable development through effective participation of local populations communities; and



(g) Enhance the availability of water resources in affected areas, by means of *inter alia*, cloud-seeding.

2. Research priorities for particular regions and subregions, reflecting different local conditions, should be included in action programmes. The Conference of the Parties shall review research priorities periodically on the advice of the Committee on Science and Technology.

#### Article 18

##### TRANSFER, ACQUISITION, ADAPTATION AND DEVELOPMENT OF TECHNOLOGY

1. The Parties undertake, as mutually agreed and in accordance with their respective national legislation and/or policies, to promote, finance and/or facilitate the financing of the transfer, acquisition, adaptation and development of environmentally sound, economically viable and socially acceptable technologies relevant to combating desertification and/or mitigating the effects of drought, with a view to contributing to the achievement of sustainable development in affected areas. Such cooperation shall be conducted bilaterally or multilaterally, as appropriate, making full use of the expertise of intergovernmental and non-governmental organizations. The Parties shall, in particular:

(a) Fully utilize relevant existing national, subregional, regional and international information systems and clearing-houses for the dissemination of information on available technologies, their sources, their environmental risks and the broad terms under which they may be acquired;

(b) Facilitate access, in particular by affected developing country Parties, on favourable terms, including on concessional and preferential terms, as mutually agreed, taking into account the need to protect intellectual property rights, to technologies most suitable to practical application for specific needs of local populations, paying special attention to the social, cultural, economic and environmental impact of such technology;

(c) Facilitate technology cooperation among affected country Parties through financial assistance or other appropriate means;

(d) Extend technology cooperation with affected developing country Parties, including, where relevant, joint ventures, especially to sectors which foster alternative livelihoods; and

(e) Take appropriate measures to create domestic market conditions and incentives, fiscal or otherwise, conducive to the development, transfer, acquisition and adaptation of suitable technology, knowledge, know-how and practices, including measures to ensure adequate and effective protection intellectual property rights.

2. The Parties shall, according to their respective capabilities, and subject to their respective national legislation and/or policies, protect, promote and use in particular relevant traditional and local technology, knowledge, know-how and practices and, to the end, they undertake to:

(a) Make inventories of such technology, knowledge, know-how and practices and their potential uses with the participation of local populations, and disseminate such information, where appropriate, in cooperation with relevant intergovernmental and non-governmental organizations;

(b) Ensure that such technology, knowledge, know-how and practices are adequately protected and that local populations benefit directly, on an equitable basis and as mutually agreed, from any commercial utilization of them or from any technological development derived therefrom;

(c) Encourage and actively support the improvement and dissemination of such technology, knowledge, know-how and practices or of the development of new technology based on them; and

(d) Facilitate, as appropriate, the adaptation of such technology, knowledge, know-how and practices to wide use and integrate them with modern technology, as appropriate.

### SECTION 3. SUPPORTING MEASURES

#### *Article 19*

##### CAPACITY-BUILDING, EDUCATION AND PUBLIC AWARENESS

1. The Parties recognize the significance of capacity-building — that is to say, institution-building, training and development of relevant local and national capacities — in efforts to combat desertification and mitigate the effects of drought. They shall promote, as appropriate, capacity-building:

(a) Through the full participation at all levels of local people, particularly at the local level, especially women and youth, with the cooperation of non-governmental and local organizations;

(b) By strengthening training and research capacity at the national level in the field of desertification and drought;

(c) By establishing and/or strengthening support and extension services to disseminate relevant technology methods and techniques more effectively, and by training field agents and members of rural organizations in participatory approaches for the conservation and sustainable use of natural resources;

(d) By fostering the use and dissemination of the knowledge, know-how and practices of local people in technical cooperation programmes, wherever possible;

(e) By adapting, where necessary, relevant environmentally sound technology and traditional methods of agriculture and pastoralism to modern socioeconomic conditions;

(f) By providing appropriate training and technology in the use of alternative energy sources, particularly renewable energy resources, aimed particularly at reducing dependence on wood for fuels;

(g) Through cooperation, as mutually agreed, to strengthen the capacity of affected developing country Parties to develop and implement programmes in the field of collection, analysis and exchange of information pursuant to article 16;

(h) Through innovative ways of promoting alternative livelihoods, including training in new skills;

(i) By training of decision makers, managers, and personnel who are responsible for the collection and analysis of data for the dissemination and use of early warning information on drought conditions and for food production;

(j) Through more effective operation of existing national institutions and legal frameworks and, where necessary, creation of new ones, along with strengthening of strategic planning and management; and

(k) By means of exchange visitor programmes to enhance capacity building in affected country Parties through a long-term, interactive process of learning and study.

2. Affected developing country Parties shall conduct, in cooperation with other Parties and competent intergovernmental and non-governmental organizations, as appropriate, an interdisciplinary review of available capacity and facilities at the local and national levels, and the potential for strengthening them.

3. The Parties shall cooperate with each other and through competent intergovernmental organizations, as well as with non-governmental organizations, in undertaking and supporting public awareness and educational programmes in both affected and, where relevant, unaffected country Parties to promote understanding of the causes and effects of desertification and drought and of the importance of meeting the objective of this Convention. To that end they shall:

(a) Organize awareness campaigns for the general public;

(b) Promote, on a permanent basis, access by the public to relevant information, and wide public participation in education and awareness activities;

(c) Encourage the establishment of associations that contribute to public awareness;

(d) Develop and exchange educational and public awareness material, where possible in local languages, exchange and second experts to train personnel of affected developing country Parties in carrying out relevant education and awareness programmes, and fully utilize relevant educational material available in competent international bodies;

(e) Assess educational needs in affected areas, elaborate appropriate school curricula and expand, as needed, educational and adult literacy programmes and opportunities for all, in particular for girls and women, on the identification, conservation and sustainable use and management of the natural resources of affected areas; and

(f) Develop interdisciplinary participatory programmes integrating desertification and drought awareness into educational systems and in non-formal, adult, distance and practical educational programmes.

4. The Conference of the Parties shall establish and/or strengthen networks of regional education and training centres to combat desertification and mitigate the effects of drought. These networks shall be coordinated by an institution created or designated for that purpose, in order to train scientific, technical and management personnel and to strengthen existing institutions responsible for education and training in affected country Parties, where appropriate, with a view to harmonizing

programmes and to organizing exchanges of experience among them. These networks shall cooperate closely with relevant intergovernmental and non-governmental organizations to avoid duplication of effort.

#### *Article 20*

##### FINANCIAL RESOURCES

1. Given the central importance of financing to the achievement of the objective of the Convention, the Parties, taking into account their capabilities, shall make every effort to ensure that adequate financial resources are available for programmes to combat desertification and mitigate the effects of drought.

2. In this connection, developed country Parties, while giving priority to affected African country Parties without neglecting affected developing country Parties in other regions, in accordance with article 7, undertake to:

(a) Mobilize substantial financial resources, including grants and concessional loans, in order to support the implementation of programmes to combat desertification and mitigate the effects of drought;

(b) Promote the mobilization of adequate, timely and predictable financial resources, including new and additional funding from the Global Environment Facility of the agreed incremental costs of those activities concerning desertification that relate to its four focal area, in conformity with the relevant provisions of the Instrument establishing the Global Environment Facility;

(c) Facilitate through international cooperation the transfer of technology, knowledge and know-how; and

(d) Explore, in cooperation with affected developing country Parties, innovative methods and incentives for mobilizing and channeling resources, including those of foundations, non-governmental organizations and other private sector entities, particularly debt swaps and other innovative means which increase financing by reducing the external debt burden of affected developing country Parties, particularly those in Africa.

3. Affected developing country Parties, taking into account their capabilities, undertake to mobilize adequate financial resources for the implementation of their national action programmes.

4. In mobilizing financial resources, the Parties shall seek full use and continued qualitative improvement of all national, bilateral and multilateral financing, and shall seek to involve private sector funding sources and mechanisms, using consortia, joint programmes and parallel financing, and shall seek to involve private sector funding sources and mechanisms, including those of non-governmental organizations. To this end, the Parties shall fully utilize the operational mechanisms developed pursuant to article 14.

5. In order to mobilize the financial resources necessary for affected developing country Parties to combat desertification and mitigate the effects of drought, the Parties shall:

(a) Rationalize and strengthen the management of resources already allocated for combating desertification and mitigating the effects of drought by using them more effectively and efficiently, assessing their successes and short-

comings, removing hindrances to their effective use and, where necessary, re-orienting programmes in the light of the integrated long-term approach adopted pursuant to this Convention;

(b) Give due priority and attention within the governing bodies of multilateral financial institutions, facilities and funds, including regional development banks and funds, to supporting affected developing country Parties, particularly those in Africa, in activities which advance implementation of the Convention, notably action programmes they undertake in the framework of regional implementation annexes; and

(c) Examine ways in which regional and subregional cooperation can be strengthened to support efforts undertaken at the national level.

6. Other country Parties are encouraged to provide, on a voluntary basis, knowledge, know-how and techniques related to desertification and/or financial resources to affected developing country Parties.

7. The full implementation by affected developing country Parties, particularly those in Africa, of their obligations under the Convention will be greatly assisted by the fulfillment by developed country Parties of their obligations under the Convention, including in particular those regarding financial resources and transfer of technology. In fulfilling their obligations, developed country Parties should take fully into account that economic and social development and poverty eradication are the first priorities of affected developing country Parties, particularly those in Africa.

#### *Article 21*

##### FINANCIAL MECHANISMS

1. The Conference of the Parties shall promote the availability of financial mechanisms and shall encourage such mechanisms to seek to maximize the availability of funding for affected developing country Parties, particularly those in Africa, to implement the Convention. To this end, the Conference of the Parties shall consider for adoption, *inter alia*, approaches and policies that:

(a) Facilitate the provision of necessary funding at the national, subregional, regional and global levels for activities pursuant to relevant provisions of the Convention;

(b) Promote multiple-source funding approaches, mechanisms and arrangements and their assessment, consistent with article 20;

(c) Provide on a regular basis, to interested Parties and relevant intergovernmental and non-governmental organizations, information on available sources of funds and on funding patterns in order to facilitate coordination among them;

(d) Facilitate the establishment, as appropriate, of mechanism, such as national desertification funds, including those involving the participation of non-governmental organizations, to channel financial resources rapidly and efficiently to the local level in affected developing country Parties; and

(e) Strengthen existing funds and financial mechanisms at the subregional and regional levels, particularly in Africa, to support more effectively the implementation of the Convention.

2. The Conference of the Parties shall also encourage the provision, through various mechanisms within the United Nations system and through multilateral financial institutions, of support at the national, subregional and regional levels to activities that enable developing country Parties to meet their obligations under the Convention.

3. Affected developing country Parties shall utilize, and where necessary, establish and/or strengthen, national coordinating mechanisms, integrated in national development programmes, that would ensure the efficient use of all available financial resources. They shall also utilize participatory processes involving non-governmental organizations, local groups and the private sector, in raising funds, in elaborating as well as implementing programmes and in assuring access to funding by groups at the local level. These actions can be enhanced by improved coordination and flexible programming on the part of those providing assistance.

4. In order to increase the effectiveness and efficiency of existing financial mechanisms, a Global Mechanism to promote actions leading to the mobilization and channeling of substantial financial resources, including for the transfer of technology, on a grant basis, and/or on concessional or other terms, to affected developing country Parties, is hereby established. This Global Mechanism shall function under the authority and guidance of the Conference of the Parties and be accountable to it.

5. The Conference of the Parties shall identify, at its first ordinary session, an organization to house the Global Mechanism. The Conference of the Parties and the organization it has identified shall agree upon modalities for this Global Mechanism to ensure, *inter alia*, that such Mechanism:

(a) Identifies and draws up an inventory of relevant bilateral and multilateral cooperation programmes that are available to implement the Convention;

(b) Provides advice, on request, to Parties on innovative methods of financing and sources of financial assistance and on improving the coordination of cooperation activities at the national level;

(c) Provides interested Parties and relevant intergovernmental and non-governmental organizations with information on available sources of funds and on funding patterns in order to facilitate coordination among them; and

(d) Reports to the Conference of the Parties, beginning at its second ordinary session, on its activities.

6. The Conference of the Parties shall, at its first session, make appropriate arrangements with the organization it has identified to house the Global Mechanism for the administrative operations of such Mechanism, drawing to the extent possible on existing budgetary and human resources.

7. The Conference of the Parties shall, at its third ordinary session, review the policies, operational modalities and activities of the Global Mechanism accountable to it pursuant to paragraph 4, taking into account the provisions of article 7. On the basis of this review, it shall consider and take appropriate action.

## **Part IV**

### **INSTITUTIONS**

#### *Article 22*

##### CONFERENCE OF THE PARTIES

1. A Conference of the Parties is hereby established.
2. The Conference of the Parties is the supreme body of the Convention. It shall make, within its mandate, the decisions necessary to promote its effective implementation. In particular, it shall:
  - (a) Regularly review the implementation of the Convention and the functioning of its institutional arrangements in the light of the experience gained at the national, subregional, regional and international levels and on the basis of the evolution of scientific and technological knowledge;
  - (b) Promote and facilitate the exchange of information on measures adopted by the Parties, and determine the form and timetable for transmitting the information to be submitted pursuant to article 26, review the reports and make recommendations on them;
  - (c) Establish such subsidiary bodies as are deemed necessary for the implementation of the Convention;
  - (d) Review reports submitted by its subsidiary bodies and provide guidance to them;
  - (e) Agree upon and adopt, by consensus, rules of procedure and financial rules for itself and any subsidiary bodies;
  - (f) Adopt amendments to the Convention pursuant to articles 30 and 31;
  - (g) Approve a programme and budget for its activities, including those of its subsidiary bodies, and undertake necessary arrangements for their financing;
  - (h) As appropriate, seek the cooperation of, and utilize the services of and information provided by, competent bodies or agencies, whether national or international, intergovernmental or non-governmental;
  - (i) Promote and strengthen the relationship with other relevant conventions while avoiding duplication of effort; and
  - (j) Exercise such other functions as may be necessary for the achievement of the objective of the Convention.
3. The Conference of the Parties shall, at its first session, adopt its own rules of procedure, by consensus, which shall include decision-making procedures for matters not already covered by decision-making procedures stipulated in the Convention. Such procedures may include specified majorities required for the adoption of particular decisions.
4. The first session of the Conference of the Parties shall be convened by the interim secretariat referred to in article 35 and shall take place not later than one year after the date of entry into force of the Convention. Unless otherwise decided by the Conference of the Parties, the second, third and fourth ordinary sessions shall be held yearly, and thereafter, ordinary sessions shall be held every two years.

5. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be decided either by the Conference of the Parties in ordinary session or at the written request of any Party, provided that, within three months of the request being communicated to the Parties by the Permanent Secretariat, it is supported by at least one third of the Parties.

6. At each ordinary session, the Conference of the Parties shall elect a Bureau. The structure and functions of the Bureau shall be determined in the rules of procedure. In appointing the Bureau, due regard shall be paid to the need to ensure equitable geographical distribution and adequate representation of affected country Parties, particularly those in Africa.

7. The United Nations, its specialized agencies and any State member thereof or observers thereto not Party to the Convention, may be represented at sessions of the conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the Permanent Secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

8. The Conference of the Parties may request competent national and international organizations which have relevant expertise to provide it with information relevant to article 16, paragraph (g), article 17, paragraph 1(c), and article 18, paragraph 2(b).

### *Article 23*

#### PERMANENT SECRETARIAT

1. A Permanent Secretariat is hereby established.

2. The functions of the Permanent Secretariat shall be:

(a) To make arrangements for sessions of the Conference of the Parties and its subsidiary bodies established under the Convention and to provide them with services as required;

(b) To compile and transmit reports submitted to it;

(c) To facilitate assistance to affected developing country Parties, on request, particularly those in Africa, in the compilation and communication of information required under the Convention;

(d) To coordinate its activities with the secretariats of other relevant international bodies and conventions;

(e) To enter, under the guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(f) To prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties; and

(g) To perform such other secretariat functions as may be determined by the Conference of the Parties.



3. The Conference of the Parties, at its first session, shall designate a Permanent Secretariat and make arrangements for its functioning.

#### *Article 24*

##### COMMITTEE ON SCIENCE AND TECHNOLOGY

1. A Committee on Science and Technology is hereby established as a subsidiary body of the Conference of the Parties to provide it with information and advice on scientific and technological matters relating to combating desertification and mitigating the effects of drought. The Committee shall meet in conjunction with the ordinary sessions of the Conference of the Parties and shall be multidisciplinary and open to the participation of all Parties. It shall be composed of government representatives competent in the relevant fields of expertise. The Conference of the Parties shall decide, at its first session, on the terms of reference of the Committee.

2. The Conference of the Parties shall establish and maintain a roster of independent experts with expertise and experience in the relevant fields. The roster shall be based on nominations received in writing from the Parties, taking into account the need for a multidisciplinary approach and broad geographical representation.

3. The Conference of the Parties may, as necessary, appoint ad hoc panels to provide it, through the Committee, with information and advice on specific issues regarding the state of the art in fields of science and technology relevant to combating desertification and mitigating the effects of drought. These panels shall be composed of experts whose names are taken from the roster, taking into account the need for a multidisciplinary approach and broad geographical representation. These experts shall have scientific backgrounds and field experience and shall be appointed by the Conference of the Parties on the recommendation of the Committee. The Conference of the Parties shall decide on the terms of reference and the modalities of work of these panels.

#### *Article 25*

##### NETWORKING OF INSTITUTIONS, AGENCIES AND BODIES

1. The Committee on Science and Technology shall, under the supervision of the Conference of the Parties, make provision for the undertaking of a survey and evaluation of the relevant existing networks, institutions, agencies and bodies willing to become units of a network. Such a network shall support the implementation of the Convention.

2. On the basis of the results of the survey and evaluation referred to in paragraph 1, the Committee on Science and Technology shall make recommendations to the Conference of the Parties on ways and means to facilitate and strengthen networking of the units at the local, national and other levels, with a view to ensuring that the thematic needs set out in articles 16 to 19 are addressed.

