

Extract from:

UNITED NATIONS JURIDICAL YEARBOOK

1988

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 ON THE GLOBAL SYSTEM OF TRADE PREFERENCES AMONG DEVELOPING COUNTRIES.¹ DONE AT BELGRADE ON 13 APRIL 1988

PREAMBLE

The States Parties to this Agreement,

Recognizing that economic cooperation among developing countries is a key element in the strategy of collective self-reliance and an essential instrument to promote structural changes contributing to a balanced and equitable process of global economic development and the establishment of the New International Economic Order;

Recognizing also that a Global System of Trade Preferences (hereinafter referred to as "GSTP") would constitute a major instrument for the promotion of trade among developing countries members of the Group of 77, and the increase of production and employment in these countries;

Bearing in mind the Arusha Programme of Collective Self-Reliance, the Caracas Programme of Action and the Declarations on GSTP adopted by the Ministers for Foreign Affairs of the Group of 77 in New York in 1982, and the Ministerial meetings on GSTP in New Delhi in 1985, in Brasilia in 1986 and in Belgrade in 1988;

Believing that the establishment of the GSTP should be accorded high priority as a major instrument of South-South cooperation for the promotion of collective self-reliance as well as for the strengthening of world trade as a whole;

Have agreed as follows:

Chapter I

INTRODUCTION

Article I

DEFINITIONS

For the purpose of this Agreement:

- (a) “Participant” means:
- (i) Any member of the Group of 77 listed in annex I which has exchanged concessions and has become Party to this Agreement in accordance with its articles 25, 27 or 28;
 - (ii) Any subregional/regional/interregional grouping of developing countries members of the Group of 77 listed in annex I which has exchanged concessions and has become party to this Agreement in accordance with its articles 25, 27 or 28;
- (b) “Least developed country” means a country designated as such by the United Nations;
- (c) “State” or “country” means any State or country member of the Group of 77;
- (d) “Domestic producers” means physical or juridical persons established in the territory of a participant which are engaged in production of commodities and manufactures, including industrial, agricultural, extractive or mining products, in their raw, semi-processed or processed forms in that territory. Furthermore, for the purpose of determining “serious injury” or “threat of serious injury”, the term “domestic producers” in this Agreement shall mean domestic producers as a whole of like or similar products, or those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products;
- (e) “Serious injury” means significant damage to domestic producers, of like or similar products resulting from a substantial increase of preferential imports in situations which cause substantial losses in terms of earnings, production or employment unsustainable in the short term. The examination of the impact on the domestic industry concerned shall also include an evaluation of other relevant economic factors and indices having a bearing on the state of the domestic industry of that product;
- (f) “Threat of serious injury” means a situation in which a substantial increase of preferential imports is of a nature to cause “serious injury” to domestic producers, and that such injury, although not yet existing, is clearly imminent. A determination of threat of serious injury shall be based on facts and not on mere allegation, conjecture, or remote or hypothetical possibility;
- (g) “Critical circumstances” means the emergence of an exceptional situation where massive preferential imports are causing or threatening to cause “serious injury” difficult to repair and which calls for immediate action;

(h) “Sectoral agreements” means agreements amongst participants regarding the removal or reduction of tariff, non-tariff and para-tariff barriers as well as other trade promotion or cooperative measures for specified products or groups of products closely related in end use or in production;

(i) “Direct trade measures” means measures conducive to promoting mutual trade of participants such as long- and medium-term contracts containing import and supply commitments in respect of specific products, buy-back arrangements, state trading operations, and government and public procurement;

(j) “Tariffs” means custom duties stipulated in the national tariff schedules of the participants;

(k) “Non-tariffs” means any measure, regulation, or practice, other than “tariffs” and “para-tariffs”, the effect of which is to restrict imports, or to significantly distort trade;

(l) “Para-tariffs” means border charges and fees, other than “Tariffs”, on foreign trade transactions of a tariff-like effect which are levied solely on imports, but not those indirect taxes and charges, which are levied in the same manner on like domestic products. Import charges corresponding to specific services rendered are not considered as para-tariff measures.

Chapter II

GLOBAL SYSTEM OF TRADE PREFERENCES

Article 2

ESTABLISHMENT AND AIMS OF THE GSTP

By the present Agreement, the participants establish the GSTP to promote and sustain mutual trade, and the development of economic cooperation among developing countries, through exchange of concessions in accordance with this Agreement.