3. Taking into account these recommendations, the Conference of the Parties shall:

(a) Identify those national, subregional, regional and international units that are most appropriate for networking, and recommend operational procedures, and a time frame, for them; and

(b) Identify the units best suited to facilitating and strengthening such networking at all levels.

## **Part V**

### **PROCEDURES**

#### *Article 26*

##### COMMUNICATION OF INFORMATION

1. Each Party shall communicate to the Conference of the Parties for consideration at its ordinary sessions, through the Permanent Secretariat, reports on the measures which it has taken for the implementation of the Convention. The Conference of the Parties shall determine the timetable for submission and the format of such reports.

2. Affected country Parties shall provide a description of the strategies established pursuant to article 5 and of any relevant information on their implementation.

3. Affected country Parties which implement action programmes pursuant to articles 9 to 15 shall provide a detailed description of the programmes and of their implementation.

4. Any group of affected country Parties may make a joint communication on measures taken at the subregional and/or regional levels in the framework of action programmes.

5. Developed country Parties shall report on measures taken to assist in the preparation and implementation of action programmes, including information on the financial resources they have provided, or are providing, under the Convention.

6. Information communicated pursuant to paragraphs 1 to 4 shall be transmitted by the Permanent Secretariat as soon as possible to the Conference of the Parties and to any relevant subsidiary body.

7. The Conference of the Parties shall facilitate the provision to affected developing countries, particularly those in Africa, on request, of technical and financial support in compiling and communicating information in accordance with this article, as well as identifying the technical and financial needs associated with action programmes.

#### *Article 27*

##### MEASURES TO RESOLVE QUESTIONS ON IMPLEMENTATION

The Conference of the Parties shall consider and adopt procedures and institutional mechanisms for the resolution of questions that may arise with regard to the implementation of the Convention.

#### *Article 28*

##### SETTLEMENT OF DISPUTES

1. Parties shall settle any dispute between them concerning the interpretation or application of the Convention through negotiation or other peaceful means of their own choice.

2. When ratifying, accepting, approving, or acceding to the Convention, or at any time thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect

of any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Arbitration in accordance with a procedure adopted by the Conference of the Parties in an annex as soon as practicable;

(b) Submission of the dispute to the International Court of Justice.

3. A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraph 2(a).

4. A declaration made pursuant to paragraph 2 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the International Court of Justice unless the Parties to the dispute otherwise agree.

6. If the Parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2 and if they have not been able to settle their dispute within twelve months following notification by one Party to another that a dispute exists between them, the dispute shall be submitted conciliation at the request of any Party to the dispute, in accordance with procedure adopted by the Conference of the Parties in an annex as soon as practicable.

#### *Article 29*

##### STATUS OF ANNEXES

1. Annexes form an integral part of the Convention and, unless expressly provided otherwise, a reference to the Convention also constitutes a reference to its Annexes.

2. The Parties shall interpret the provisions of the Annexes in a manner that is in conformity with their rights and obligations under the articles of this Convention.

#### *Article 30*

##### AMENDMENTS TO THE CONVENTION

1. Any Party may propose amendments to the Convention.

2. Amendments to the Convention shall be adopted at an ordinary session of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Permanent Secretariat at least six months before the meeting at which it is proposed for adoption. The Permanent Secretariat shall also communicate proposed amendments to the signatories to the Convention.

3. The Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. If all efforts at consensus have been exhausted and no agreement reached, the amendment shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the Permanent Secretariat to the depositary, who shall circulate it to all Parties for their ratification, acceptance, approval or accession.

4. Instruments of ratification, acceptance, approval or accession in respect of an amendment shall be deposited with the depositary. An amendment adopted pursuant to paragraph 3 shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the depositary of an instrument of ratification, acceptance, approval or accession by at least two thirds of the Parties to the Convention which were Parties at the time of the adoption of the amendment.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the depositary its instrument of ratification, acceptance or approval of, or accession to the said amendment.

6. For the purposes of this article and article 31, “Parties present and voting” means Parties present and casting an affirmative or negative vote.

### *Article 31*

#### ADOPTION AND AMENDMENT OF ANNEXES

1. Any additional annex to the Convention and any amendment to an annex shall be proposed and adopted in accordance with the procedure for amendment of the Convention set forth in article 30, provided that, in adopting an additional regional implementation annex or amendment to any regional implementation annex, the majority provided for in that article shall include a two-thirds majority vote of the Parties of the region concerned present and voting. The adoption or amendment of an annex shall be communicated by the depositary to all Parties.

2. An annex, other than an additional regional implementation annex, or an amendment to an annex, other than an amendment to any regional implementation annex, that has been adopted in accordance with paragraph 1, shall enter into force for all Parties to the Convention six months after the date of communication by the depositary to such Parties of the adoption of such annex or amendment, except for those Parties that have notified the Depositary in writing within that period of their non-acceptance of such annex or amendment. Such annex or amendment shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the depositary.

3. An additional regional implementation annex or amendment to any regional implementation annex that has been adopted in accordance with paragraph 1, shall enter into force for all Parties to the convention six months after the date of the communication by the depositary to such Parties of the adoption of such annex or amendment, except with respect to:

(a) Any Party that has notified the depositary in writing, within such six month period, of its non-acceptance of that additional regional implementation annex or of the amendment to the regional implementation annex, in which case such annex or amendment shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the depositary; and

(b) Any Party that has made a declaration with respect to additional regional implementation annexes or amendments to regional implementation annexes in accordance with article 34, paragraph 4, in which case any such annex

or amendment shall enter into force for such a Party on the ninetieth day after the date of deposit with the depositary of its instrument of ratification, acceptance, approval or accession with respect to such annex or amendment.

4. If the adoption of an annex or an amendment to an annex involves and amendment to the Convention, that annex or amendment to an annex shall not enter into force until such time as the amendment to the Convention enters into force.

#### *Article 32*

##### RIGHT TO VOTE

1. Except as provided for in paragraph 2, each Party to the Convention shall have one vote.

2. Regional economic integration organizations, in matters within their competence shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

### **Part VI**

#### **FINAL PROVISIONS**

#### *Article 33*

##### SIGNATURE

This Convention shall be opened for signature at Paris, on ..., 1994, by States Members of the United Nations or any of its specialized agencies or that are Parties to the Statute of the International Court of Justice and by regional economic integration organizations. It shall remain open for signature, thereafter, at the United Nations Headquarters in New York until ...

[DATE TO BE COMMUNICATED BY THE FRENCH AUTHORITIES]

#### *Article 34*

##### RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The Convention shall be subject to ratification, acceptance, approval or accession by States and by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

2. Any regional economic integration organization which becomes a Party to the Convention without any of its member States being a Party to the Convention shall be bound by all the obligations under the Convention. Where one or more member States of such an organization are also Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by the Convention. They shall also promptly inform the depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

4. In its instrument of ratification, acceptance, approval or accession, any Party may declare that, with respect to it, any additional regional implementation annex or any amendment to any regional implementation annex shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto.

#### *Article 35*

##### INTERIM ARRANGEMENTS

The secretariat functions referred to in article 23 will be carried out on an interim basis by the secretariat established by the General Assembly of the United Nations in its resolution 47/188 of 22 December 1992, until the completion of the first session of the Conference of the Parties.

#### *Article 36*

##### ENTRY INTO FORCE

1. The Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to the Convention after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

3. For the purposes of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of the organization.

#### *Article 37*

##### RESERVATIONS

No reservations may be made to this Convention.

#### *Article 38*

##### WITHDRAWAL

1. At any time after three years from the date on which the Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

*Article 39*

DEPOSITARY

The Secretary-General of the United Nations shall be the depositary of the Convention.

*Article 40*

AUTHENTIC TEXTS

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed the present Convention.

DONE at Paris, this 17<sup>th</sup> day of June one thousand nine hundred and ninety-four.

ANNEX I

**Regional Implementation Annex for Africa**

*Article 1*

SCOPE

This annex applies to Africa, in relation to each Party and in conformity with the Convention, in particular its article 7, for the purpose of combating desertification and/or mitigating the effects of drought in its arid, semi-arid and dry sub-humid areas.

*Article 2*

PURPOSE

The purpose of this annex, at the national, subregional and regional levels in Africa and in the light of its particular conditions, is to:

- (a) Identify measures and arrangements, including the nature and processes of assistance provided by developed country Parties, in accordance with the relevant provisions of the Convention;
- (b) Provide for the efficient and practical implementation of the Convention to address conditions specific to Africa; and
- (c) Promote processes and activities relating to combating desertification and/or mitigating the effects of drought within the arid, semi-arid and dry sub-humid areas of Africa.

*Article 3*

PARTICULAR CONDITIONS OF THE AFRICAN REGION

In carrying out their obligations under the Convention, the Parties shall in the implementation of this annex, adopt a basic approach that takes into consideration the following particular conditions of Africa:

- (a) The high proportion of arid, semi-arid and dry sub-humid areas;
- (b) The substantial number of countries and populations adversely affected by desertification and by the frequent recurrence of severe drought;
- (c) The large number of affected countries that are landlocked;
- (d) The widespread poverty prevalent in most affected countries, the large number of least developed countries among them, and their need for significant amounts of external assistance, in the form of grants and loans on concessional terms, to pursue their development objectives;
- (e) The difficult socio-economic conditions, exacerbated by deteriorating and fluctuating terms of trade, external indebtedness and political instability, which induce internal, regional and international migrations;
- (f) The heavy reliance of populations on natural resources for subsistence which, compounded by the effects of demographic trends and factors, a weak technological base and unsustainable production practices, contributes to serious resource degradation;
- (g) The insufficient institutional and legal frameworks, the weak infrastructural base and the insufficient scientific, technical and educational capacity, leading to substantial capacity building requirements; and
- (h) The central role of actions to combat desertification and/or mitigate the effects of drought in the national development priorities of affected African countries.

#### *Article 4*

##### COMMITMENTS AND OBLIGATIONS OF AFRICAN COUNTRY PARTIES

1. In accordance with their respective capabilities, African country Parties undertake to:
  - (a) Adopt the combating of desertification and/or the mitigation of the effects of drought as a central strategy in their efforts to eradicate poverty;
  - (b) Promote regional cooperation and integration, in a spirit of solidarity and partnership based on mutual interest, in programmes and activities to combat desertification and/or mitigate the effects of drought;
  - (c) Rationalize and strengthen existing institutions concerned with desertification and drought and involve other existing institutions, as appropriate, in order to make them more effective and to ensure more efficient use of resources;
  - (d) Promote the exchange of information on appropriate technology, knowledge, know-how and practices between and among them; and
  - (e) Develop contingency plans for mitigating the effects of drought in areas degraded by desertification and/or drought.
2. Pursuant to the general and specific obligations set out in articles 4 and 5 of the Convention, affected African country Parties shall aim to:
  - (a) Make appropriate financial allocations from their national budgets consistent with national conditions and capabilities and reflecting the new priority Africa has accorded to the phenomenon of desertification and/or drought;
  - (b) Sustain and strengthen reforms currently in progress towards greater decentralization and resource tenure as well as reinforce participation of local populations and communities; and
  - (c) Identify and mobilize new and additional national financial resources, facilities to mobilize domestic financial resources.



## Article 5

### COMMITMENTS AND OBLIGATIONS OF DEVELOPED COUNTRY PARTIES

1. In fulfilling their obligations pursuant to articles 4, 6 and 7 of the Convention, developed country Parties shall give priority to affected African country Parties and, in this context, shall:

(a) Assist them to combat desertification and/or mitigate the effects of drought by, *inter alia*, providing and/or facilitating access to financial and/or other resources, and promoting, financing and/or facilitating the financing of the transfer, adaptation and access to appropriate environmental technologies and know-how, as mutually agreed and in accordance with national policies, taking into account their adoption of poverty eradication as a central strategy;

(b) Continue to allocate significant resources and/or increase resources to combat desertification and/or mitigate the effects of drought; and

(c) Assist them in strengthening capacities to enable them to improve their institutional frameworks, as well as their scientific and technical capabilities, information collection and analysis, and research and development for the purpose of combating desertification and/or mitigating the effects of drought.

2. Other country Parties may provide, on a voluntary basis, technology, knowledge and know-how relating to desertification and/or financial resources, to affected African country Parties. The transfer of such knowledge, know-how and techniques is facilitated by international cooperation.

## Article 6

### STRATEGIC PLANNING FRAMEWORK FOR SUSTAINABLE DEVELOPMENT

1. National action programmes shall be a central and integral part of a broader process of formulating national policies for the sustainable development of affected African country Parties.

2. A consultative and participatory process involving appropriate levels of government, local populations, communities and none-governmental organizations shall be undertaken to provide guidance on a strategy with flexible planning to allow maximum participation from local populations and communities. As appropriate, bilateral and multilateral assistance agencies may be involved in this process at the request of an affected African country Party.

## Article 7

### TIMETABLE FOR PREPARATION OF ACTION PROGRAMMES

Pending entry into force of this Convention, the African country Parties, in cooperation with other members of the international community, as appropriate, shall, to the extent possible, provisionally apply those provisions of the Convention relating to the preparation of national, subregional and regional action programmes.

## Article 8

### CONTENT OF NATIONAL ACTION PROGRAMMES

1. Consistent with article 10 of the Convention, the overall strategy of national action programmes shall emphasize integrated local development programmes for affected areas, based on participatory mechanisms and on integration of strategies for poverty eradication into efforts to combat desertification and mitigate the effects of drought. The programmes shall aim at strengthening the capacity of local authorities and ensuring the active involvement of local populations, communities and groups, with emphasis on education and training, mobilization of non-governmental organizations with proven expertise and strengthening of decentralized governmental structures.

2. National action programmes shall, as appropriate, include the following general features:

(a) The use, in developing and implementing national action programmes, of past experiences in combating desertification and/or mitigating the effects of drought, taking into account social, economic and ecological conditions;

(b) The identification of factors contributing to desertification and/or drought and the resources and capacities available and required, and the setting up of appropriate policies and institutional and other responses and measures necessary to combat those phenomena and/or mitigate their effects; and

(c) The increase in participation of local populations and communities, including women, farmers and pastoralists, and delegation to them of more responsibility for management.

3. National action programmes shall also, as appropriate, include the following:

(a) Measures to improve the economic environment with a view to eradicating poverty:

(i) Increasing incomes and employment opportunities, especially for the poorest members of the community, by:

— Developing markets for farm and livestock products;

— Creating financial instruments suited to local needs;

— Encouraging diversification in agriculture and the setting-up of agricultural enterprises; and

— Developing economic activities of a para-agricultural or non-agricultural type;

(ii) Improving the long-term prospects of rural economies by the creation of:

— Incentives for productive investment and access to the means of production; and

— Price and tax policies and commercial practices that promote growth;

(iii) Defining and applying population and migration policies to reduce population pressure on land; and

(iv) Promoting the use of drought resistant crops and the application of integrated dry-land farming systems for food security purposes;

(b) Measure to conserve natural resources:

(i) Ensuring integrated and sustainable management of natural resources, including:

— Agricultural land and pastoral land;

— Vegetation cover and wildlife;

— Forests;

— Water resources; and

— Biological diversity;

- (ii) Training with regard to, and strengthening, public awareness and environmental education campaigns and disseminating knowledge of techniques relating to the sustainable management of natural resources; and
- (iii) Ensuring the development and efficient use of diverse energy sources, the promotion of alternative sources of energy, particularly solar energy, wind energy and bio-gas, and specific arrangements for the transfer, acquisition and adaptation of relevant technology to alleviate the pressure on fragile natural resources;
- (c) Measures to improve institutional organization:
  - (i) Defining the roles and responsibilities of central government and local authorities within the framework of a land use planning policy;
  - (ii) Encouraging a policy of active decentralization, devolving responsibility for management and decision-making to local authorities, and encouraging initiatives and the assumption of responsibility by local communities and the establishment of local structures; and
  - (iii) Adjusting, as appropriate, the institutional and regulatory framework of natural resource management to provide security of land tenure for local populations;
- (d) Measures to improve knowledge of desertification:
  - (i) Promoting research and the collection, processing and exchange of information on the scientific, technical and socio-economic aspects of desertification;
  - (ii) Improving national capabilities in research and in the collection, processing, exchange and analysis of information so as to increase understanding and to translate the results of the analysis into operational terms; and
  - (iii) Encouraging the medium and long term study of:
    - Socio-economic and cultural trends in affected areas;
    - Qualitative and quantitative trends in natural resources; and
    - The interaction between climate and desertification; and
- (e) Measures to monitor and assess the effects of drought:
  - (i) Developing strategies to evaluate the impacts of natural climate variability on regional drought and desertification and/or to utilize predictions of climate variability on seasonal to interannual time scales in efforts to mitigate the effects of drought;
  - (ii) Improving early warning and response capacity, efficiently managing emergency relief and food aid, and improving food stocking and distribution systems, cattle protection schemes and public works and alternative livelihoods for drought prone areas; and
  - (iii) Monitoring and assessing ecological degradation to provide reliable and timely information on the process and dynamics of resource degradation in order to facilitate better policy formulations and responses.

#### *Article 9*

##### PREPARATION OF NATIONAL ACTION PROGRAMMES AND IMPLEMENTATION AND EVALUATION INDICATORS

Each affected African country Party shall designate an appropriate national coordinating body to function as a catalyst in the preparation, implementation and evaluation of its national action programme. This coordinating body shall, in the light of article 3 and as appropriate:

- (a) Undertake an identification and review of actions, beginning with a locally driven consultation process, involving local populations and communities and with the cooperation of local administrative authorities, developed country Parties and intergovernmental and non-governmental organizations, on the basis of initial consultations of those concerned at the national level;
- (b) Identify and analyze the constraints, needs and gaps affecting development and sustainable land use and recommend practical measures to avoid duplication by making full use of relevant ongoing efforts and promote implementation of results;
- (c) Facilitate, design and formulate project activities based on interactive, flexible approaches in order to ensure active participation of the population in affected areas, to minimize the negative impact of such activities, and to identify and prioritize requirements for financial assistance and technical cooperation;
- (d) Establish pertinent, quantifiable and readily verifiable indicators to ensure the assessment and evaluation of national action programmes, which encompass actions in the short, medium and long terms, and of the implementation of such programmes; and
- (e) Prepare progress reports on the implementation of the national action programmes.