Article 3

PRINCIPLES

The GSTP shall be established in accordance with the following principles:

(a) The GSTP shall be reserved for the exclusive participation of developing countries members of the Group of 77;

(b) The benefits of the GSTP shall accrue to the developing countries members of the Group of 77 who are participants in accordance with article 1(a);

(c) The GSTP shall be based and applied on the principle of mutuality of advantages in such a way as to benefit equitably all participants, taking into account their respective levels of economic and industrial development, the pattern of their external trade and their trade policies and systems;

(d) The GSTP shall be negotiated step by step, improved and extended in successive stages, with periodic reviews;

(e) The GSTP shall not replace, but supplement and reinforce, present and future subregional, regional and interregional economic groupings of developing countries of the Group of 77, and shall take into account the concerns and commitments of such economic groupings;

(f) The special needs of the least developed countries shall be clearly recognized and concrete preferential measures in favour of these countries should be agreed upon; the least developed countries will not be required to make concessions on a reciprocal basis;

(g) The GSTP shall include all products, manufactures, and commodities in their raw, semi-processed and processed forms;

(h) Intergovernmental subregional, regional, and interregional groupings for economic cooperation among developing countries members of the Group of 77 may participate, fully as such, if and when they consider it desirable, in any or all phases of the work on the GSTP.

Article 4

COMPONENTS OF THE GSTP

The GSTP may, *inter alia*, consist of the following components:

- (a) Arrangements relating to tariffs;
- (b) Arrangements relating to para-tariffs;
- (c) Arrangements relating to non-tariff measures;
- (d) Arrangements relating to direct trade measures including medium- and long-term contracts;
- (e) Arrangements relating to sectoral agreements.

Article 5

SCHEDULES OF CONCESSIONS

The tariff, para-tariff and non-tariff concessions negotiated and exchanged among participants shall be embodied in schedules of concessions which shall be annexed to and form an integral part of this Agreement.

Chapter III

NEGOTIATIONS

Article 6

NEGOTIATIONS

1. The participants may hold from time to time rounds of bilateral/plurilateral/multilateral negotiations with a view to the further expansion of the GSTP and the fuller attainment of its aims.

2. The participants may conduct their negotiations in accordance with any or a combination of the following approaches and procedures:

- (a) Product-by-product negotiations;
- (b) Across-the-board tariff reductions;
- (c) Sectoral negotiations;
- (d) Direct trade measures, including medium- and long-term contracts.

Chapter IV

COMMITTEE OF PARTICIPANTS

Article 7

ESTABLISHMENT AND FUNCTIONS

1. A Committee of participants (hereinafter referred to as the “Committee”) shall be established, upon entry into force of this Agreement, consisting of the representatives of the Governments of the participants. The Committee shall perform such functions as may be necessary to facilitate the operation and further the objectives of this Agreement. The Committee shall be responsible for reviewing the application of this Agreement and the instruments adopted within its framework, monitoring the implementation of the results of the negotiations, carrying out consultations, making recommendations and taking decisions as required, and, in general, undertaking whatever measures may be required to ensure the adequate implementation of the objectives and the provisions of this Agreement.

(a) The Committee shall keep under review the possibility of promoting further negotiations for the enlargement of the schedules of concessions and for the enhancement of trade among participants through other measures and may at any time sponsor such negotiations. The Committee shall also ensure prompt and complete dissemination of trade information in order to promote trade among participants;

(b) The Committee shall review disputes and make recommendations thereon in accordance with article 21 of this Agreement;

(c) The Committee may establish such subsidiary organs as may be necessary to the effective discharge of its functions;

(d) The Committee may adopt appropriate regulations and rules as may be necessary to the implementation of this Agreement.

2. (a) The Committee shall endeavour to ensure that all its decisions are taken by consensus;

(b) Notwithstanding any measures that may be taken in compliance with paragraph 2(a) of this article, a proposal or motion before the Committee shall be voted on if a representative so requests;

(c) Decisions shall be taken by two-thirds majority on matters of substance and a simple majority on matters of procedure.

3. The Committee shall adopt its rules of procedure.

4. The Committee shall adopt financial rules and regulations.

Article 8

COOPERATION WITH INTERNATIONAL ORGANIZATIONS

The Committee shall make whatever arrangements are appropriate for consultation or cooperation with the United Nations and its organs, in particular the United Nations Conference on Trade and Development (UNCTAD) and the specialized agencies of the United Nations, as well as intergovernmental, subregional, regional and interregional groupings for economic cooperation among developing countries members of the Group of 77.