#### *Article 10*

##### ORGANIZATIONAL FRAMEWORK OF SUBREGIONAL ACTION PROGRAMMES

1. Pursuant to article 4 of the Convention, African country Parties shall cooperate in the preparation and implementation of subregional action programmes for central, eastern, northern, southern and western Africa and, in that regard, may delegate the following responsibilities to relevant subregional intergovernmental organizations:

- (a) Acting as focal points for preparatory activities and coordinating the implementation of the subregional action programmes;
- (b) Assisting in the preparation and implementation of national action programmes;
- (c) Facilitating the exchange of information, experience and know-how as well as providing advice on the review of national legislation; and
- (d) Any other responsibilities relating to the implementation of subregional action programmes.

2. Specialized subregional institutions may provide support, upon request, and/or be entrusted with the responsibility to coordinate activities in their respective fields of competence.

#### *Article 11*

##### CONTENT AND PREPARATION OF SUBREGIONAL ACTION PROGRAMMES

Subregional action programmes shall focus on issues that are better addressed at the subregional level. They shall establish, where necessary, mechanisms for the management of shared natural resources. Such mechanisms shall effectively handle transboundary problems associated with desertification and/or drought and shall provide support for the harmonious

implementation of national action programmes. Priority areas for subregional action programmes shall, as appropriate, focus on:

- (a) Joint programmes for the sustainable management of transboundary natural resources through bilateral and multilateral mechanisms, as appropriate;
- (b) Coordination of programmes to develop alternative energy sources;
- (c) Cooperation in the management and control of pests as well as of plant and animal diseases;
- (d) Capacity-building, education and public awareness activities that are better carried out or supported at the subregional level;
- (e) Scientific and technical cooperation, particularly in the climatological, meteorological and hydrological fields, including networking for data collection and assessment, information-sharing and project monitoring, and coordination and prioritization of research and development activities;
- (f) Early warning systems and joint planning for mitigating the effects of drought, including measures to address the problems resulting from environmentally induced migrations;
- (g) Exploration of ways of sharing experiences, particularly regarding participation of local populations and communities, and creation of an enabling environment for improved land use management and for use of appropriate technologies;
- (h) Strengthening of the capacity of subregional organizations to coordinate and provide technical services, as well as establishment, reorientation and strengthening of subregional centres and institutions; and
- (i) Development of policies in fields, such as trade, which have impact upon affected areas and populations, including policies for the coordination of regional marketing regimes and for common infrastructure.

#### *Article 12*

##### ORGANIZATIONAL FRAMEWORK OF THE REGIONAL ACTION PROGRAMME

1. Pursuant to article 11 of the Convention, African country Parties shall jointly determine the procedures for preparing and implementing the regional action programme.
2. The Parties may provide appropriate support to relevant African regional institutions and organizations to enable them to assist African country Parties to fulfil their responsibilities under the Convention.

#### *Article 13*

##### CONTENT OF THE REGIONAL ACTION PROGRAMME

The regional action programme include measures relating to combating desertification and/or mitigating the effects of drought in the following priority areas, as appropriate:

- (a) Development of regional cooperation and coordination of subregional action programmes for building regional consensus on key policy areas, including through regular consultations of subregional organizations;
- (b) Promotion of capacity-building in activities which are better implemented at the regional level;
- (c) The seeking of solutions with the international community to global economic and social issues that have an impact on affected areas taking account article 4, paragraph 2(b) of the Convention.

(d) Promotion among the affected country Parties of Africa and its subregions, as well as with other affected regions, of exchange of information and appropriate techniques, technical know-how and relevant experience;

(e) Promotion of scientific and technological cooperation particularly in the fields of climatology, meteorology, hydrology, water resource development and alternative energy sources;

(f) Coordination of subregional and regional research activities and identification of regional priorities for research and development;

(g) Coordination of networks for systematic observation and assessment and information exchange, as well as their integration into worldwide networks; and

(h) Coordination of and reinforcement of subregional and regional early warning systems and drought contingency plans.

#### Article 14

##### FINANCIAL RESOURCES

1. Pursuant to article 20 of the Convention and article 4, paragraph 2, affected African country Parties shall endeavour to provide a macroeconomic framework conducive to the mobilization of financial resources and shall develop policies and establish procedures to channel resources more effectively to local development programmes, including through non-governmental organizations, as appropriate.

2. Pursuant to article 21, paragraphs 4 and 5 of the Convention, the Parties agree to establish an inventory of sources of funding at the national, subregional, regional and international levels to ensure the rational use of existing resources and to identify gaps in resource allocation, to facilitate implementation of the action programmes. The inventory shall be regularly reviewed and updated.

3. Consistent with article 7 of the Convention, the developed country Parties shall continue to allocate significant resources and/or increased resources and other forms of assistance to affected African country Parties on the basis of partnership agreements and arrangements referred to in article 18, giving, *inter alia*, due attention to matters related to debt, international trade and marketing arrangements in accordance with article 4, paragraph 2(b) of the Convention.

#### Article 15

##### FINANCIAL MECHANISMS

1. Consistent with article 7 of the Convention and considering the particular situation prevailing in this region, the Parties shall pay special attention to the implementation in Africa of the provisions of article 21, paragraph 1(d) and (e), of the Convention, notably by:

(a) Facilitating the establishment of mechanisms, such as national desertification funds, to channel financial resources to the local level; and

(b) Strengthening existing funds and financial mechanisms at the subregional regional levels.

2. Consistent with articles 20 and 21 of the Convention, the Parties which are also members of the governing bodies of relevant regional and subregional financial institutions, including the African Development Bank and the African Development Fund, shall promote efforts to give due priority and attention to the activities of those institutions that advance the implementation of this Annex.

3. The Parties shall streamline, to the extent possible, procedures for channeling funds to affected African country Parties.

## Article 16

### TECHNICAL ASSISTANCE AND COOPERATION

The Parties undertake, in accordance with their respective capabilities, to rationalize technical assistance to, and cooperation with, African country Parties with a view to increasing project and programme effectiveness by, *inter alia*:

- (a) Limiting the costs of support measures and backstopping, especially overhead costs, so that, in any case, such costs shall only represent an appropriately low percentage of the total cost of the project so as to maximize project efficiency;
- (b) Giving preference to the utilization of competent national experts or, where necessary, competent experts from within the subregion and/or region, in project design, preparation and implementation, and to the building of local expertise where it does not exist; and
- (c) Effectively managing and coordinating, as well as efficiently utilizing, technical assistance to be provided.

## Article 17

### TRANSFER, ACQUISITION, ADAPTATION AND ACCESS TO ENVIRONMENTALLY SOUND TECHNOLOGY

In implementing article 18 of the Convention relating to transfer, acquisition, adaptation and development of technology, the Parties undertake to give priority to African country Parties and, as necessary, to develop with them new models of partnership and cooperation with a view to strengthening capacity building in the fields of scientific research and development and information collection and dissemination to enable them to implement their strategies to combat desertification and mitigate the effects of drought.

## Article 18

### COORDINATION AND PARTNERSHIP AGREEMENTS

1. African country Parties shall coordinate the preparation, negotiation and implementation of national, subregional and regional action programmes. They may involve, as appropriate, other Parties and relevant intergovernmental and non-governmental organizations in this process.
2. The objectives of such coordination shall be to ensure that financial and technical cooperation is consistent with the Convention and to provide the necessary continuity in the use and administration of resources.
3. African country Parties shall organize consultative processes at the national, subregional and regional levels. These consultative processes may:
  - (a) Serve as a forum to negotiate and conclude partnership agreements based on national, subregional and regional action programmes; and
  - (b) Specify the contribution of African country Parties and other members of the consultative groups to the programmes and identify priorities and agreements on implementation and evaluation indicators, as well as funding arrangements for implementation.
4. The Permanent Secretariat may, at the request of African country Parties, pursuant to article 23 of the Convention, facilitate the convocation of such consultative processes by:
  - (a) Providing advice on the organization of effective consultative arrangements, drawing on experiences from other such arrangements;
  - (b) Providing information to relevant bilateral and multilateral agencies concerning consultative meetings or processes, and encouraging their active involvement; and

(c) Providing other information that may be relevant in establishing or improving consultative arrangements.

5. The subregional and regional coordinating bodies shall, *inter alia*:

(a) Recommend appropriate adjustments to partnership agreements;

(b) Monitor, assess and report on the implementation of the agreed subregional and regional programmes; and

(c) Aim to ensure efficient communication and cooperation among African country Parties.

6. Participation in the consultative groups shall, as appropriate, be open to Governments, interested groups and donors, relevant organs, funds and programmes of the United Nations system, relevant subregional and regional organizations, and representatives of relevant non-governmental organizations. Participants of each consultative group shall determine the modalities of its management and operation.

7. Pursuant to article 14 of the Convention, developed country Parties are encouraged to develop, on their own initiative, an informal process of consultation and coordination among themselves, at the country, subregional and regional levels, and, at the request of an affected African country Party or of an appropriate subregional or regional organization, to participate in a national, subregional or regional consultative process that would evaluate and respond to assistance needs in order to facilitate implementation.

#### *Article 19*

##### FOLLOW-UP ARRANGEMENTS

Follow-up of this Annex shall be carried out by African country Parties in accordance with the Convention as follows:

(a) At the national level, by a mechanism the composition of which should be determined by each affected African country Party and which shall include representatives of local communities and shall function under the supervision of the national coordinating body referred to in article 9;

(b) At the subregional level, by a multidisciplinary scientific and technical consultative committee, the composition and modalities of operation of which shall be determined by the African country Parties of the subregion concerned; and

(c) At the regional level, by mechanisms defined in accordance with the relevant provisions of the Treaty establishing the African Economic Community, and by an African Scientific and Technical Advisory Committee.

## ANNEX II

### **Regional Implementation Annex for Asia**

#### *Article 1*

##### PURPOSE

The purpose of this annex is to provide guidelines and arrangements for the effective implementation of the Convention in the affected country Parties of the Asian region in the light of its particular conditions.



## Article 2

### PARTICULAR CONDITIONS OF THE ASIAN REGION

In carrying out their obligations under the Convention, the Parties shall, as appropriate, take into consideration the following particular conditions which apply in varying degrees to the affected country Parties of the region:

- (a) The high proportion of areas in their territories affected by, or vulnerable to, desertification and drought and the broad diversity of these areas with regard to climate, topography, land use and socio-economic systems;
- (b) The heavy pressure on natural resources for livelihoods;
- (c) The existence of production systems, directly related to widespread poverty, leading to land degradation and to pressure on scarce water resources;
- (d) The significant impact of conditions in the world economy and social problems such as poverty, poor health and nutrition, lack of food security, migration, displaced persons and demographic dynamics;
- (e) Their expanding, but still insufficient, capacity and institutional frameworks to deal with national desertification and drought problems; and
- (f) Their need for international cooperation to pursue sustainable development objectives relating to combating desertification and mitigating the effects of drought.

## Article 3

### FRAMEWORK FOR NATIONAL ACTION PROGRAMMES

1. National action programmes shall be an integral part of broader national policies for sustainable development of the affected country Parties of the region.
2. The affected country Parties shall, as appropriate, develop national action programmes pursuant to articles 9 to 11 of the Convention, paying special attention to article 10, paragraph 2(f). As appropriate, bilateral and multilateral cooperation agencies may be involved in this process at the request of the affected country Party concerned.

## Article 4

### NATIONAL ACTION PROGRAMMES

1. In preparing and implementing national action programmes, the affected country Parties of the region, consistent with their respective circumstances and policies, may, *inter alia*, as appropriate:
  - (a) Designate appropriate bodies responsible for the preparation, coordination and implementation of their action programmes;
  - (b) Involve affected populations, including local communities, in the elaboration, coordination and implementation of their action programmes through a locally driven consultative process, with the cooperation of local authorities and relevant national non-governmental organizations;
  - (c) Survey the state of the environment in affected areas to assess the causes and consequences of desertification and to determine priority areas for action;
  - (d) Evaluate, with the participation of affected populations, past and current programmes for combating desertification and mitigating the effects of drought, in order to design a strategy and elaborate activities in their action programmes;
  - (e) Prepare technical and financial programmes based on the information derived from the activities in subparagraphs (a) to (d);
  - (f) Develop and utilize procedures and benchmarks for evaluating implementation of their action programmes;

(g) Promote the integrated management of drainage basins, the conservation of soil resources, and the enhancement and efficient use of water resources;

(h) Strengthen and/or establish information, evaluation and follow-up and early warning systems in regions prone to desertification and drought, taking account of climatological, meteorological, hydrological, biological and other relevant factors; and

(i) Formulate in a spirit of partnership, where international cooperation, including financial and technical resources, is involved, appropriate arrangements supporting their action programmes.

2. Consistent with article 10 of the Convention, the overall strategy of national action programmes shall emphasize integrated local development programmes for affected areas, based on participatory mechanisms and on the integration of strategies for poverty eradication into efforts to combat desertification and mitigate the effects of drought. Sectoral measures in the action programmes shall be grouped in priority fields which take account of the broad diversity of affected areas in the region referred to in article 2(a).

#### Article 5

##### SUBREGIONAL AND JOINT ACTION PROGRAMMES

1. Pursuant to article 11 of the Convention, affected country Parties in Asia may mutually agree to consult and cooperate with other Parties, as appropriate, to prepare and implement subregional or joint action programmes, as appropriate, in order to complement, and increase effectiveness in the implementation of, national action programmes. In either case, the relevant Parties may jointly agree to entrust subregional, including bilateral or national organizations, or specialized institutions, with responsibilities relating to the preparation, co-ordination and implementation of programmes. Such organizations or institutions may also act as focal points for the promotion and coordination of actions pursuant to articles 16 to 18 of the Convention.

2. In preparing and implementing subregional or joint action programmes, the affected country Parties of the region shall, *inter alia*, as appropriate:

(a) Identify, in cooperation with national institutions, priorities relating to combating desertification and mitigating the effects of drought which can better be met by such programmes, as well as relevant activities which could be effectively carried out through them;

(b) Evaluate the operational capacities and activities of relevant regional, subregional and national institutions;

(c) Assess existing programmes relating to desertification and drought among all or some parties of the region or subregion and their relationship with national action programmes; and

(d) Formulate in a spirit of partnership, where international cooperation, including financial and technical resources, is involved, appropriate bilateral and/or multilateral arrangements supporting the programmes.

3. Subregional or joint action programmes may include agreed joint programmes for the sustainable management of transboundary natural resources relating to desertification, priorities for coordination and other activities in the fields of capacity building, scientific and technical cooperation, particularly drought early warning systems and information sharing, and means of strengthening the relevant subregional and other organizations or institutions.

## Article 6

### REGIONAL ACTIVITIES

Regional activities for the enhancement of subregional or joint action programmes may include, *inter alia*, measures to strengthen institutions and mechanisms for coordination and cooperation at the national, subregional and regional levels, and to promote the implementation of articles 16 to 19 of the Convention. These activities may also include:

- (a) Promoting and strengthening technical cooperation networks;
- (b) Preparing inventories of technologies, knowledge, know-how and practices, as well as traditional and local technologies and know-how, and promoting their dissemination and use;
- (c) Evaluating the requirements for technology transfer and promoting the adaptation and use of such technologies; and
- (d) Encouraging public awareness programmes and promoting capacity building at all levels, strengthening training, research and development and building systems for human resource development.

## Article 7

### FINANCIAL RESOURCES AND MECHANISMS

1. The Parties shall, in view of the importance of combating desertification and mitigating the effects of drought in the Asian region, promote the mobilization of substantial financial resources and the availability of financial mechanisms, pursuant to articles 20 and 21 of the Convention.

2. In conformity with the Convention and on the basis of the coordinating mechanism provided for in article 8 and in accordance with their national development policies, affected country Parties of the region shall, individually or jointly:

- (a) Adopt measures to rationalize and strengthen mechanisms to supply funds through public and private investment with a view to achieving specific results in action to combat desertification and mitigate the effects of drought;
- (b) Identify international cooperation requirements in support of national efforts, particularly financial, technical and technological; and
- (c) Promote the participation of bilateral and/or multilateral financial cooperation institutions with a view to ensuring implementation of the Convention.

3. The Parties shall streamline, to the extent possible, procedures for channeling funds to affected country Parties in the region.

## Article 8

### COOPERATION AND COORDINATION MECHANISMS

1. Affected country Parties, through the appropriate bodies designated pursuant to article 4, paragraph 1(a), and other Parties in the region, may, as appropriate, set up a mechanism for, *inter alia*, the following purposes:

- (a) Exchange of information, experience, knowledge and know-how;
- (b) Cooperation and coordination of actions, including bilateral and multilateral arrangements, at the subregional and regional levels;
- (c) Promotion of scientific, technical, technological and financial cooperation pursuant to articles 5 to 7;

- (d) Identification of external cooperation requirements; and
- (e) Follow-up and evaluation of the implementation of action programmes.

2. Affected country Parties, through the appropriate bodies designated pursuant to article 4, paragraph 1(a), and other Parties in the region, may also, as appropriate, consult and coordinate as regards the national, subregional and joint action programmes. They may involve, as appropriate, other Parties and relevant intergovernmental and non-governmental organizations in this process. Such coordination shall, *inter alia*, seek to secure agreement on opportunities for international cooperation in accordance with articles 20 and 21 of the Convention, enhance technical cooperation and channel resources so that they are used effectively.

3. Affected country Parties of the region shall hold periodic coordination meetings, and the Permanent Secretariat may, at their request, pursuant to article 23 of the Convention, facilitate the convocation of such coordination meetings by:

- (a) Providing advice on the organization of effective coordination arrangements, drawing on experience from other such arrangements;
- (b) Providing information to relevant bilateral and multilateral agencies concerning coordination meetings, and encouraging their active involvement; and
- (c) Providing other information that may be relevant in establishing or improving coordination processes.