Chapter V

GROUND RULES

Article 9

EXTENSION OF NEGOTIATED CONCESSIONS

1. Except as provided for in paragraphs 2 and 3 of this article, all tariff, para-tariff and non-tariff concessions, negotiated and exchanged among participants in the bilateral/plurilateral negotiations shall, when implemented, be extended to all participants in the GSTP negotiations on a most-favoured-nation (MFN) basis.

2. Subject to Rules and Guidelines prescribed in this regard, participants parties to direct trade measures, sectoral agreements or agreements on non-tariff concessions may decide not to extend the concessions linked to such agreements to other participants. Such non-extension shall not have a detrimental impact on the trade interests of other participants and when it has such an effect, the matter shall be submitted to the Committee for consideration and decision. Such agreements shall be open to all participants in the GSTP through direct negotiations. The Committee shall be informed of the initiation of negotiations on such agreements as well as on their provisions once concluded.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this article, participants may grant tariff, non-tariff and para-tariff concessions applicable exclusively to exports originating from participating least developed countries. Such concessions, when implemented, shall apply in equal measures to all participating least developed countries. If after granting of any exclusive right it proves detrimental to the legitimate trading interest of other participants, the matter may be brought to the Committee for a review of such arrangements.

Article 10

MAINTENANCE OF THE VALUE OF CONCESSIONS

Subject to terms, conditions or qualifications that might be set out in the schedules containing the concessions granted, a participant shall not impair or nullify these concessions, after the entry into force of this Agreement, through the application of any charge or measure restricting commerce other than those existing prior thereto, except where such charge corresponds to an internal tax imposed on a like domestic product, an anti-dumping or countervailing duty, or fees commensurate with the cost of services rendered, and except any measures authorized under articles 13 and 14.

Article 11

MODIFICATION AND WITHDRAWAL OF CONCESSIONS

1. Any participant may, after a period of three years from the day the concession was extended, notify the Committee of its intention to modify or withdraw any concession included in its appropriate schedule.

2. The participant intending to withdraw or modify a concession shall enter into consultation and/or negotiations, with a view to reaching agreement on any necessary and appropriate compensation, with participants with which such concession was initially negotiated and with any other participants that have a principal or substantial supplying interest as maybe determined by the Committee.

3. Should no agreement be reached between the participants concerned within six months of the receipt of notification and should the notifying participant proceed with its modification or withdrawal of such concessions, the affected participants as determined by the Committee may withdraw or modify equivalent concessions in their appropriate schedules. Any such modification or withdrawal should be notified to the Committee.

Article 12

WITHHOLDING OR WITHDRAWAL OF CONCESSIONS

A participant shall at any time be free to withhold or to withdraw in whole or in part any item in its schedule of concessions in respect of which it determines it was initially negotiated with a State which has not become, or has ceased to be, a participant in this Agreement. A participant taking such action shall notify the Committee and, upon request, consult with participants that have a substantial interest in the product concerned.

Article 13

SAFEGUARD MEASURES

A participant shall be able to take safeguard measures to ward off serious injury or threats of serious injury to domestic producers of like or similar products, which may arise as a direct consequence of unforeseen substantial rise of imports enjoying preferences under the GSTP.

1. Safeguard measures shall be in accordance with the following rules:

(a) Safeguard measures should be consistent with the aims and objectives of the GSTP. These measures should be applied in a non-discriminatory fashion among the participants in the GSTP;

(b) Safeguard measures should be in effect only to the extent and for such time as may be necessary to prevent or remedy such injury;

(c) As a general rule and except in critical circumstances, all safeguard measures shall be taken after consultation between interested participants. Participants intending to take such safeguard measures will be required to demonstrate to the satisfaction of the concerned parties within the Committee the serious injury or threat thereof justifying such measures.

2. Safeguard action to ward off serious injury or a threat of injury should be in accordance with the following procedures:

(a) Notification: Any participant intending to take safeguard measures should notify the Committee of its intention, and the Committee shall circulate this notification to all participants. Upon receipt of such notification, interested participants intending to enter into consultations with the initiating participants shall so notify the Committee within 30 days. In critical circumstances when delay could cause damage which would be difficult to repair, action may be taken provisionally without prior consultations, on the condition that consultations shall be effected immediately after taking such action;

(b) Consultation: Interested participants should enter into consultations for the purpose of reaching an agreement as to the nature of the safeguard measures to be taken, or already taken, and its duration, and as to compensation or the renegotiation of concessions. These consultations should be concluded within three months of receipt of the original notification. Should these consultations not lead to an agreement satisfactory to all parties within the time period specified above, the matter should be referred to the Committee for resolution of the issue. Should the Committee fail to resolve the issue within four weeks of the date of its having been referred to it, the parties affected by the safeguard action have the right to withdraw equivalent concessions or other obligations under GSTP of which the Committee does not disapprove.