### ANNEX III

#### Regional Implementation Annex for Latin America and the Caribbean

##### Article 1

###### PURPOSE

The purpose of this annex is to provide general guidelines for the implementation of the Convention in the Latin American and Caribbean region, in light of its particular conditions.

##### Article 2

###### PARTICULAR CONDITIONS OF THE LATIN AMERICAN AND CARIBBEAN REGION

The Parties shall, in accordance with the provisions of the Convention take into consideration the following particular conditions of the region:

- (a) The existence of broad expanses which are vulnerable and have been severely affected by desertification and/or drought and in which diverse characteristics may be observed, depending on the area in which they occur; this cumulative and intensifying process has negative social, cultural, economic and environmental effects which are all the more serious in that the region contains one of the largest resources of biological diversity in the world;
- (b) The frequent use of unsustainable development practices in affected areas a result of complex interactions among physical, biological, political, social, cultural and economic factors, including international economic factors such as external indebtedness, deteriorating terms of trade and trade practices which affect markets for agricultural, fishery and forestry products; and
- (c) A sharp drop in the productivity of ecosystems being the main consequence of desertification and drought, taking the form of a decline in agricultural, livestock and forestry yields and a loss of biological diversity; from the social point of view, the results are impoverishment, migration, internal population movements, and the deterioration of the quality of

life; the region will therefore have to adopt an integrated approach to problems of desertification and drought by promoting sustainable development models that are in keeping with the environmental, economic and social situation in each country.

### *Article 3*

#### ACTION PROGRAMMES

1. In conformity with the Convention, in particular its articles 9 to 11, and in accordance with their national development policies, affected country Parties of the region shall, as appropriate, prepare and implement national action programmes to combat desertification and mitigate the effects of drought as an integral part of their national policies for sustainable development. Subregional and regional programmes may be prepared and implemented in accordance with the requirements of the region.

2. In the preparation of their national action programmes, affected country Parties of the region shall pay particular attention to article 10, paragraph 2(f) of the Convention.

### *Article 4*

#### CONTENT OF NATIONAL ACTION PROGRAMMES

In the light of their respective situations, the affected country Parties of the region may take account, *inter alia*, of the following thematic issues in developing their national strategies for action to combat desertification and/or mitigate the effects of drought, pursuant to article 5 of the Convention:

- (a) Increasing capacities, education and public awareness, technical, scientific and technological cooperation and financial resources and mechanisms;
- (b) Eradicating poverty and improving the quality of human life;
- (c) Achieving food security and sustainable development and management of agricultural, livestock-rearing, forestry and multi-purpose activities;
- (d) Sustainable management of natural resources, especially the rational management of drainage basins;
- (e) Sustainable management of natural resources in high-altitude areas;
- (f) Rational management and conservation of soil resources and exploitation and efficient use of water resources;
- (g) Formulation and application of emergency plans to mitigate the effects of drought;
- (h) Strengthening and/or establishing information, evaluation and follow-up and early warning systems in areas prone to desertification and drought, taking account of climatological, meteorological, hydrological, biological, soil, economic and social factors;
- (i) Developing, managing and efficiently using diverse sources of energy, including the promotion of alternative sources;
- (j) Conservation and sustainable use of biodiversity in accordance with the provisions of the Convention on Biological Diversity;
- (k) Consideration of demographic aspects related to desertification and drought; and
- (l) Establishing or strengthening institutional and legal frameworks permitting application of the Convention and aimed, *inter alia*, at decentralizing administrative structures and functions relating to desertification and drought, with the participation of affected communities and society in general.

## *Article 5*

### TECHNICAL, SCIENTIFIC AND TECHNOLOGICAL COOPERATION

In conformity with the Convention, in particular its articles 16 to 18, and on the basis of the coordinating mechanism provided for in article 7, affected country Parties of the region shall, individually or jointly:

- (a) Promote the strengthening of technical cooperation networks and national, sub-regional and regional information systems, as well as their integration, as appropriate, in world-wide sources of information;
- (b) Prepare an inventory of available technologies and know-how and promote their dissemination and use;
- (c) Promote the use of traditional technology, knowledge, know-how and practices pursuant to article 18, paragraph 2(b), of the Convention;
- (d) Identify transfer of technology requirements; and
- (e) Promote the development, adaptation, adoption and transfer of relevant existing and new environmentally sound technologies.

## *Article 6*

### FINANCIAL RESOURCES AND MECHANISMS

In conformity with the Convention, in particular its articles 20 and 21, on the basis of the coordinating mechanism provided for in article 7 and in accordance with their national development policies, affected country Parties of the region shall, individually or jointly:

- (a) Adopt measures to rationalize and strengthen mechanisms to supply funds through public and private investment with a view to achieving specific results in action to combat desertification and mitigate the effects of drought;
- (b) Identify international cooperation requirements in support of national efforts; and
- (c) Promote the participation of bilateral and/or multilateral financial cooperation institutions with a view to ensuring implementation of the Convention.

## *Article 7*

### INSTITUTIONAL FRAMEWORK

1. In order to give effect to this Annex, affected country Parties of the region shall:

- (a) Establish and/or strengthen national focal points to coordinate action to combat desertification and/or mitigate the effects of drought; and
- (b) Set up a mechanism to coordinate the national focal points for the following purposes:
  - (i) Exchanges of information and experience;
  - (ii) Coordination of activities at the subregional and regional levels;
  - (iii) Promotion of technical, scientific, technological and financial cooperation;
  - (iv) Identification of external cooperation requirements; and
  - (v) Follow-up and evaluation of the implementation of action programmes.

2. Affected country Parties of the region shall hold periodic coordination meetings and the Permanent Secretariat may, at their request, pursuant to article 23 of the Convention, facilitate the convocation of such coordination meetings, by:

- (a) Providing advice on the organization of effective coordination arrangements, drawing on experience from other such arrangements;
- (b) Providing information to relevant bilateral and multilateral agencies concerning coordination meetings, and encouraging their active involvement; and
- (c) Providing other information that may be relevant in establishing or improving coordination processes.

## **ANNEX IV**

### **Regional Implementation Annex for the Northern Mediterranean**

#### *Article 1*

##### **PURPOSE**

The purpose of this annex is to provide guidelines and arrangements necessary for the effective implementation of the Convention in affected country Parties of the northern Mediterranean region in the light of its particular conditions.

#### *Article 2*

##### **PARTICULAR CONDITIONS OF THE NORTHERN MEDITERRANEAN REGION**

The particular conditions of the northern Mediterranean region referred to in article 1 include:

- (a) Semi-arid climatic conditions affecting large areas, seasonal droughts, very high rainfall variability and sudden and high-intensity rainfall;
- (b) Poor and highly erodible soils, prone to develop surface crusts;
- (c) Uneven relief with steep slopes and very diversified landscapes;
- (d) Extensive forest coverage losses due to frequent wildfires;
- (e) Crisis conditions in traditional agriculture with associated land abandonment and deterioration of soil and water conservation structures;
- (f) Unsustainable exploitation of water resources leading to serious environmental damage, including chemical pollution, salinization and exhaustion of aquifers; and
- (g) Concentration of economic activity in coastal areas as a result of urban growth, industrial activities, tourism and irrigated agriculture.

#### *Article 3*

##### **STRATEGIC PLANNING FRAMEWORK FOR SUSTAINABLE DEVELOPMENT**

1. National action programmes shall be a central and integral part of the strategic planning framework for sustainable development of the affected country Parties of the northern Mediterranean.

2. A consultative and participatory process, involving appropriate levels of government, local communities and non-governmental organizations, shall be undertaken to provide guidance on a strategy with flexible planning allow maximum local participation, pursuant to article 10, paragraph 2(f) of the Convention.

#### *Article 4*

##### OBLIGATION TO PREPARE NATIONAL ACTION PROGRAMMES AND TIMETABLE

Affected country Parties of the northern Mediterranean region shall prepare national action programmes and, as appropriate, subregional, regional or joint action programmes. The preparation of such programmes shall be finalized as soon as practicable.

#### *Article 5*

##### PREPARATION AND IMPLEMENTATION OF NATIONAL ACTION PROGRAMMES

In preparing and implementing national action programmes pursuant to articles 9 and 10 of the Convention, each affected country Party of the region shall, as appropriate:

- (a) Designate appropriate bodies responsible for the preparation, coordination and implementation of its programme;
- (b) Involve affected populations, including local communities, in the elaboration, coordination and implementation of the programme through a locally driven consultative process, with the cooperation of local authorities and relevant non-governmental organizations;
- (c) Survey the state of the environment in affected areas to assess the causes and consequences of desertification and to determine priority areas for action;
- (d) Evaluate, with the participation of affected populations, past and current programmes in order to design a strategy and elaborate activities in the action programme;
- (e) Prepare technical and financial programmes based on the information gained through the activities in subparagraphs (a) to (d); and
- (f) Develop and utilize procedures and benchmarks for monitoring and evaluating the implementation of the programme.

#### *Article 6*

##### CONTENT OF NATIONAL ACTION PROGRAMMES

Affected country Parties of the region may include, in their national action programmes, measures relating to:

- (a) Legislative, institutional and administrative areas;
- (b) Land-use patterns, management of water resources, soil conservation, forestry, agricultural activities and pasture and range management;
- (c) Management and conservation of wildlife and other forms of biological diversity;
- (d) Protection against forest fires;
- (e) Promotion of alternative livelihoods; and
- (f) Research, training and public awareness.



## Article 7

### SUBREGIONAL, REGIONAL AND JOINT ACTION PROGRAMMES

1. Affected country Parties of the region may, in accordance with article 11 of the Convention, prepare and implement subregional and/or regional action programmes in order to complement and increase the efficiency of national action programmes. Two or more affected country Parties of the region, may similarly agree to prepare a joint action programme between or among them.

2. The provisions of articles 5 and 6 shall apply *mutatis mutandis* to the preparation and implementation of subregional, regional and joint action programmes. In addition, such programmes may include the conduct of research and development activities concerning selected ecosystems in affected areas.

3. In preparing and implementing subregional, regional or joint action programmes, affected country Parties of the region shall, as appropriate:

(a) Identify, in cooperation with national institutions, national objectives relating to desertification which can better be met by such programmes and relevant activities which could be effectively carried out through them;

(b) Evaluate the operational capacities and activities of relevant regional, subregional and national institutions; and

(c) Assess existing programmes relating to desertification among Parties of the region and their relationship with national action programmes.

## Article 8

### COORDINATION OF SUBREGIONAL, REGIONAL AND JOINT ACTION PROGRAMMES

Affected country Parties preparing a subregional, regional or joint action programme may establish a coordination committee composed of representatives of each affected country Party concerned to review progress in combating desertification, harmonize national action programmes, make recommendations at the various stages of preparation and implementation of the subregional, regional or joint action programme, and act as a focal point for the promotion and coordination of technical cooperation pursuant to articles 16 to 19 of the Convention.

## Article 9

### NON-ELIGIBILITY FOR FINANCIAL ASSISTANCE

In implementing national, subregional, regional and joint action programmes, affected developed country Parties of the region are not eligible to receive financial assistance under this Convention.

## Article 10

### COORDINATION WITH OTHER SUBREGIONS AND REGIONS

Subregional, regional and joint action programmes in the northern Mediterranean region may be prepared and implemented in collaboration with those of other subregions or regions, particularly with those of the subregion of northern Africa.

**B. Treaties concerning international law concluded under the auspices of intergovernmental organizations related to the United Nations**

**1. INTERNATIONAL LABOUR ORGANIZATION\***

Convention and Recommendation concerning Part-time Work.<sup>13</sup>  
Done at Geneva on 24 June 1994<sup>14</sup>

The General Conference of the International Labour Organization,

*Having been convened* at Geneva by the Governing Body of the International Labour Office, and having met in its 81st Session on 7 June 1994, and

*Noting* the relevance, for part-time workers, of the provisions of the Equal Remunerative Convention, 1951, the Discrimination (Employment and Occupation) Convention, 1958, and the Workers with Family Responsibilities Convention and Recommendation, 1981, and

*Noting* the relevance for these workers of the Employment Promotion and Protection against Unemployment Convention, 1988, and the Employment Policy (Supplementary Provisions) Recommendation, 1984, and

*Recognizing* the importance of productive and freely chosen employment for all workers, the economic importance of part-time work, the need for employment policies to take into account the role of part-time work in facilitating additional employment opportunities, and the need to ensure protection for part-time workers in the areas of access to employment, working conditions and social security, and

*Having decided* upon the adoption of certain proposals with regard to part-time work, 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 ninety-four the following Convention, which may be cited as the Part-Time Work Convention, 1994:

*Article 1*

For the purposes of this Convention:

(a) The term “part-time worker” means an employed person whose normal hours of work are less than those of comparable full-time workers;

(b) The normal hours of work referred to in subparagraph (a) may be calculated weekly or on average over a given period of employment;

(c) The term “comparable full-time worker” refers to a full-time worker who:

(i) Has the same type of employment relationship;

(ii) Is engaged in the same or a similar type of work or occupation; and

- (iii) Is employed in the same establishment or, when there is no comparable full-time worker in that establishment, in the same enterprise or, when there is no comparable full-time worker in that enterprise, in the same branch of activity,

as the part-time worker concerned;

(d) Full-time workers affected by partial unemployment, that is by a collective and temporary reduction in their normal hours of work for economic, technical or structural reasons, are not considered to be part-time workers.

#### *Article 2*

This Convention does not affect more favorable provisions applicable to part-time workers under other international labour Conventions.

#### *Article 3*

1. This Convention applies to all part-time workers, it being understood that a Member may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from its scope particular categories of workers or of establishments when its application to them would raise particular problems of a substantial nature.

2. Each Member having ratified this Convention which avails itself of the possibility afforded in the preceding paragraph shall, in its reports on the application of the Convention under article 22 of the Constitution of the International Labour Organization, indicate any particular category of workers or of establishments thus excluded and the reasons why this exclusion was or is still judged necessary.

#### *Article 4*

Measures shall be taken to ensure that part-time workers receive the same protection as that accorded to comparable full-time workers in respect of:

- (a) The right to organize, the right to bargain collectively and the right to act as workers' representatives;
- (b) Occupational safety and health;
- (c) Discrimination in employment and occupation.

#### *Article 5*

Measures appropriate to national law and practice shall be taken to ensure that part-time workers do not, solely because they work part time, receive a basic wage which, calculated proportionately on an hourly, performance-related, or piece-rate basis, is lower than the basic wage of comparable full-time workers, calculated according to the same method.

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\* The order of the organizations reflects the chronological order, from earlier to most recent, of the effective date the United Nations entered into a relationship with the organization. All the organizations listed here are United Nations specialized agencies, except the IAEA, which is an autonomous intergovernmental organization under the aegis of the United Nations and is listed last.

#### *Article 6*

Statutory social security schemes which are based on occupational activity shall be adapted so that part-time workers enjoy conditions equivalent to those of comparable full-time workers; these conditions may be determined in proportion to hours of work, contributions or earnings, or through other methods consistent with national law and practice.

#### *Article 7*

Measures shall be taken to ensure that part-time workers receive conditions equivalent to those of comparable full-time workers in the fields of:

- (a) Maternity protection;
- (b) Termination of employment;
- (c) Paid annual leave and paid public holidays; and
- (d) Sick leave.

it being understood that pecuniary entitlements may be determined in proportion to hours of work or earnings.

#### *Article 8*

1. Part-time workers whose hours of work or earnings are below specified thresholds may be excluded by a member:

- (a) From the scope of any of the statutory social security schemes referred to in article 6, except in regard to employment injury benefits;
- (b) From the scope of any of the measures taken in the fields covered by article 7, except in regard to maternity protection measures other than those provided under statutory social security schemes.

2. The thresholds referred to in paragraph 1 shall be sufficiently low as not to exclude an unduly large percentage of part-time workers.

3. A member which avails itself of the possibility provided for in paragraph 1 above shall:

- (a) Periodically review the thresholds in force;
- (b) In its reports on the application of the Convention under article 22 of the Constitution of the International Labour Organization, indicate the thresholds in force, the reasons therefor and whether consideration is being given to the progressive extension of protection to the workers excluded.

4. The most representative organization of employers and workers shall be consulted on the establishment, review and revision of the thresholds referred to in this article.

#### *Article 9*

1. Measures shall be taken to facilitate access to productive and freely chosen part-time work which meets the needs of both employers and workers, provided that the protection referred to in articles 4 to 7 is ensured.

2. These measures shall include:

(a) The review of laws and regulations that may prevent or discourage recourse to or acceptance of part-time work;

(b) The use of employment services, where they exist, to identify and publicize possibilities for part-time work in their information and placement activities;

(c) Special attention, in employment policies, to the needs and preferences of specific groups such as the unemployed, workers with family responsibilities, older workers, workers with disabilities and workers undergoing education or training.

3. These measures may also include research and dissemination of information on the degree to which part-time work responds to the economic and social aims of employers and workers.

#### *Article 10*

Where appropriate, measures shall be taken to ensure that transfer from full-time to part-time work or vice versa is voluntary, in accordance with national law and practice.

#### *Article 11*

The provisions of this Convention shall be implemented by laws or regulations, except in so far as effect is given to them by means of collective agreements or in any other manner consistent with national practice. The most representative organizations or employers and workers shall be consulted before any such laws or regulations are adopted.

#### *Article 12*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

#### *Article 13*

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force 12 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 12 months after the date on which its ratification has been registered.

#### *Article 14*

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 15*

1. The Director-General of the International Labour Office shall notify all members of the International Labour Organization of the registration of all ratifications and denunciations communicated to him by the members of the Organization.

2. When notifying the members of the Organization of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the members of the Organization to the date upon which the Convention will come into force.

#### *Article 16*

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 denunciations registered by him in accordance with the provisions of the preceding Articles.