Article 14

BALANCE-OF-PAYMENTS MEASURES

If a participant faces serious economic problems during the implementation of the GSTP, such participant shall be able to take measures to meet serious balance-of-payments difficulties.

1. Any participant which finds it necessary to institute or intensify quantitative restrictions or other measures limiting imports concerning products or areas where concessions have been offered with a view to forestalling the threat of or stopping a serious decline in its monetary reserves shall endeavour to do so in order to prevent or remedy such difficulties, in a manner which preserves, as much as possible, the value of negotiated concessions.

2. Such action shall be notified immediately to the Committee which shall circulate such notification to all participants.

3. Any participant which takes action according to paragraph 1 of this article shall afford, upon request from any other participant, adequate opportunity for consultations with a view to preserving the stability of the concession negotiated under the GTSP. If no satisfactory adjustment is effected between the participants concerned within three months of such notification, the matter may be referred to the Committee for a review.

Article 15

RULES OF ORIGIN

Products contained in the schedules of concessions annexed to this Agreement shall be eligible for preferential treatment if they satisfy the Rules of Origin, which shall be annexed to and form an integral part of this Agreement.

Article 16

PROCEDURES RELATING TO THE NEGOTIATIONS OF LONG-TERM AND MEDIUM-TERM CONTRACTS AMONG INTERESTED PARTICIPANTS IN THE GSTP

1. Within the framework of this Agreement, long-term and medium-term contracts involving import and export commitments in respect to specific commodities or products may be entered into among participants.

2. To facilitate the negotiation and conclusion of such contracts:

(a) Exporting participants should indicate the commodities or products for which they may be prepared to undertake supply commitments together with an indication of the quantities that may be involved;

(b) Importing participants should indicate the commodities or products for which they could envisage undertaking import commitments and, where possible, an indication of the quantities that may be involved;

(c) The Committee will provide assistance for the multilateral exchange of information provided under (a) and (b) above and for bilateral and/or multilateral negotiations among interested exporting and importing participants for the purpose of concluding long-term and medium-term contracts.

3. Participants concerned should notify the Committee of the conclusion of long-term and medium-term contracts as soon as possible.

Article 17

SPECIAL TREATMENT FOR LEAST DEVELOPED COUNTRIES

1. In accordance with the Ministerial Declaration on the GSTP, the special needs of the least developed countries shall be clearly recognized [cf-missing text, ms page 215]

2. To become a participant a least developed country shall not be required to make concessions on a reciprocal basis, and such participating least developed country shall benefit from the extension of all tariff, para-tariff and non-tariff concessions exchanged in the bilateral/plurilateral negotiations which are multilateralized.

3. Participating least developed countries should identify their export products for which they may wish to seek concessions in the markets of other participants. Technical assistance by the United Nations and other participants in a position to do so, including the provision of relevant information relating to trade in the products concerned and the major developing import markets, together with market trends and prospects and trade regimes of the participants, should be provided to these countries on a priority basis to assist them in this task.

4. Participating least developed countries may, with respect to export products and markets identified under paragraph 3 above, make specific requests to other participants for tariff, para-tariff and non-tariff concessions and/or direct trade measures, including long-term contracts.

5. Special consideration shall be given to exports from participating least developed countries in the application of safeguard measures.

6. The concessions sought in respect to these products may include:

- (a) Duty-free access, particularly for processed and semi-processed goods;
- (b) The removal of non-tariff barriers;
- (c) The removal, where appropriate, of para-tariff barriers;
- (d) The negotiation of long-term contracts with a view to assisting participating least developed countries to achieve reasonable levels of sustainable exports of their products.

7. Participants shall sympathetically consider requests from participating least developed countries for concessions sought under paragraph 6 above and shall endeavour, wherever possible, to meet such requests, in whole or in part, as a manifestation of concrete preferential measures to be agreed on in favour of participating least developed countries.

Article 18

SUBREGIONAL, REGIONAL AND INTERREGIONAL GROUPINGS

Tariff, para-tariff and non-tariff preferences applicable within existing sub-regional, regional and interregional groupings of developing countries notified and registered in this Agreement shall retain their essential character, and there shall be no obligation on the members of such groupings to extend, nor the right of other participants to enjoy the benefits of such preferences. The provisions of this paragraph shall apply equally to the preferential agreements concluded with a view to creating subregional, regional and interregional groupings of developing countries and to future subregional, regional and interregional groupings of developing countries that will be notified as such and duly registered in this Agreement. Furthermore, these provisions shall apply in equal measures to all tariff, para-tariff and non-tariff preferences which may in the future become applicable within such subregional, regional or interregional groupings.

Chapter VI

CONSULTATIONS AND SETTLEMENT OF DISPUTES

Article 19

CONSULTATIONS

1. Each participant shall accord sympathetic consideration to, and shall afford adequate opportunity for, consultations regarding such representations as may be made by another participant with respect to any matter affecting the operation of this Agreement.

2. The Committee may, at the request of a participant, consult with any participant in respect of any matter for which it has not been possible to find a satisfactory solution through such consultation under paragraph 1 above.

Article 20

NULLIFICATION OR IMPAIRMENT

1. If any participant should consider that another participant has altered the value of a concession embodied in its schedule or that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired as the result of the failure of another participant to carry out any of its obligations under this Agreement or as the result of any other circumstance relevant to the operation of this Agreement, the former may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other participants which it considers to be concerned, which thus approached shall give sympathetic consideration to the representations or proposals made to them.

2. If no satisfactory adjustment is effected between the participants concerned within 90 days from the date on which such representation or request for consultation was made, the matter may be referred to the Committee which shall consult with the participants concerned and make appropriate recommendations within 75 days from the date the matter was referred to the Committee. If still no satisfactory adjustment is made within 90 days after the recommendations were made, the aggrieved participant may suspend the application of a substantially equivalent concession, or other obligations of the GSTP which the Committee does not disapprove of.

Article 21

SETTLEMENT OF DISPUTES

Any dispute that may arise among the participants regarding the interpretation and application of the provisions of this Agreement or any instrument adopted within its framework shall be amicably settled by agreement between the parties concerned in line with article 19 of this Agreement. In the event of failure to settle a dispute, it may be referred to the Committee by a party to the dispute. The Committee shall review the matter and make a recommendation thereon within 120 days from the date on which the dispute was submitted to it. The Committee shall adopt appropriate rules for this purpose.

Chapter VII

FINAL PROVISIONS

Article 22

IMPLEMENTATION

Each participant shall take such legislative or other measures as may be necessary to implement this Agreement and the instruments adopted within its framework.

Article 23

DEPOSITARY

The Government of the Socialist Federal Republic of Yugoslavia is hereby designated as the depositary of this Agreement.

Article 24

SIGNATURE

This Agreement shall be open for signature at Belgrade, Yugoslavia, from 13 April 1988 until the date of its entry into force in accordance with article 26.

Article 25

DEFINITIVE SIGNATURE, RATIFICATION, ACCEPTANCE OR APPROVAL

Any participant referred to in article 1(a) and in annex I of this Agreement which has exchanged concessions may:

- (a) At the time of signing this Agreement, declare that by such signature it expresses its consent to be bound by this Agreement (definitive signature); or
- (b) After signing this Agreement, ratify, accept or approve it by the deposit of an instrument to that effect with the depositary.

Article 26

ENTRY INTO FORCE

1. This Agreement shall enter into force on the thirtieth day after 15 States referred to in article 1(a) and in annex I of the Agreement from the three regions of the Group of 77, which have exchanged concessions have deposited their instruments of definitive signature, ratification, acceptance, approval in accordance with article 25, paragraphs (a) and (b).

2. For any State which deposits an instrument of ratification, acceptance, approval or accession or a notification of provisional application after the conditions for entry into force of this Agreement have been met, it shall enter into force for that State on the thirtieth day after such deposit or notification.

3. Upon entry into force of this Agreement the Committee shall set a final date for the deposit of instruments of ratification, acceptance, or approval by states referred to in article 25. This date shall not be later than three years following the date of entry into force of this Agreement.

Article 27

NOTIFICATION OF PROVISIONAL APPLICATION

A signatory which intends to ratify, accept or approve this Agreement but which has not been able to deposit its instrument, may within sixty days after the Agreement enters into force notify the depositary that it will apply this Agreement provisionally. The provisional application shall not exceed a period of two years.

Article 28

ACCESSION

Six months after this Agreement enters into force in accordance with the provisions of this Agreement it shall be open to accession by other members of the Group of 77 who shall have complied with the conditions provided for in this Agreement. To this end the following procedures shall apply:

- (a) The applicant shall notify its intention of accession to the Committee;
- (b) The Committee shall circulate the notification among the participants;
- (c) The applicant shall submit an offer list to the participants and any participant may table a request list to the applicant;
- (d) Once the procedures under (a), (b) and (c) above have been completed, the applicant shall enter into negotiations with the interested participants with a view to reaching agreement on its list of concessions;
- (e) Application for accession from a least developed country shall be considered taking into account the provision for special treatment for least developed countries.