#### *Article 17*

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 18*

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 14 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 19

The English and French versions of the text of this Convention are equally authoritative.

#### Recommendation 182

##### RECOMMENDATIONS CONCERNING PART-TIME WORK

The General Conference of the International Labour Organizations,

*Having been convened* at Geneva by the Governing Body of the International Labour Office, and having met in its 81st Session on 7 June 1994, and

*Having decided* upon the adoption of certain proposals with regard to part-time work, which is the fourth item on the agenda of the session, and

*Having determined* that these proposals shall take the form of a Recommendation supplementing the Part-time Work Convention, 1994;

adopts this twenty-fourth day of June of the year one thousand nine hundred and ninety-four the following Recommendation, which may be cited as the Part-time Work Recommendation, 1994:

1. The provisions of this Recommendation should be considered in conjunction with those of the Part-time Work Convention, 1994 (hereafter referred to as “the Convention”).

2. For the purposes of this Recommendation:

(a) The term “part-time worker” means an employed person whose normal hours of work are less than those of comparable full-time workers;

(b) The normal hours of work referred to in clause (a) may be calculated weekly or on average over a given period of employment;

(c) The term “comparable full-time worker” refers to a full-time worker who:

(i) Has the same type of employment relationship;

(ii) Is engaged in the same or a similar type of work or occupation; and

(iii) Is employed in the same establishment or, when there is no comparable full-time worker in that establishment, in the same enterprise or, when there is no comparable full-time worker in that enterprise, in the same branch of activity,

as the part-time worker concerned;

(d) Full-time workers affected by partial unemployment, that is by a collective and temporary reduction in their normal hours of work for economic, technical or structural reasons, are not considered to be part-time workers.

3. This Recommendation applies to all part-time workers.

4. In accordance with national law and practice, employers should consult the representatives of the workers concerned on the introduction or extension of part-time work on a broad scale, on the rules and procedures applying to such work and on the protective and promotional measures that may be appropriate.

5. Part-time workers should be informed of their specific conditions of employment in writing or by any other means consistent with national law and practice.

6. The adaptations to be made in accordance with Article 6 of the Convention to statutory social security schemes which are based on occupational activity should aim at:

(a) If appropriate, progressively reducing threshold requirements based on earnings or hours of work as a condition for coverage by these schemes;

(b) As appropriate, granting to part-time workers minimum or flat-rate benefits, in particular old-age, sickness, invalidity and maternity benefits, as well as family allowance;

(c) Accepting in principle that part-time workers whose employment has come to an end or been suspended and who are seeking only part-time employment meet the condition of availability for work required for the payment of unemployment benefits;

(d) Reducing the risk that part-time workers may be penalized by schemes which:

(i) Subject the right to benefits to a qualifying period, expressed in terms of periods of contribution, of insurance or of employment during a given reference period; or

(ii) Fix the amount of benefits by reference both to the average of former earnings and to the length of the periods of contribution, of insurance or of employment.

7. (1) Where appropriate, threshold requirements for access to coverage under private occupational schemes which supplement or replace statutory social security schemes should be progressively reduced to allow part-time workers to be covered as widely as possible.

(2) Part-time workers should be protected by such schemes under conditions equivalent to those of comparable full-time workers. Where appropriate, these conditions may be determined in proportion to hours of work, contributions or earnings.

8. (1) As appropriate, threshold requirements based on hours of work or earnings as specified under article 8 of the Convention in the fields referred to in its article 7 should be progressively reduced.

(2) The periods of service required as a condition for protection in the fields referred to in article 7 of the Convention should not be longer for part-time workers than for comparable full-time workers.

9. Where part-time workers have more than one job, their total hours of work, contributions or earnings should be taken into account in determining whether they meet threshold requirements in statutory social security schemes which are based on occupation activity.

10. Part-time workers should benefit on an equitable basis from financial compensation, additional to basic wages, which is received by comparable full-time workers.

11. All appropriate measures should be taken to ensure that as far as practicable part-time workers have access on an equitable basis to the welfare facilities and social services of the establishment concerned; these facilities and services should, to the extent possible, be adapted to take into account the needs of part-time workers.



12. (1) The number and scheduling of hours of work of part-time workers should be established taking into account the interests of the worker as well as the needs of the establishment.

(2) As far as possible, changes in the agreed work schedule and work beyond scheduled hours should be subject to restrictions and to prior notice.

(3) The system of compensation for work beyond the agreed work schedule should be subject to negotiations in accordance with national law and practice.

13. In accordance with national law and practice, part-time workers should have access on an equitable basis, and as far as possible under equivalent conditions, to all forms of leave available to comparable full-time workers, in particular paid educational leave, parental leave and leave in cases of illness of a child or another member of a worker's immediate family.

14. Where appropriate, the same rules should apply to part-time workers as to comparable full-time workers with respect to scheduling of annual leave and work on customary rest days and public holidays.

15. Where appropriate, measures should be taken to overcome specific constraints on the access of part-time workers to training, career opportunities and occupational mobility.

16. Provisions of statutory social security schemes based on occupational activity that may discourage recourse to or acceptance of part-time work should be adapted, in particular those which:

(a) Result in proportionately higher contributions for part-time workers unless these are justified by corresponding proportionately higher benefits;

(b) Without reasonable grounds, significantly reduce the unemployment benefits of unemployed workers who temporarily accept part-time work;

(c) Overemphasize, in the calculation of old-age benefits, the reduced income from part-time work undertaken solely during the period preceding retirement.

17. Measures should be considered by employers to facilitate access to part-time work at all levels of the enterprise, including skilled and managerial positions where appropriate.

18. (1) Where appropriate, employers should give consideration to:

(a) Requests by workers for transfer from full-time to part-time work that becomes available in the enterprise; and

(b) Requests by workers for transfer from part-time to full-time work that becomes available in the enterprise.

(2) Employers should provide timely information to the workers on the availability of part-time and full-time positions in the establishment, in order to facilitate transfers from full-time to part-time work or vice versa.

19. A worker's refusal to transfer from full-time to part-time work or vice versa should not in itself constitute a valid reason for termination of employment, without prejudice to termination, in accordance with national law and practice, for other reasons such as may arise from the operational requirements of the establishment concerned.

20. Where national or establishment-level conditions permit, workers should be enabled to transfer to part-time work in justified cases, such as pregnancy or the need to care for a young child or a disabled or sick member of a worker's immediate family, and subsequently to return to full-time work.

21. Where obligations on employers depend on the number of the workers they employ, part-time workers should be counted as full-time workers. Nevertheless, where appropriate, part-time workers may be counted proportionately to their hours of work, it being understood that where such obligations refer to the protection mentioned in article 4 of the Convention, they should be counted as full-time workers.

22. Information should be disseminated on the protective measures that apply to part-time work and on practical arrangements for various part-time work schemes.

## 2. INTERNATIONAL MONETARY FUND

Agreement for the Establishment of the Joint Vienna Institute to Provide Training Support during the Transition of Central and Eastern European Countries to Market-based Economies.<sup>15</sup> Done on 19 August 1994<sup>16</sup>

The parties signatory hereto,

*Recognizing* the importance of assisting Central and Eastern European countries and countries formerly republics of the USSR. in their transition to market-based economies;

*Noting* that the training of officials from these countries is one important component of such assistance;

*Having regard* to the common interests of the Parties in establishing a training institute in Vienna, Austria, for this purpose; and

*Responding* to the invitation of the Republic of Austria to locate such an institute in Vienna;

*Have agreed* as follows:

### *Article I*

#### ESTABLISHMENT AND STATUS

1. There is hereby established the Joint Vienna Institute (the "Institute") as an international organization with full juridical personality.
2. The Institute shall operate in accordance with this Agreement.

### *Article II*

#### PURPOSE AND ACTIVITIES

1. The purpose of the Institute shall be to provide training to support and supplement the national efforts of the countries of Central and Eastern Europe, the countries formerly republics of the USSR and other countries, in their transition from centrally planned economies to market-based economies.

2. To this end, the Institute shall offer courses of instruction of the highest standard and of direct relevance to the purpose of paragraph 1 above, including courses in the areas of administrative and economic and financial management. The Institute shall provide training primarily to public officials, and to other persons, with due regard to the role of the private sector. The Institute will also assist training institutes by providing training and other support.

### *Article III*

#### POWERS

The Institute shall have the capacity:

- (a) To contract;
- (b) To acquire and dispose of immovable and movable property;
- (c) To institute and respond to legal proceedings; and
- (d) To take such other action as may be necessary or useful for its purpose and activities.

### *Article IV*

#### HEADQUARTERS

- 1. The headquarters of the Institute shall be located in Vienna, Austria, under such terms and conditions as agreed between the Institute and the Republic of Austria.
- 2. The Institute may establish facilities in other locations as required to support its activities.

### *Article V*

#### ORGANIZATION AND MANAGEMENT

##### *1. Structure of the Institute*

The Institute shall have an Executive Board, an Advisory Committee, a Director, and staff.

##### *2. Executive Board*

- (a) The Executive Board (the "Board") shall be responsible for the conduct of the business of the Institute.
- (b) Each of the Parties shall appoint one member to the Board and one Alternate Member to act for the member when he is unable to serve.
- (c) The Board shall elect a Chairman and a Vice-Chairman from among its members.
- (d) The Board shall meet at least once a year. Meetings of the Board shall be called by the Chairman as required or when requested by at least two members of the Board.
- (e) A majority of members of the Board shall constitute a quorum for any meeting of the Board.

(f) Decisions of the Board shall be taken by a majority of votes cast, provided that:

- (i) The following decisions shall be subject to the approval of all Members voting: decisions under article V, paragraph 2(g)(i), article V, paragraph 2(g)(iii), article V, paragraph 2(g)(vi), and article XVI; and
- (ii) The following decisions shall be subject to the approval of four fifths of all Members voting: decisions approving the work program under article V, paragraph 2(g)(ii), and decisions approving the annual budget under article V, paragraph 2(g)(iv).

(g) The Board shall:

- (i) Adopt by-laws for the governance of the Institute in accordance with this Agreement, including by-laws for the implementation of the provisions of article IX, paragraphs 3 and 4;
- (ii) Determine the Institute's policies and approve its work program;
- (iii) Select the Director and external auditor of the Institute;
- (iv) Approve the Institute's annual budget, audited financial statements and reports;
- (v) Appoint members of the Advisory Committee; and
- (vi) Approve agreements to be concluded under article VIII.

### 3. *Director and Staff*

(a) The Director shall be chief of the operating staff of the Institute and shall, under the direction of the Board:

- (i) Conduct the ordinary business of the Institute;
- (ii) Represent the Institute in its dealings with third parties; and
- (iii) Do and perform all other acts necessary to further the purpose of the Institute.

(b) The Director shall serve for a term of two years, subject to renewal.

(c) The Director shall be responsible entirely to the Board, and to no other authority, for operating and managing the Institute in accordance with this Agreement, the by-laws and other decisions of the Board.

(d) Subject to the general control of the Board, the Director shall be responsible for the organization, appointment and dismissal of the staff of the Institute. In appointing the staff, the Director shall secure the highest standards of efficiency and of technical competence.

### 4. *Advisory Committee*

The Advisory Committee shall consist of members appointed by the Board, including representatives of countries referred to in Article II, paragraph 1, to advise it on the Institute's general training policies and programs.

## *Article VI*

### ASSOCIATE MEMBERS

1. The Board may appoint major contributors to the Institute as Associate Members for such periods of time as it shall determine.
2. The Board may invite Associate Members to participate in its meetings for particular agenda items. Associate Members shall have no right to vote.
3. The Institute shall provide Associate Members with copies of its work program, annual budget, and of its annual report referred to in Article IX, paragraph 4.

## *Article VI*

### COOPERATIVE RELATIONSHIPS

The Institute may establish cooperative relationships with any public or private entity, including other training and teaching institutions.

## *Article VIII*

### PRIVILEGES AND IMMUNITIES

1. The Institute, the Members of the Board and their alternates, members of the Advisory Committee, the Director, staff and experts shall enjoy such privileges and immunities as agreed between the Institute and the Republic of Austria.
2. The Institute may conclude agreements with other countries in order to secure appropriate privileges and immunities.

## *Article IX*

### FINANCES AND REPORTS

1. The resources of the Institute shall include the following:
  - (a) Voluntary contributions by each Party;
  - (b) Contributions by the Republic of Austria;
  - (c) Contributions from other sources; and
  - (d) Income accruing from such contributions and other income.
2. The fiscal year of the Institute shall be the calendar year.
3. Each year, the Director shall prepare and submit to the Board, for its approval, the annual work program and budget.
4. Each year, the Director shall prepare and submit to the Board, for its approval, an annual report containing an audited statement of the Institute's accounts and a summary of the activities of the Institute. Such audit shall be conducted by an independent external auditor selected by the Board.

## *Article X*

### LIABILITY

1. No Party or Associate Member shall be required to provide financial support to the Institute beyond such contributions it has pledged.

2. The Parties shall not be responsible, individually or collectively, for any debts, liabilities, or other obligations of the Institute; a statement to this effect shall be included in each of the agreements concluded by the Institute under article VIII.

#### *Article XI*

##### AMENDMENTS

This Agreement may be amended only with the agreement of all Parties.

#### *Article XII*

##### COMING INTO FORCE AND DEPOSITARY

1. This Agreement shall be open for signature by the following organizations: The Bank for International Settlements, the European Bank for Reconstruction and Development, the International Bank for Reconstruction and Development, the International Monetary Fund and the Organization for Economic Cooperation and Development.

2. This Agreement shall come into force upon signature by four of the above-named organizations and shall remain open for signature by such organizations for a period of one year from the date of its coming to force.

3. The Federal Minister for Foreign Affairs of the Republic of Austria shall be the depositary of this Agreement.

#### *Article XIII*

##### SETTLEMENT OF DISPUTES

Any dispute arising between the Institute and any Party or between any Parties under this Agreement shall be settled by negotiation or other agreed means of settlement.

#### *Article XIV*

##### WITHDRAWAL

1. Any of the Parties may withdraw from this Agreement by written notification to the depositary. Such withdrawal shall become effective three months after receipt of such notification by the depositary.

2. Withdrawal from this Agreement by a Party shall not limit, reduce or otherwise affect its pledged contribution for the fiscal year in which it withdraws.

#### *Article XV*

##### TERMINATION

1. The duration of this Agreement shall be five years from the date of its coming into force unless the Parties unanimously decide to extend the duration of this Agreement by one or more successive periods of twelve months. At the expiration of this initial term of five years or any extension thereof, the Parties shall forthwith wind up the Institute by written notification to the depositary. Any assets of the Institute remaining after payment of its legal obligations shall be disposed of in accordance with a decision of the Board.

2. Notwithstanding paragraph 1, the Parties acting unanimously may terminate this Agreement at any time and wind up the Institute by written notification to the depositary. Any assets of the Institute remaining after payment of its legal obligations shall be disposed of in accordance with a decision of the Board.

3. The provisions of this Agreement shall survive its termination to the extent necessary to permit an orderly disposal of assets and settlement of accounts.

#### *Article XVI*

##### ACCESSION

This Agreement shall be open for signature by such international organizations as may be decided by the Board.

IN WITNESS WHEREOF, the undersigned, being duly authorized, have signed this Agreement on the dates indicated below.

### 3. WORLD INTELLECTUAL PROPERTY ORGANIZATION

Trademark Law Treaty and Regulations.<sup>17</sup> Done at Geneva  
on 27 October 1994<sup>18</sup>

#### *Article 1*

##### ABBREVIATED EXPRESSIONS

For the purposes of this Treaty, unless expressly stated otherwise:

- (i) “Office” means the agency entrusted by a Contracting Party with the registration of marks;
- (ii) “registration” means the registration of a mark by an Office;
- (iii) “application” means an application for registration;
- (iv) references to a “person” shall be construed as references to both a natural person and a legal entity;
- (v) “holder” means the person whom the register of marks shows as the holder of the registration;
- (vi) “register of marks” means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored;
- (vii) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed at Paris on 20 March 1883, as revised and amended;
- (viii) “Nice Classification” means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on 15 June 1957, as revised and amended;

- (ix) “Contracting Party” means any State or intergovernmental organization party to this Treaty;
- (x) references to an “instrument of ratification” shall be construed as including references to instruments of acceptance and approval;
- (xi) “Organization” means the World Intellectual Property Organization;
- (xii) “Director General” means the Director General of the Organization;
- (xiii) “Regulations” means the Regulations under this Treaty that are referred to in article 17.

## *Article 2*

### MARKS TO WHICH THE TREATY APPLIES

(1) [*Nature of marks*] (a) This Treaty shall apply to marks consisting of visible signs, provided that only those Contracting Parties which accept for registration three-dimensional marks shall be obliged to apply this Treaty to such marks.

(b) This Treaty shall not apply to hologram marks and to marks not consisting of visible signs, in particular, sound marks and olfactory marks.

(2) [*Kind of marks*] (a) This Treaty shall apply to marks relating to goods (trademarks) or services (service marks) or both goods and services.

(b) This Treaty shall not apply to collective marks, certification marks and guarantee marks.

## *Article 3*

### APPLICATION

(1) [*Indications or elements contained in or accompanying an application; fee*] (a) Any Contracting Party may require that an application contain some or all of the following indications or elements:

- (i) A request for registration;
- (ii) The name and address of the applicant;
- (iii) The name of a State of which the applicant is a national if he is the national of any State, the name of a State in which the applicant has his domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;
- (iv) Where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
- (v) Where the applicant has a representative, the name and address of that representative;
- (vi) Where an address for service is required under article 4(2)(b), such address;



- (vii) Where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration of priority that may be required pursuant to article 4 of the Paris Convention;
- (viii) Where the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition, a declaration to that effect, together with indications in support of that declaration, as required by the law of the Contracting Party;
- (ix) Where the Office of the Contracting Party uses characters (letters and numbers) that it considers as being standard and where the applicant wishes that the mark be registered and published in standard characters, a statement to that effect;
- (x) Where the applicant wishes to claim color as a distinctive feature of the mark, a statement to that effect as well as the name or names of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color;
- (xi) Where the mark is a three-dimensional mark, a statement to that effect;
- (xii) One or more reproductions of the mark;
- (xiii) A transliteration of the mark or of certain parts of the mark;
- (xiv) A translation of the mark or of certain parts of the mark;
- (xv) The names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;
- (xvi) A signature by the person specified in paragraph (4);
- (xvii) A declaration of intention to use the mark, as required by the law of the Contracting Party.

(b) The applicant may file, instead of or in addition to the declaration of intention to use the mark referred to in subparagraph (a)(xvii), a declaration of actual use of the mark and evidence to that effect, as required by the law of the Contracting Party.

(c) Any Contracting Party may require that, in respect of the application, fees be paid to the Office.

(2) [*Presentation*] As regards the requirements concerning the presentation of the application, no Contracting Party shall refuse the application,

- (i) Where the application is presented in writing on paper, if it is presented, subject to paragraph (3), on a form corresponding to the application form provided for in the Regulations,
  - (ii) Where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the application is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to paragraph (3), to the application Form referred to in item (I).
- (3) *[Language]* Any Contracting Party may require that the application be in the language, or in one of the languages, admitted by the Office. Where the Office admits more than one language, the applicant may be required to comply with any other language requirement applicable with respect to the Office, provided that the application may not be required to be in more than one language.
- (4) *[Signature]* (a) The signature referred to in paragraph (1)(a)(xvi) may be the signature of the applicant or the signature of his representative.
- (b) Notwithstanding subparagraph (a), any Contracting Party may require that the declarations referred to in paragraph (1)(a)(xvii) and (b) be signed by the applicant himself even if he has a representative.
- (5) *[Single application for goods and/or services in several classes]* One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.
- (6) *[Actual uses]* Any Contracting Party may require that where a declaration of intention to use has been filed under paragraph (1)(a)(xvii), the applicant furnish to the Office within a time limit fixed in its law, subject to the minimum time limit prescribed in the Regulations, evidence of the actual use of the mark, as required by the said law.
- (7) *[Prohibition of other requirements]* No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (4) and (6) be complied with in respect of the application. In particular, the following may not be required in respect of the application throughout its pendency:
- (i) The furnishing of any certificate of, or extract from, a register of commerce;
  - (ii) An indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;
  - (iii) An indication of applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;
  - (iv) The furnishing of evidence to the effect that the mark has been registered in the register of marks of another Contracting Party or of a State party to the Paris Convention which is not a Contracting Party, except where the applicant claims the application of article 6 *quinquies* of the Paris Convention.

(8) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the application where the Office may reasonably doubt the veracity of any indication or element contained in the application.

#### Article 4

##### REPRESENTATION; ADDRESS FOR SERVICE

(1) [*Representatives admitted to practice*] Any Contracting Party may require that any person appointed as representative for the purposes of any procedure before the Office be a representative admitted to practice before the Office.

(2) [*Mandatory representation; Address for service*] (a) Any Contracting Party may require that, for the purposes of any procedure before the Office, any person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory be represented by a representative.

(b) Any Contracting Party may, to the extent that it does not require representation in accordance with subparagraph (a), require that, for the purposes of any procedure before the Office, any person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory have an address for service on that territory.

(3) [*Power of attorney*] (a) Whenever a Contracting Party allows or requires an applicant, a holder or any other interested person to be represented by a representative before the Office, it may require that the representative be appointed in a separate communication (hereinafter referred to as “power of attorney”) indicating the name of, and signed by, the applicant, the holder or the other person, as the case may be.

(b) The power of attorney may relate to one or more applications and/or registrations identified in the power of attorney or, subject to any exception indicated by the appointing person, to all existing and future applications and/or registrations of that person.

(c) The power of attorney may limit the powers of the representative to certain acts. Any Contracting Party may require that any power of attorney under which the representative has the right to withdraw an application or to surrender a registration contain an express indication to that effect.

(d) Where a communication is submitted to the Office by a person who refers to himself in the communication as a representative but where the Office is, at the time of the receipt of the communication, not in possession of the required power of attorney, the Contracting Party may require that the power of attorney be submitted to the Office within the time limit fixed by the Contracting Party, subject to the minimum time limit prescribed in the Regulations. Any Contracting Party may provide that, where the power of attorney has not been submitted to the Office within the time limit fixed by the Contracting Party, the communication by the said person shall have no effect.

(e) As regards the requirements concerning the presentation and contents of the power of attorney, no Contracting Party shall refuse the effects of the power of attorney,

- (i) Where the power of attorney is presented in writing on paper, if it is presented, subject to paragraph (4), on a form corresponding to the power of attorney Form provided for in the Regulations,
  - (ii) Where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the power of attorney is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to paragraph (4), to the power of attorney Form referred to in item (I).
- (4) *[Language]* Any Contracting Party may require that the power of attorney be in the language, or in one of the languages, admitted by the Office.
- (5) *[Reference to power of attorney]* Any Contracting Party may require that any communication made to the Office by a representative for the purposes of a procedure before the Office contain a reference to the power of attorney on the basis of which the representative acts.
- (6) *[Prohibition of other requirements]* No Contracting Party may demand that requirements other than those referred to in paragraphs (3) to (5) be complied with in respect of the matters dealt with in those paragraphs.
- (7) *[Evidence]* Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraphs (2) to (5).

#### *Article 5*

##### FILING DATE

- (1) *[Permitted requirements]* (a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office received the following indications and elements in the language required under article 3 (3):
- (i) An express or implicit indication that the registration of a mark is sought;
  - (ii) Indications allowing the identity of the applicant to be established;
  - (iii) Indications sufficient to contact the applicant or his representative, if any, by mail;
  - (iv) A sufficiently clear reproduction of the mark whose registration is sought;
  - (v) The list of the goods and/or service for which the registration is sought;
  - (vi) Where article 3(1)(a)(xvii) or (b) applies, the declaration referred to in article 3(1)(a)(xvii) or the declaration and evidence referred to in article 3(1)(b), respectively, as required by the law of the Contracting Party, those declarations being, if so required by the said law, signed by the applicant himself even if he has a representative.
- (b) Any Contracting Party may accord as the filing date of the application the date on which the Office received only some, rather than all, of the indications and elements referred to in subparagraph (a) or received them in a language other than the language required under article 3(3).

(2) [*Permitted additional requirement*] (a) A Contracting Party may provide that no filing date shall be accorded until the required fees are paid.

(b) A Contracting Party may apply the requirement referred to in subparagraph (a) only if it applied such requirement at the time of becoming party to this Treaty.

(3) [*Corrections and time limits*] The modalities of, and time limits for, corrections under paragraphs (1) and (2) shall be fixed in the Regulations.

(4) [*Prohibited of other requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the filing date.

#### Article 6

##### SINGLE REGISTRATION FOR GOODS AND/OR SERVICES IN SEVERAL CLASSES

Where goods and/or service belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.

#### Article 7

##### DIVISION OF APPLICATION AND REGISTRATION

(1) [*Division of application*] (a) Any application listing several goods and/or services (hereinafter referred to as “initial application”) may,

- (i) At least until the decision by the Office on the registration of the mark,
- (ii) During any opposition proceedings against the decision of the Office to register the mark,
- (iii) During any appeal proceedings against the decision on the registration of the mark, be divided by the applicant or at his request into two or more applications (hereinafter referred to as “divisional applications”) by distributing among the latter the goods and/or services listed in the initial application. The divisional applications shall preserve the filing date of the initial application and the benefit of the right priority, if any.

(b) Any Contracting Party shall, subject to subparagraph (a), be free to establish requirements for the division of an application, including the payment of fees.

(2) [*Division of Registration*] Paragraph (1) shall apply, *mutatis mutandis*, with respect to a division of a registration. Such a division shall be permitted:

- (i) During any proceedings in which the validity of the registration is challenged before the Office by a third party,
- (ii) During any appeal proceedings against a decision taken by the Office during the former proceedings,

provided that a Contracting Party may exclude the possibility of the division of registrations if its law allows third parties to oppose the registration of a mark before the mark is registered.

## Article 8

### SIGNATURE

(1) [*Communication on paper*] Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party:

- (i) Shall, subject to item (iii), accept a handwritten signature,
- (ii) Shall be free to allow, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal,
- (iii) May, where the natural person who signs the communication is its national and such person's address is in its territory, require that a seal be used instead of a handwritten signature,
- (iv) May, where a seal is used, require that the seal be accompanied by an indication in letters of the name of the natural person whose seal is used.

(2) [*Communications by telefacsimile*] (a) Where a Contracting Party allows the transmittal of communications to the Office by telefacsimile, it shall consider the communication signed if, on the printout produced by the telefacsimile, the reproduction of the signature, or the reproduction of the seal together with, where required under paragraph (1)(iv), the indication in letters of the name of the natural person whose seal is used, appears.

(b) The Contracting Party referred to in subparagraph (a) may require that the paper whose reproduction was transmitted by telefacsimile be filed with the Office within a certain period, subject to the minimum period prescribed in the Regulations.

(3) [*Communication by electronic means*] Where a Contracting Party allows the transmittal of communications to the Office by electronic means, it shall consider the communication signed if the latter identifies the sender of the communication by electronic means as prescribed by the Contracting Party.

(4) [*Prohibition of requirement of certification*] No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature or other means of self-identification referred to in the preceding paragraphs, except, if the law of the Contracting Party so provides, where the signature concerns the surrender of a registration.

## Article 9

### CLASSIFICATION OF GOODS AND/OR SERVICES

(1) [*Indications of goods and/or services*] Each registration and any publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate the goods and/or services by their names, grouped according to the classes of the Nice Classification, and each group shall be preceded by the number of the class of that Classification to which that group of goods or services belongs and shall be presented in the order of the classes of the said Classification.

(2) [*Goods or services in the same class or in different classes*] (a) Goods or services may not be considered as being similar to each other on the ground that, in any registration or publication by the Office, they appear in the same class of the Nice Classification.

(b) Goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication by the Office, they appear in different classes of the Nice Classification.

#### Article 10

##### CHANGES IN NAMES OR ADDRESSES

(1) [*Changes in the name or address of the holder*] (a) Where there is no change in the person of the holder but there is a change in his name and/or address, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made in a communication signed by the holder or his representative and indicating the registration number of the registration concerned and the change to be recorded. As regards the requirements concerning the presentation of the request, no Contracting Party shall refuse the request,

- (i) Where the request is presented in writing on paper, if it is presented, subject to subparagraph (c), on a form corresponding to the request form provided for in the Regulations,
  - (ii) Where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the request is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to subparagraph (c), to the request form referred to in item (i).
- (b) Any Contracting Party may require that the request indicate:
- (i) The name and address of the holder;
  - (ii) Where the holder has a representative, the name and address of that representative;
  - (iii) Where the holder has an address for service, such address.

(c) Any Contracting Party may require that the request be in the language, or in one of the languages, admitted by the Office.

(d) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(e) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) [*Change in the name or address of the applicant*] Paragraph (1) shall apply, *mutatis mutandis*, where the change concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) [*Change in the name or address of the representative or in the address for service*] Paragraph (1) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, if any, and to any change relating to the address for service, if any.

(4) [*Prohibition of other requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

## Article 11

### CHANGE IN OWNERSHIP

(1) [*Change in the ownership of a registration*] (a) Where there is a change in the person of the holder, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made in a communication signed by the holder or his representative, or by the person who acquired the ownership (hereinafter referred to as “new owner”) or his representative, and indicating the registration number of the registration concerned and the change to be recorded. As regards the requirements concerning the presentation of the request, no Contracting Party shall refuse the request,

(i) Where the request is presented in writing on paper, if it is presented, subject to paragraph (2)(a), on a form corresponding to the request form provided for in the Regulations,

(ii) Where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the request is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to paragraph (2)(a), to the request form referred to in item (I).

(b) Where the change in ownership results from a contract, any Contracting Party may require that the request indicate that fact and be accompanied, at the option of the requesting party, by one of the following:

(i) A copy of the contract, which copy may be required to be certified, by a notary public or any other competent public authority, as being in conformity with the original contract;

(ii) An extract of the contract showing the change in ownership, which extract may be required to be certified, by a notary public or any other competent public authority, as being a true extract of the contract;

(iii) An uncertified certificate of transfer drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner;

(iv) An uncertified transfer document drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner.

(c) Where the change in ownership results from a merger, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document, which document originates from the competent authority and evi-



dences the merger, such as a copy of an extract from a register of commerce, and that that copy be certified by the authority which issued the document or by a notary public or any other competent public authority, as being in conformity with the original document.

(d) Where there is a change in the person of one or more but not all of several co-holders and such change in ownership results from a contract or a merger, any Contracting Party may require that any co-holder in respect of which there is no change in ownership give his express consent to the change in ownership in a document signed by him.

(e) Where the change in ownership does not result from a contract or a merger but from another ground, for example, from operation of law or a court decision, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document evidencing the change and that that copy be certified as being in conformity with the original document by the authority which issued the document or by a notary public or any other competent public authority.

(f) Any Contracting Party may require that the request indicate:

- (i) The name and address of the holder;
- (ii) The name and address of the new owner;
- (iii) The name of a State of which the new owner is a national if he is the national of any State, the name of a State in which the new owner has his domicile, if any, and the name of a State in which the new owner has a real and effective industrial or commercial establishment, if any;
- (iv) Where the new owner is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
- (v) Where the holder has a representative, the name and address of that representative;
- (vi) Where the holder has an address for service, such address;
- (vii) Where the new owner has a representative, the name and address of that representative;
- (viii) Where the new owner is required to have an address for service under article 4(2)(b), such address.

(g) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(h) A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(i) Where the change of ownership does not affect all the goods and/or services listed in the holder's registration, and the applicable law allows the recording of such change, the Office shall create a separate registration referring to the goods and/or services in respect of which the ownership has changed.

(2) [*Language; Translation*] (a) Any Contracting Party may require that the request, the certificate of transfer or the transfer document referred to in paragraph (1) be in the language, or in one of the languages, admitted by the Office.

(b) Any Contracting Party may require that, if the documents referred to in paragraph (1)(b)(i) and (ii), (c) and (e) are not in the language, or in one of the languages, admitted by the Office, the request be accompanied by a translation or a certified translation of the required document in the language, or in one of the languages, admitted by the Office.

(3) [*Change in the ownership of an application*] Paragraphs (1) and (2) shall apply, *mutatis mutandis*, where the change in ownership concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.

(4) [*Prohibition of other requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of the request referred to in this article. In particular, the following may not be required:

- (i) Subject to paragraph (1)(c), the furnishing of any certificate of, or extract from, a register of commerce;
- (ii) An indication of the new owner's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;
- (iii) An indication of the new owner's carrying on of an activity corresponding to the goods and/or services affected by the change in ownership, as well as the furnishing of evidence to either effect;
- (iv) An indication that the holder transferred, entirely or in part, his business or the relevant goodwill to the new owner, as well as the furnishing of evidence to either effect.

(5) [*Evidence*] Any Contracting Party may require that evidence, or further evidence where paragraph (1)(c) or (e) applies, be furnished to the Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Article.

## Article 12

### CORRECTION OF A MISTAKE

(1) [*Correction of a mistake in respect of a registration*] (a) Each Contracting Party shall accept that the request for the correction of a mistake which was made in the application or other request communicated to the Office and which mistake is reflected in its register of marks and/or any publication by the Office be made in a communication signed by the holder or his representative and indicating the registration number of the registration concerned, the mistake to be corrected and the correction to be entered. As regards the requirements concerning the presentation of the request, no Contracting Party shall refuse the request,

- (i) Where the request is presented in writing on paper, if it is presented, subject to subparagraph (c), on a form corresponding to the request form provided for in the Registration,
  - (ii) Where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the request is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to subparagraph (c), to the request form referred to in item (i).
- (b) Any Contracting Party may require that the request indicate:
- (i) The name and address of the holder;
  - (ii) Where the holder has a representative, the name and address of that representative;
  - (iii) Where the holder has an address for service, such address.
- (c) Any Contracting Party may require that the request be in the language, or in one of the languages, admitted by the Office.
- (d) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.
- (e) A single request shall be sufficient even where the correction relates to more than one registration of the same person, provided that the mistake and the requested correction are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.
- (2) [*Correction of a mistake in respect of an application*] Paragraph (1) shall apply, *mutatis mutandis*, where the mistake concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or his representative, the request otherwise identifies that application as prescribed in the Regulations.
- (3) [*Prohibition of other requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the request referred to in this Article.
- (4) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake.
- (5) [*Mistakes made by the Office*] The Office of a Contracting Party shall correct its own mistakes, *ex officio* or upon request, for no fee.
- (6) [*Uncorrectable mistakes*] No Contracting Party shall be obliged to apply paragraphs (1), (2) and (5) to any mistake which cannot be corrected under its law.

### Article 13

#### DURATION AND RENEWAL OF REGISTRATION

- (1) [*Indications or elements contained in or accompanying a request for renewal; Fee*] (a) Any Contracting Party may require that the renewal of a registra-

tion be subject to the filing of a request and that such request contain some or all of the following indications:

- (i) An indication that renewal is sought;
- (ii) The name and address of the holder;
- (iii) The registration number of the registration concerned;
- (iv) At the option of the Contracting Party, the filing date of the application which resulted in the registration concerned or the registration date of the registration concerned;
- (v) Where the holder has a representative, the name and address of that representative;
- (vi) Where the holder has an address for service, such address;
- (vii) Where the Contracting Party allows the renewal of a registration to be made for some only of the goods and/or services which are recorded in the register of marks and such a renewal is requested, the names of the recorded goods and/or services for which the renewal is requested or the names of the recorded goods and/or services for which the renewal is not requested, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;
- (viii) Where a Contracting Party allows a request for renewal to be filed by a person other than the holder or his representative and the request is filed by such a person, the name and address of that person;
- (ix) A signature by the holder or his representative or, where item (viii) applies, a signature by the person referred to in that item.