Article 29

AMENDMENTS

1. Any participant may propose an amendment to this Agreement. The Committee shall consider and recommend the amendment for adoption by the participants. An amendment shall become effective 30 days after the date on which two-thirds of the participants, in article 1(a), have notified the depositary of their acceptance.

2. Notwithstanding provisions of paragraph 1 of this article:

- (a) Any amendment concerning:
 - (i) The definition of membership stipulated in article 1(a);
 - (ii) The procedure for amending this Agreement;

shall enter into force after its acceptance by all participants in accordance with article 1(a) of this Agreement;

- (b) Any amendment concerning:
 - (i) The principles stipulated in article 3;
 - (ii) The base of consensus and any other bases of voting mentioned in this Agreement;

shall enter into force after its acceptance by consensus.

Article 30

WITHDRAWAL

1. Any participant may withdraw from this Agreement at any time after its entry into force. Such withdrawal shall be effective six months from the day on which written notice thereof is received by the depositary. That participant shall simultaneously inform the Committee of the action it has taken.

2. The rights and obligations of a participant which has withdrawn from this Agreement shall cease to apply as of that date. After that date, the participants and the withdrawing participant shall jointly decide whether to withdraw in whole or in part the concessions received by the latter from the former and vice versa.

Article 31

RESERVATIONS

Reservations may be made in request of any of the provisions of this Agreement provided they are not incompatible with the object and purpose of this Agreement and are accepted by the majority of the participants.

Article 32

NON-APPLICATION*

1. The GSTP shall not apply as between participants if they have not entered into direct negotiations with each other and if either of them, at the time either accepts this Agreement, does not consent to such application.

2. The Committee may review the operation of this article in particular cases at the request of any of the participants and make appropriate recommendations.

*This article can only be invoked in exceptional circumstances duly notified to the Committee.

Article 33

SECURITY EXCEPTIONS

Nothing in this Agreement shall be construed to prevent any participant from taking any action which it considers necessary for the protection of its essential security interests.

Article 34

ANNEXES

1. The annexes form an integral part of this Agreement and a reference to this Agreement or to one of its chapters includes a reference to the annexes relating thereto.

2. The annexes to this Agreement shall be:

- (a) Annex I — Participants in the Agreement;
- (b) Annex II — Rules of Origin;
- (c) Annex III — Additional Measures in Favour of Least Developed Countries;
- (d) Annex IV — Schedules of Concessions.

DONE at Belgrade, Yugoslavia, on the thirteenth day of April, one thousand nine hundred and eighty-eight, the texts of this Agreement in the Arabic, English, French and Spanish languages being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement on the dates indicated.

ANNEX I

Participants in the Agreement

Algeria	Mexico
Angola	Morocco
Argentina	Mozambique
Bangladesh	Nicaragua
Benin	Nigeria
Bolivia	Pakistan
Brazil	Peru
Cameroon	Philippines
Chile	Qatar
Colombia	Republic of Korea
Cuba	Romania
Democratic People's Republic of Korea	Singapore
Ecuador	Sri Lanka
Egypt	Sudan
Ghana	Thailand
Guinea	Trinidad and Tobago
Guyana	Tunisia
Haiti	United Republic of Tanzania
India	Uruguay
Indonesia	Venezuela
Iran (Islamic Republic of)	Viet Nam
Iraq	Yugoslavia
Libyan Arab Jamahiriya	Zaire
Malaysia	Zimbabwe

ANNEX II

Rules of Origin

For determining the origin of products eligible for preferential concessions under the GSTP in the light of paragraphs (a) and (b) of article 3 and article 15 of the Agreement on GSTP the following rules shall be applied:

Rule 1. Originating products. Products covered by preferential trading arrangements within the framework of the GSTP imported into the territory within the meaning of rule 5 hereof, shall be eligible for preferential concessions if they conform to the origin requirement under one of the following conditions:

(a) Products wholly produced or obtained in the exporting participant defined in rule 2; or

(b) Products not wholly produced or obtained in the exporting participant, provided that the said products are eligible under rule 3 or rule 4.

Rule 2. Wholly produced or obtained. Within the meaning of rule 1(a) the following shall be considered as wholly produced or obtained in the exporting participant:

(a) Raw or mineral products extracted from its soil, its water or its seabeds;^a

(b) Agricultural products harvested there;^b

(c) Animals born and raised there;

(d) Products obtained from animals referred to in paragraph (c) above;

(e) Products obtained by hunting or fishing conducted there;

(f) Products of sea fishing and other marine products taken from the high seas by its vessels;^{c,d}

(g) Products processed and/or made on board its factory ships exclusively from products referred to in paragraph (f) above;^{d,e}

^aInclude mineral fuels, lubricants and related materials as well as mineral or metal ores.

^bInclude forestry products.

“Vessels” — shall refer to fishing vessels engaged in commercial fishing, registered in a participant’s country and operated by a citizen or citizens or Governments of participants or partnership, corporation or association, duly registered in such participant’s country, at least 60 per cent of equity of which is owned by a citizen or citizens and/or Government of such participant or 75 per cent by citizens and/or Governments of the participants. However, the products taken from vessels engaged in commercial fishing under bilateral agreements which provide for chartering/leasing of such vessels and/or sharing of catch between participants will also be eligible for preferential concessions.

^dIn respect of vessels or factory ships operated by government agencies, the requirement of flying the flag of a participant does not apply.

^eFor the purpose of this Agreement, the term “factory ship” means any vessel, as defined, used for processing and/or making on board products exclusively from those products referred to in paragraph (f) above.

- (h) Used articles collected there, fit only for the recovery of raw materials;
- (i) Waste and scrap resulting from manufacturing operations conducted there;
- (j) Goods produced there exclusively from the products referred to in paragraph (a) to (i) above.

Rule 3. Not wholly produced or obtained

(a) Within the meaning of rule 1(b), products worked on or processed as a result of which the total value of the materials, parts or produce originating from non-participants or of undetermined origin used does not exceed 50 per cent of the f.o.b. value of the products produced or obtained and the final process of manufacture is performed within the territory of the exporting participant shall be eligible for preferential concessions, subject to the provisions of rule 3(c) and rule 4.

(b) Sectoral agreements^f

(c) The value of the non-originating materials, parts or produce shall be:

- (i) The c.i.f. value at the time of importation of the materials, parts or produce where this can be proven; or
- (ii) The earliest ascertainable price paid for the materials, parts or produce of undetermined origin in the territory of the participant where the working or processing takes place.

Rule 4. Cumulative rules of origin. Products which comply with origin requirements provided for in rule 1 and which are used by a participant as input for a finished product eligible for preferential treatment by another participant shall be considered as a product originating in the territory of the participant where working or processing of the finished product has taken place provided that the aggregate content originating in the territory of the participant is not less than 60 per cent of its f.o.b. value.^g

Rule 5. Direct consignment. The following shall be considered as directly consigned from the exporting participant to the importing participant:

(a) if the products are transported without passing through the territory of any non-participant:

(b) the products whose transport involves transit through one or more intermediate non-participants with or without transshipment or temporary storage in such countries, provided that:

- (i) The transit entry is justified for geographical reason or by considerations related exclusively to transport requirements;
- (ii) The products have not entered into trade or consumption there; and
- (iii) The products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

^fIn respect of products traded within the framework of sectoral agreements negotiated under the GSTP, provision may need to be made for special criteria to apply. Consideration may be given to these criteria as and when the sectoral agreements are negotiated.

^g“Partial” cumulation as implied by rule 4 above means that only products which have acquired originating status in the territory of one participant may be taken into account when used as inputs for a finished product eligible for preferential treatment in the territory of another participant.

Rule 6. Treatment and packing. When determining the origin of products, packing should be considered as forming a whole with the product it contains. However, packing may be treated separately if the national legislation so requires.

Rule 7. Certificate of origin. Products eligible for preferential concessions shall be supported by a Certificate of Origin^b issued by an authority designated by the government of the exporting participant and notified to the other participants in accordance with the Certification Procedures to be developed and approved by the participants.

Rule 8

(a) In conformity with paragraphs (a) and (b) of article 3 and article 15 of the Agreement on the GSTP and national legislations, any participant may prohibit importation of products containing any inputs originating from States with which it does not have economic and commercial relations.

(b) Participants will do their best to cooperate in order to specify origin of inputs in the Certificate of Origin.

Rule 9. Review. These rules may be reviewed as and when necessary upon request of one third of the participants and may be open to such modifications as may be agreed upon.

Rule 10. Special criteria percentage. Products originating in participating least developed countries can be allowed a favourable 10 percentage points applied to the percentages established in rules 3 and 4. Thus, for rule 3, the percentage would not exceed 60 per cent, and for rule 4, the percentage would not be less than 50 per cent.