(b) Any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office. Once the fee has been paid in respect of the initial period of the registration or of any renewal period, no further payment may be required for the maintenance of the registration in respect of that period. Fees associated with the furnishing of a declaration and/or evidence of use shall not be regarded, for the purposes of this subparagraph, as payments required for the maintenance of the registration and shall not be affected by this subparagraph.

(c) Any Contracting Party may require that the request for renewal be presented, and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Party, subject to the minimum periods prescribed in the Regulations.

(2) [*Presentation*] As regards the requirements concerning the presentation of the request for renewal, no Contracting Party shall refuse the request,

- (i) Where the request is presented in writing on paper, if it is presented, subject to paragraph (3), on a form corresponding to the request form provided for in the Regulations,
  - (ii) Where the Contracting Party allows the transmittal of communications to the Office by telefacsimile and the request is so transmitted, if the paper copy resulting from such transmittal corresponds, subject to paragraph (3), to the request form referred to in item (I).
- (3) [*Language*] Any Contracting Party may require that the request for renewal be in the language, or in one of the languages, admitted by the Office.
- (4) [*Prohibition of other requirements*] No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) be complied with in respect of the request for renewal. In particular, the following may not be required:
- (i) Any reproduction or other identification of the mark;
  - (ii) The furnishing of evidence to the effect that the mark has been registered, or that its registration has been renewed, in the register of marks of any other Contracting Party;
  - (iii) The furnishing of a declaration and/or evidence concerning the use of the mark.
- (5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the request for renewal where the Office may reasonably doubt the veracity of any indication or element contained in the request for renewal.
- (6) [*Prohibition of substantive examination*] No Office of a Contracting Party may, for the purposes of effecting the renewal, examine the registration as to substance.
- (7) [*Duration*] The duration of the initial period of the registration, and the duration of each renewal period, shall be 10 years.

#### *Article 14*

##### OBSERVATIONS IN CASE OF INTENDED REFUSAL

An application or a request under articles 10 to 13 may not be refused totally or in part by an Office without giving the applicant or the requesting party, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit.

#### *Article 15*

##### OBLIGATION TO COMPLY WITH THE PARIS CONVENTION

Any Contracting Party shall comply with the provisions of the Paris Convention which concern marks.

### *Article 16*

#### SERVICE MARKS

Any Contracting Party shall register service marks and apply to such marks the provisions of the Paris Convention which concern trademarks.

### *Article 17*

#### REGULATIONS

(1) [*Content*] (a) The Regulations annexed to this Treaty provide rules concerning:

- (i) Matters which this Treaty expressly provides to be “prescribed in the Regulations”;
  - (ii) Any details useful in the implementation of the provisions of this Treaty;
  - (iii) Any administrative requirements, matters or procedures.
- (b) The Regulations also contain Model International Forms.

(2) [*Conflict between the Treaty and the Regulations*] In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail.

### *Article 18*

#### REVISION; PROTOCOLS

- (1) [*Revision*] This Treaty may be revised by a diplomatic conference.
- (2) [*Protocols*] For the purposes of further developing the harmonization of laws on marks, protocols may be adopted by a diplomatic conference in so far as those protocols do not contravene the provisions of this Treaty.

### *Article 19*

#### BECOMING PARTY TO THE TREATY

(1) [*Eligibility*] The following entities may sign and, subject to paragraphs (2) and (3) and article 20(1) and (3), become party to this Treaty:

- (i) Any State member of the Organization in respect of which marks may be registered with its own Office;
- (ii) Any intergovernmental organization which maintains an Office in which marks may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its member States or in those of its member States which are designated for such purpose in the relevant application, provided that all the member States of the intergovernmental organization are members of the Organization;

- (iii) Any State member of the Organization in respect of which marks may be registered only through the Office of another specified State that is a member of the Organization;
  - (iv) Any State member of the Organization in respect of which marks may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;
  - (v) Any State member of the Organization in respect of which marks may be registered only through an Office common to a group of States members of the Organization.
- (2) [*Ratification or accession*] Any entity referred to in paragraph (1) may deposit:
- (i) An instrument of ratification, if it has signed this Treaty,
  - (ii) An instrument of accession, if it has not signed this Treaty.
- (3) [*Effective date of deposit*] (a) Subject to subparagraph (b), the effective date of the deposit of an instrument of ratification or accession shall be,
- (i) In the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;
  - (ii) In the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;
  - (iii) In the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other, specified State has been deposited;
  - (iv) In the case of a State referred to in paragraph (1)(iv), the date applicable under (ii), above;
  - (v) In the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.
- (b) Any instrument of ratification or accession (referred to in this subparagraph as “instrument”) of a State may be accompanied by a declaration making it a condition to its being considered as deposited that the instrument of one other State or one intergovernmental organization, or the instruments of two other States, or the instruments of one other State and one intergovernmental organization, specified by name and eligible to become party to this Treaty, is or are also deposited. The instrument containing such a declaration shall be considered to have been deposited on the day on which the condition indicated in the declaration is fulfilled. However, when the deposit of any instrument specified in the declaration is, itself, accompanied by a declaration of the said kind, that instrument shall be considered as deposited on the day on which the condition specified in the latter declaration is fulfilled.

(c) Any declaration made under paragraph (b) may be withdrawn, in its entirety or in part, at any time. Any such withdrawal shall become effective on the date on which the notification of withdrawal is received by the Director General.

#### Article 20

##### EFFECTIVE DATE OF RATIFICATIONS AND ACCESSIONS

(1) [*Instruments to be taken into consideration*] For the purposes of this article, only instruments of ratification or accession that are deposited by entities referred to in article 19(1) and that have an effective date according to article 19(3) shall be taken into consideration.

(2) [*Entry into force of the Treaty*] This Treaty shall enter into force three months after five States have deposited their instruments of ratification or accession.

(3) [*Entry into force of ratifications and accessions subsequent to the entry into force of the Treaty*] Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

#### Article 21

##### RESERVATIONS

(1) [*Special kinds of marks*] Any State or intergovernmental organization may declare through a reservation that, notwithstanding article 2(1)(a) and (2)(a), any of the provisions of articles 3(1) and (2), 5, 7, 11 and 13 shall not apply to associated marks, defensive marks or derivative marks. Such reservation shall specify those of the aforementioned provisions to which the reservation relates.

(2) [*Modalities*] Any reservation under paragraph (1) shall be made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the reservation.

(3) [*Withdrawal*] Any reservation under paragraph (1) may be withdrawn at any time.

(4) [*Prohibition of other reservations*] No reservation to this Treaty other than the reservation allowed under paragraph (1) shall be permitted.

#### Article 22

##### TRANSITIONAL PROVISIONS

(1) [*Single application for goods and services in several classes; Division of application*] (a) Any State or intergovernmental organization may declare that, notwithstanding Article 3(5), an application may be filed with the Office only in respect of goods or services which belong to one class of the Nice Classification.

(b) Any State or intergovernmental organization may declare that, notwithstanding article 6, where goods and/or service belonging to several classes of the Nice Classification have been included in one and the same application, such application shall result in two or more registrations in the register of marks, provided that each and every such registration shall bear a reference to all other such registrations resulting from the said application.



(c) Any State or intergovernmental organization that has made a declaration under subparagraph (a) may declare that, notwithstanding article 7(1), no application may be divided.

(2) [*Single power of attorney for more than one application and/or registration*] Any State or intergovernmental organization may declare that, notwithstanding article 4(3)(b), a power of attorney may only relate to one application or one registration.

(3) [*Prohibition of requirement of certification of signature of power of attorney and of signature of application*] Any State or intergovernmental organization may declare that, notwithstanding article 8(4), the signature of a power of attorney or the signature by the applicant of an application may be required to be the subject of an attestation, notarization, authentication, legalization or other certification.

(4) [*Single request for more than one application and/or registration in respect of a change in name and/or address, a change in ownership or a correction of a mistake*] Any State or intergovernmental organization may declare that, notwithstanding article 10(1)(e), (2) and (3), article 11(1)(h) and (3) and article 12(1)(e) and (2), a request for the recordal of a change in name and/or address, a request for the recordal of a change in ownership and a request for the correction of a mistake may only relate to one application or one registration.

(5) [*Furnishing, on the occasion of renewal, of declaration and/or evidence concerning use*] Any State or intergovernmental organization may declare that, notwithstanding article 13(4)(iii), it will require, on the occasion of renewal, the furnishing of a declaration and/or of evidence concerning use of the mark.

(6) [*Substantive examination on the occasion of renewal*] Any State or intergovernmental organization may declare that, notwithstanding article 13(6), the Office may, on the occasion of the first renewal of a registration covering services, examine such registration as to substance, provided that such examination shall be limited to the elimination of multiple registrations based on applications filed during a period of six months following the entry into force of the law of such State or organization that introduced, before the entry into force of this Treaty, the possibility of registering service marks.

(7) [*Common provisions*] (a) A State or an intergovernmental organization may make a declaration under paragraphs (1) to (6) only if, at the time of depositing its instrument of ratification of, or accession to, this Treaty, the continued application of its law would, without such a declaration, be contrary to the relevant provisions of this Treaty.

(b) Any declaration under paragraphs (1) to (6) shall accompany the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the declaration.

(c) Any declaration made under paragraphs (1) to (6) may be withdrawn at any time.

(8) [*Loss of effect of declaration*] (a) Subject to subparagraph (c), any declaration made under paragraphs (1) to (5) by a State regarded as a developing country in conformity with the established practice of the General Assembly of the United Nations, or by an intergovernmental organization each member of which is such a State, shall lose its effect at the end of a period of eight years from the date of entry into force of this Treaty.

(b) Subject to subparagraph (c), any declaration made under paragraphs (1) to (5) by a State other than a State referred to in subparagraph (a), or by an intergovernmental organization other than an intergovernmental organization referred to in subparagraph (a), shall lose its effect at the end of a period of six years from the date of entry into force of this Treaty.

(c) Where a declaration made under paragraphs (1) to (5) has not been withdrawn under paragraph (7)(c), or has not lost its effect under subparagraph (a) or (b), before 28 October 2004, it shall lose its effect on 28 October 2004.

(9) [*Becoming party to the Treaty*] Until 31 December 1999, any State which, on the date of the adoption of this Treaty, is a member of the International (Paris) Union for the Protection of Industrial Property without being a member of the Organization may, notwithstanding article 19(1)(i), become a party to this Treaty if marks may be registered with its own Office.

#### Article 23

##### DENUNCIATION OF THE TREATY

(1) [*Notification*] Any Contracting Party may denounce this Treaty by notification addressed to the Director General.

(2) [*Effective date*] Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any mark registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

#### Article 24

##### LANGUAGES OF THE TREATY; SIGNATURE

(1) [*Original texts; Official texts*] (a) This Treaty shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) At the request of a Contracting Party, an official text in a language not referred to in subparagraph (a) that is an official language of that Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

(2) [*Time limit for signature*] This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

#### Article 25

##### DEPOSITARY

The Director General shall be the depositary of this Treaty.

#### 4. INTERNATIONAL ATOMIC ENERGY AGENCY

Convention on Nuclear Safety<sup>19</sup> Done at Vienna on 17 June 1994<sup>20</sup>

##### *PREAMBLE*

The Contracting Parties

- (i) Aware of the importance to the international community of ensuring that the use of nuclear energy is safe, well regulated and environmentally sound;
- (ii) Reaffirming the necessity of continuing to promote a high level of nuclear safety worldwide;
- (iii) Reaffirming that responsibility for nuclear safety rests with the State having jurisdiction over a nuclear installation;
- (iv) Desiring to promote an effective nuclear safety culture;
- (v) Aware that accidents at nuclear installations have the potential for transboundary impacts;
- (vi) Keeping in mind the Convention on the Physical Protection of Nuclear Material (1979), the Convention on Early Notification of a Nuclear Accident (1986), and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency (1986);
- (vii) Affirming the importance of international co-operation for the enhancement nuclear safety through existing bilateral and multilateral mechanisms and the establishment of this incentive Convention;
- (viii) Recognizing that this Convention entails a commitment to the application of fundamental safety principles for nuclear installations rather than of detailed safety standards and that there are internationally formulated safety guidelines which are updated from time to time and so can provide guidance on contemporary means of achieving a high level of safety;
- (ix) Affirming the need to begin promptly the development of an international convention on the safety of radioactive waste management as soon as the ongoing process to develop waste management safety fundamentals has resulted in broad international agreement;
- (x) Recognizing the usefulness of further technical work in connection with the safety of other parts of the nuclear fuel cycle, and that this work may, in time, facilitate the development of current or future international instruments;

Have agreed as follows:

## CHAPTER 1. OBJECTIVES, DEFINITIONS AND SCOPE OF APPLICATION

### *Article 1*

#### OBJECTIVES

The objectives of this Convention are:

- (i) To achieve and maintain a high level of nuclear safety worldwide through the enhancement of national measures and international cooperation including where appropriate, safety-related technical cooperation;
- (ii) To establish and maintain effective defences in nuclear installations against potential radiological hazards in order to protect individuals, society and the environment from harmful effects or ionizing radiation from such installations;
- (iii) To prevent accidents with radiological consequences and to mitigate such consequences should they occur.

### *Article 2*

#### DEFINITIONS

For the purpose of this Convention:

- (i) “Nuclear installation” means for each Contracting Party any land-based civil nuclear power plant under its jurisdiction including such storage, handling and treatment facilities for radioactive materials as are on the same site and are directly related to the operation of the nuclear power plant. Such a plant ceases to be a nuclear installation when all nuclear fuel elements have been removed permanently from the reactor core and have been stored safely in accordance with approved procedures, and a decommissioning programme has been agreed to by the regulatory body;
- (ii) “Regulatory body” means for each Contracting Party any body or bodies given the legal authority by that Contracting Party to grant licenses and to regulate the siting, design, construction, commissioning, operation or decommissioning of nuclear installations;
- (iii) “Licence” means any authorization granted by the regulatory body to the applicant to have the responsibility for the siting, design, construction, commissioning, operation or decommissioning of a nuclear installation.

### *Article 3*

#### SCOPE OF APPLICATION

This Convention shall apply to the safety of nuclear installations.

## CHAPTER 2. OBLIGATIONS

### (a) General provisions

#### *Article 4*

##### IMPLEMENTING MEASURES

Each Contracting Party shall take, within the framework of its national law, the legislative, regulatory and administrative measures and other steps necessary for implementing its obligations under this Convention.

#### *Article 5*

##### REPORTING

Each Contracting Party shall submit for review, prior to each meeting referred to in article 20, a report on the measures it has taken to implement each of the obligations of this Convention.

#### *Article 6*

##### EXISTING NUCLEAR INSTALLATIONS

Each Contracting Party shall take the appropriate steps to ensure that the safety of nuclear installations existing at the time the Convention enters into force for that Contracting Party is reviewed as soon as possible. When necessary in the context of this Convention, the Contracting Party shall ensure that all reasonably practicable improvements are made as a matter of urgency to upgrade the safety of the nuclear installation. If such upgrading cannot be achieved, plans should be implemented to shut down the nuclear installation as soon as practically possible. The timing of the shutdown may take into account the whole energy context and possible alternatives as well as the social, environmental and economic impact.

### (b) Legislation and regulation

#### *Article 7*

##### LEGISLATIVE AND REGULATORY FRAMEWORK

1. Each Contracting Party shall establish and maintain a legislative and regulatory framework to govern the safety of nuclear installations.
2. The legislative and regulatory framework shall provide for:
  - (i) The establishment of applicable national safety requirements and regulations;
  - (ii) A system of licensing with regard to nuclear installations and the prohibition of the operation of a nuclear installation without a licence;
  - (iii) A system of regulatory inspection and assessment of nuclear installations to ascertain compliance with applicable regulations and the terms of licences;

- (iv) The enforcement of applicable regulations and of the terms of licences, including the suspension, modification or revocation.

#### *Article 8*

##### REGULATORY BODY

1. Each Contracting Body shall establish or designate a regulatory body entrusted with the implementation of the legislative and regulatory framework referred to in article 7, and provided with adequate authority, competence and financial and human resources to fulfill its assigned responsibilities.

2. Each Contracting Party shall take the appropriate steps to ensure an effective separation between the functions of the regulatory body and those of any other body or organization concerned with promotion or utilization of nuclear energy.

#### *Article 9*

##### RESPONSIBILITY OF THE LICENSE-HOLDER

Each Contracting Party shall ensure that prime responsibility for the safety of a nuclear installation rests with the holder of the relevant license and shall take the appropriate steps to ensure that each such license holder meets its responsibility.

- (c) General safety considerations

#### *Article 10*

##### PRIORITY TO SAFETY

Each Contracting Party shall take the appropriate steps to ensure that all organizations engaged in activities directly related to nuclear installations shall establish policies that give due priority to nuclear safety.

#### *Article 11*

##### FINANCIAL AND HUMAN RESOURCES

1. Each Contracting Party shall take the appropriate steps to ensure that adequate financial resources are available to support the safety of each nuclear installation throughout its life.

2. Each Contracting Party shall take the appropriate steps to ensure that sufficient numbers of qualified staff with appropriate education, training and retraining are available for all safety-related activities in or for each nuclear installation, throughout its life.

#### *Article 12*

##### HUMAN FACTORS

Each Contracting Party shall take the appropriate steps to ensure that the capabilities and limitations of human performance are taken into account throughout the life of a nuclear installation.

### *Article 13*

#### QUALITY ASSURANCE

Each Contracting Party shall take the appropriate steps to ensure that quality assurance programmes are established and implemented with a view to providing confidence that specified requirements for all activities important to nuclear safety are satisfied throughout the life of a nuclear installation.

### *Article 14*

#### ASSESSMENT AND VERIFICATION OF SAFETY

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) Comprehensive and systematic safety assessments are carried out before the construction and commissioning of a nuclear installation and throughout its life. Such assessments shall be well documented, subsequently updated in the light of operating experience and significant new safety information, and reviewed under the authority of the regulatory body;
- (ii) Verification by analysis, surveillance, testing and inspection is carried out to ensure that the physical state and the operation of a nuclear installation continue to be in accordance with its design, applicable national safety requirements, and operational limits and conditions.

### *Article 15*

#### RADIATION PROTECTION

Each Contracting Party shall take the appropriate steps to ensure that in all operational states the radiation exposure to the workers and the public caused by a nuclear installation shall be kept as low as reasonably achievable and that no individual shall be exposed to radiation doses which exceed prescribed national dose limits.

### *Article 16*

#### EMERGENCY PREPAREDNESS

1. Each Contracting Party shall take the appropriate steps to ensure that there are on-site and off-site emergency plans that are routinely tested for nuclear installations and cover the activities to be carried out in the event of an emergency.

For any new nuclear installation, such plans shall be prepared and tested before it commences operation above a low power level agreed by the regulatory body.

2. Each Contracting Party shall take the appropriate steps to ensure that, insofar as they are likely to be affected by a radiological emergency, its own population and the competent authorities of the States in the vicinity of the nuclear installation are provided with appropriate information for emergency planning and response.

3. Contracting Parties which do not have a nuclear installation on their territory, insofar as they are likely to be affected in the event of a radiological emergency at a nuclear installation in the vicinity, shall take the appropriate steps for the preparation and testing of emergency plans for their territory that cover the activities to be carried out in the event of such an emergency.

(d) Safety of installations

*Article 17*

SITING

Each Contracting Party shall take the appropriate steps to ensure that appropriate procedures are established and implemented:

- (i) For evaluating all relevant site-related factors likely to affect the safety of a nuclear installation for its projected lifetime;
- (ii) For evaluating the likely safety impact of a proposed nuclear installation on individuals, society and the environment;
- (iii) For re-evaluating as necessary all relevant factors referred to in subparagraphs (i) and (ii) so as to ensure the continued safety acceptability of the nuclear installation;
- (iv) For consulting Contracting Parties in the vicinity of a proposed nuclear installation, insofar as they are likely to be affected by that installation and, upon request providing the necessary information to such Contracting Parties, in order to enable them to evaluate and make their own assessment of the likely safety impact on their own territory of the nuclear installation.

*Article 18*

DESIGN AND CONSTRUCTION

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) The design and construction of a nuclear installation provides for several reliable levels and methods of protection (defense in depth) against the release of radioactive materials, with a view to preventing the occurrence of accidents and to mitigating their radiological consequences should they occur;
- (ii) The technologies incorporated in the design and construction of a nuclear installation are proven by experience or qualified by testing or analysis;
- (iii) The design of a nuclear installation allows for reliable, stable and easily manageable operation, with specific consideration of human factors and the man-machine interface.

*Article 19*

OPERATION

Each Contracting Party shall take the appropriate steps to ensure that:

- (i) The initial authorization to operate a nuclear installation is based upon an appropriate safety analysis and a commissioning programme demonstrating that the installation, as constructed, is consistent with design and safety requirements;



- (ii) Operational limits and conditions derived from the safety analysis, tests and operational experience are defined and revised as necessary for identifying safe boundaries for operation;
- (iii) Operation, maintenance, inspection and testing of a nuclear installation are conducted in accordance with approved procedures;
- (iv) Procedures are established for responding to anticipated operational occurrences and to accidents;
- (v) Necessary engineering and technical support in all safety-related fields is available throughout the lifetime of a nuclear installation;
- (vi) Incidents significant to safety are reported in a timely manner by the holder of the relevant licence to the regulatory body;
- (vii) Programmes to collect and analyze operating experience are established, the results obtained and the conclusions drawn are acted upon and that existing mechanisms are used to share important experience with international bodies and with other operating organizations and regulatory bodies;
- (viii) The generation of radioactive waste resulting from the operation of a nuclear installation is kept to the minimum practicable for the process concerned, both in activity and in volume, and any necessary treatment and storage of spent fuel and waste directly related to the operation and on the same site as that of the nuclear installation take into consideration conditioning and disposal.

### CHAPTER 3. MEETINGS OF THE CONTRACTING PARTIES

#### *Article 20*

##### REVIEW MEETINGS

1. The Contracting Parties shall hold meetings (hereinafter referred to as “review meetings”) for the purpose of reviewing the reports submitted pursuant to article 5 in accordance with the procedures adopted under article 22.

2. Subject to the provisions of article 24 sub-groups comprised of representatives of Contracting Parties may be established and may function during the review meetings as deemed necessary for the purpose of reviewing specific subjects contained in the reports.

3. Each Contracting Party shall have a reasonable opportunity to discuss the reports submitted by other Contracting Parties and to seek clarification of such reports.

### *Article 21*

#### TIMETABLE

1. A preparatory meeting of the Contracting Parties shall be held not later than six months after the date of entry into force of this Convention.

2. At this preparatory meeting, the Contracting Parties shall determine the date for the first review meeting. This review meeting shall be held as soon as possible, but not later than thirty months after the date of entry into force of this Convention.

3. At each review meeting, the Contracting Parties shall determine the date for the next such meeting. The interval between review meetings shall not exceed three years.

### *Article 22*

#### PROCEDURAL ARRANGEMENTS

1. At the preparatory meeting held pursuant to article 21 the Contracting Parties shall prepare and adopt by consensus Rules of Procedure and Financial Rules. The Contracting Parties shall establish in particular and in accordance with the Rules of Procedure:

- (i) Guidelines regarding the form and structure of the reports to be submitted pursuant to article 5;
- (ii) A date for the submission of such reports;
- (iii) The process for reviewing such reports.

2. At review meetings the Contracting Parties may, if necessary, review the arrangements established pursuant to subparagraphs (i) to (iii) above, and adopt revisions by consensus unless otherwise provided for in the Rules of Procedure. They may also amend the Rules of Procedure and the Financial Rules, by consensus.

### *Article 23*

#### EXTRAORDINARY MEETINGS

An extraordinary meeting of the Contracting Parties shall be held:

- (i) If so agreed by a majority of the Contracting Parties present and voting at a meeting, abstentions being considered as voting; or
- (ii) At the written request of a Contracting Party, within six months of this request having been communicated to the Contracting Parties and notification having been received by the secretariat referred to in article 28, that the request has been supported by a majority of the Contracting Parties.

#### *Article 24*

##### ATTENDANCE

1. Each Contracting Party shall attend meetings of the Contracting Parties and be represented at such meetings by one delegate, and by such alternates, experts and advisers as it deems necessary.

2. The Contracting Parties may invite, by consensus, any intergovernmental organization which is competent in respect of matters governed by this Convention to attend, as an observer, any meeting, or specific sessions thereof. Observers shall be required to accept in writing, and in advance, the provisions of article 27.

#### *Article 25*

##### SUMMARY REPORTS

The Contracting Parties shall adopt, by consensus, and make available to the public a document addressing issues discussed and conclusions reached during a meeting.

#### *Article 26*

##### LANGUAGES

1. The languages of meetings of the Contracting Parties shall be Arabic, Chinese, English, French, Russian and Spanish unless otherwise provided in the Rules of Procedure.

2. Reports submitted pursuant to article 5 shall be prepared in the national language of the submitting Contracting Party or in a single designated language to be agreed in the Rules of Procedure. Should the report be submitted in a national language other than the designated language, a translation of the report into the designated language shall be provided by the Contracting Party.

3. Notwithstanding the provisions of paragraph 2, if compensated, the secretariat will assume the translation into the designated language of reports submitted in any other language of the meeting.

#### *Article 27*

##### CONFIDENTIALITY

1. The provisions of this Convention shall not affect the rights and obligations of the Contracting Parties under their law to protect information from disclosure. For the purposes of this Article, "information" includes, *inter alia*, (i) personal data; (ii) information protected by intellectual property rights or by industrial or commercial confidentiality; and (iii) information relating to national security or to the physical protection of nuclear materials or nuclear installations.

2. When, in the context of this Convention, a Contracting Party provides information identified by it as protected as described in paragraph 1, such information shall be used only for the purposes for which it has been provided and its confidentiality shall be respected.

3. The content of the debates during the reviewing of the reports by the Contracting Parties at each meeting shall be confidential.

#### *Article 28*

##### SECRETARIAT

1. The International Atomic Energy Agency (hereinafter referred to as the “Agency”) shall provide the secretariat for the meetings of the Contracting Parties.

2. The secretariat shall:

- (i) Convene, prepare and service the meetings of the Contracting Parties;
- (ii) Transmit to the Contracting Parties information received or prepared in accordance with the provisions of this Convention.

The costs incurred by the Agency in carrying out the functions referred to in subparagraphs (i) and (ii) above shall be borne by the Agency as part of its regular budget.

3. The Contracting Parties may, by consensus, request the Agency to provide other services in support of meetings of the Contracting Parties. The Agency may provide such services if they can be undertaken within its programme and regular budget. Should this not be possible, the Agency may provide such services if voluntary funding is provided from another source.

#### CHAPTER 4. FINAL CLAUSES AND OTHER PROVISIONS

#### *Article 29*

##### RESOLUTION OF DISAGREEMENTS

In the event of a disagreement between two or more Contracting Parties concerning the interpretation or application of this Convention, the Contracting Parties shall consult within the framework of a meeting of the Contracting Parties with a view to resolving the disagreement.

#### *Article 30*

##### SIGNATURE, RATIFICATION, ACCEPTANCE, APPROVAL, ACCESSION

1. This Convention shall be open for signature by all States at the headquarters of the Agency in Vienna from 20 September 1994 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 shall be open for accession by all States.

4. (i) This Convention shall be open for signature or accession by 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.

- (ii) In matters within their competence, such organizations shall, on their own behalf, exercise the rights and fulfill the responsibilities which this Convention attributes to States Parties.

(iii) When becoming party to this Convention, such an organization shall communicate to the depositary referred to in article 34, a declaration indicating which States are members thereof, which articles of this Convention apply to it, and the extent of its competence in the field covered by those articles.

(iv) 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 31*

##### ENTRY INTO FORCE

1. This Convention shall enter into force on the ninetieth day after the date of deposit with the depositary of the twenty-second instrument of ratification, acceptance or approval, including the instruments of seventeen States, each having at least one nuclear installation which has achieved criticality in a reactor core.

2. For each State or regional organization of an integration or other nature which ratifies, accepts, approves or accedes to this Convention after the date of deposit of the last instrument required to satisfy the conditions set forth in paragraph 1, this Convention shall enter into force on the ninetieth day after the date of deposit with the depositary of the appropriate instrument by such a State or organization.

#### *Article 32*

##### AMENDMENTS TO THE CONVENTION

1. Any Contracting Party may propose an amendment to this Convention. Proposed amendments shall be considered at a review meeting or an extraordinary meeting.

2. The text of any proposed amendment and the reasons for its shall be provided to the Depositary who shall communicate the proposal to the Contracting Parties promptly and at least ninety days before the meeting for which it is submitted for consideration. Any comments received on such a proposal shall be circulated by the depositary to the Contracting Parties.

3. The Contracting Parties shall decide after consideration of the proposed amendment whether to adopt it by consensus, or, in the absence of consensus, to submit it to a Diplomatic Conference. A decision to submit a proposed amendment to a Diplomatic Conference shall require a two-thirds majority vote of the Contracting Parties present and voting at the meeting, provided that at least one half of the Contracting Parties are present at the time of voting. Abstentions shall be considered voting.

4. The Diplomatic Conference to consider and adopt amendments to this Convention shall be convened by the Depositary and held no later than one year after the appropriate decision taken in accordance with paragraph 3 of this article. The Diplomatic Conference shall make every effort to ensure amendments are adopted by consensus. Should this not be possible, amendments shall be adopted with a two-thirds majority of all Contracting Parties.

5. Amendments to this Convention adopted pursuant to paragraphs 3 and 4 above shall be subject to ratification, acceptance, approval or confirmation by the Contracting Parties and shall enter into force for those Contracting Parties which have ratified, accepted, approved or confirmed them on the ninetieth day after the receipt by the Depositary of the relevant instruments by at least three fourths of the Contracting Parties. For a Contracting Party which subsequently ratifies, accepts, approves or confirms the said amendments, the amendments will enter into force on the ninetieth day after that Contracting Party has deposited its relevant instrument.

#### *Article 33*

##### DENUNCIATION

1. Any Contracting Party may denounce this Convention by written notification to the depositary.

2. Denunciation shall take effect one year following the date of the receipt of the notification by the depositary, or on such later date as may be specified in the notification.

#### *Article 34*

##### DEPOSITARY

1. The Director General of the Agency shall be the depositary of this Convention.
2. The Depositary shall inform the Contracting Parties of:
  - (i) The signature of this Convention and of the deposit of instruments of ratification, acceptance, approval or accession, in accordance with article 30;
  - (ii) The date on which the Convention enters into force, in accordance with article 31;
  - (iii) The notifications of denunciation of the Convention and the date thereof, made in accordance with article 33;
  - (iv) The proposed amendments to this Convention submitted by Contracting Parties, the amendments adopted by the relevant Diplomatic Conference or by the meeting of the Contracting Parties, and the date of entry into force of the said amendments, in accordance with article 32.

#### *Article 35*

##### 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 depositary, who shall send certified copies thereof to the Contracting Parties.

**ANNEX TO THE FINAL ACT OF THE DIPLOMATIC CONFERENCE SOME  
CLARIFICATION WITH RESPECT TO PROCEDURAL AND FINANCIAL  
ARRANGEMENTS, NATIONAL REPORTS AND THE CONDUCT OF RE-  
VIEW MEETINGS, ENVISAGED IN THE CONVENTION ON NUCLEAR  
SAFETY**

**1. Introduction**

1.1 This document contains some clarification with respect to procedural and financial arrangements, national reports and the conduct of review meetings. It is understood that this document is not exhaustive and does not bind the Contracting Parties to the Convention on Nuclear Safety.

1.2 The basic principle underlying this clarification is that all provisions in the Rules of Procedure and the Financial Rules should be in strict conformity with the provisions of the Convention.

1.3 Nothing in the implementation of the Convention should dilute the national responsibility for nuclear safety.

**2. National reports**

In accordance with article 5 of the Convention, national reports should, as applicable, address each obligation separately. The reports should demonstrate how each obligation has been met, with specific references to, *inter alia*, legislation, procedures and design criteria. When a report states that a particular obligation has not been met, that report should also state what measures are being taken or planned to meet that obligation.

**3. Conduct of review meetings**

The purpose of review meetings referred to in article 20 of the Convention is the review by experts of national reports. The review process should:

- Include in-depth study of all national reports, to be conducted by each party before the meeting, as it deems appropriate;
- Be carried out through discussion among experts at the meeting;
- Take into consideration the technical characteristics of different types of nuclear installation and the likely radiological impact of potential accidents;
- Identify problems, concerns, uncertainties, or omissions in national reports, focusing on the most significant problems or concerns in order to ensure efficient and fruitful debate at the meetings; and
- Identify technical information and opportunities for technical cooperation in the interest of resolving safety problems identified.

**4. Rules of Procedure for the meeting of the Parties**

4.1 Equitable representation: Paramount importance should be given to technical competence in the election of chairmen and officers. Consideration should also be given to the overall membership of the Convention, including the geographical distribution of the Contracting Parties.

4.2 Decision-making: Every effort should be made to take decisions by consensus.

4.3 Confidentiality: The Rules of Procedure should be formulated so as to ensure that the provisions of article 27 are applied to all participants.

**5. Financial rules**

5.1 Costs to the secretariat: All costs to the secretariat, referred to in article 28 of the Convention, should be kept to a minimum. The Agency should be requested to provide other services in support of the meeting of the Contracting Parties, only if such services are deemed essential.

5.2 Costs to the Contracting Parties: In order to encourage the widest possible adherence to the Convention, the costs of preparing for and participating in review meetings should, while maintaining the effectiveness of the review, be limited by, *inter alia*, the following means:

- Limiting the frequency of review meetings; and
- Limiting the duration of the preparatory meeting and of review meetings.

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## NOTES

<sup>1</sup> Came into force on 1 January 1995.

<sup>2</sup> *International Legal Materials*, vol. XXXIII, No. 5 (1994), p. 1144.

<sup>3</sup> Came into force on the date of signature.

<sup>4</sup> General Assembly resolution 48/263, annex; the text also has been reproduced in *International Legal Materials*, vol. XXX, No. 5 (1994), p. 1309.

<sup>5</sup> *Official Records of the Third United Nations Conference on the Law of the Sea*, vol. XVII (United Nations publication, Sales No. E84.V.3), document A/CONF.62/122; see also United Nations publication, Sales No. E.83.V.5.

<sup>6</sup> *Ibid.*, document A/CONF.62/121, Annex I; see also United Nations publication, Sales No. E.83.V.5.

<sup>7</sup> The Convention has not yet entered into force.

<sup>8</sup> General Assembly resolution 49/59, annex; the text also has been reproduced in *International Legal Materials*, vol. XXXIV, No. 2 (1995), p. 482.

<sup>9</sup> Not yet in force.

<sup>10</sup> *International Legal Materials*, vol. XXXIII, No. 6 (1994), p. 1540.

<sup>11</sup> Came into force on 26 December 1996.

<sup>12</sup> A/49/84/Add.2, appendix II; the text also has been reproduced in *International Legal Materials*, vol. XXX, No. 5 (1994), p. 1328.

<sup>13</sup> Came into force on 28 February 1998.

<sup>14</sup> *Official Bulletin of the International Labour Organization*, vol. LXXVII, Series A, No. 2 (1994), p. 128.

<sup>15</sup> Came into force on the date of signature.

<sup>16</sup> *International Legal Materials*, vol. XXXIII, No. 6 (1994), p. 1505.

<sup>17</sup> Came into force on date of signature.

<sup>18</sup> WIPO publication No. 225 (1994).

<sup>19</sup> Came into force on 24 October 1996.

<sup>20</sup> INF/CIRC/449; see also *International Legal Materials*, vol. XXXIII, No. 6 (1994), p. 1514.