I. *General Conditions*

To qualify for preference, products must:

(a) Fall within a description of products eligible for preference in the schedule of concessions of the GSTP country of destination;

(b) Comply with the GSTP rules of Origin. Each article in a consignment must qualify separately in its own right; and

(c) Comply with the consignment conditions specified by the GSTP Rules of Origin. In general, products must be consigned directly within the meaning of rule 5 hereof from the country of exportation to the country of destination.

II. *Entries to be made in box 8*

Preference products must be wholly produced or obtained in the exporting participant in accordance with rule 2 of the GSTP Rules of Origin, or where not wholly produced or obtained in the exporting participant must be eligible under rule 3 or rule 4.

(a) Products wholly produced or obtained: enter the letter "A" in box 8.

(b) Products not wholly produced or obtained: the entry in box 8 should be as follows:

1. Enter letter "B" in box 8, for products which meet the working criteria according to rule 3. Entry of letter "B" would be followed by the sum of the value of materials, parts or produce originating from non-participants, or undetermined origin used, expressed as a percentage of f.o.b. value of the exported products (example "B" 50 per cent).

^bA standard Certificate of Origin to be used by all participants is annexed.

2. Enter letter “C” in box 8 for products which meet the origin criteria according to rule 4. Entry of letter “C” would be followed by the sum of the aggregate content originating in the territory of the exporting participant expressed as a percentage of the f.o.b. value of the exported product (example “C” 60 per cent).
3. Enter letter “D” in box 8 for products which meet the special origin criteria according to rule 10.

ANNEX III

Additional measures in favor of least developed countries

Special consideration shall be given by participants to requests from participating least developed countries for technical assistance and cooperation arrangements designed to assist participating least developed countries in expanding their trade with other developing countries and in taking advantage of the potential benefits of the GSTP, particularly in the following areas:

(a) The identification, preparation and establishment of industrial and agricultural projects in the territories of participating least developed countries which could provide the production base for the expansion of exports of participating least developed countries to other participants, possibly linked to cooperative financing and buy-back arrangements;

(b) The setting up of manufacturing and other facilities in participating least developed countries to meet subregional and regional demand under cooperative arrangements;

(c) The formulation of export promotion policies and the establishment of training facilities in the field of trade to assist participating least developed countries in expanding their exports and in maximizing their benefits from the GSTP;

(d) The provision of support to export marketing of products of participating least developed countries by enabling these countries to share existing facilities (for example, with respect to export credit insurance, access to market information) and by institutional and other positive measures to facilitate imports from participating least developed countries into their own markets;

(e) Bringing together of enterprises in other participants with project sponsors in the participating least developed countries (both public and private) with a view to promoting joint ventures in projects designed to lead to the expansion of trade;

(f) The provision of special facilities and rates in respect to shipping;

(g) The provision of special facilities for the participating land-locked and island least developed countries to deal with transit problems and constraints in transport — where any study or programme of action is to be undertaken in, or in relation to, any transit country, such study or programme of action will be carried out in consultation with, and with the approval of, the transit country concerned;

(h) The provision of increased flows of essential items to the participating least developed countries through special preferential arrangements.

ANNEX IV

Schedules of Concessions

[Issued separately.]

2. PROTOCOL TO THE 1979 CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION CONCERNING THE CONTROL OF EMISSIONS OF NITROGEN OXIDES OR THEIR TRANSBOUNDARY FLUXES.² DONE AT SOFIA ON 31 OCTOBER 1988

The Parties,

Determined to implement the Convention on Long-range Transboundary Air Pollution,³

Concerned that present emissions of air pollutants are causing damage, in exposed parts of Europe and North America, to natural resources of vital environmental and economic importance,

Recalling that the Executive Body for the Convention recognized at its second session the need to reduce effectively the total annual emissions of nitrogen oxides from stationary and mobile sources or their transboundary fluxes by 1995, and the need on the part of other States that had already made progress in reducing these emissions to maintain and review their emission standards for nitrogen oxides,

Taking into consideration existing scientific and technical data on emissions, atmospheric movements and effects on the environment of nitrogen oxides and their secondary products, as well as on control technologies,

Conscious that the adverse environmental effects of emissions of nitrogen oxides vary among countries,

Determined to take effective action to control and reduce national annual emissions of nitrogen oxides or their transboundary fluxes by, in particular, the application of appropriate national emission standards to new mobile and major new stationary sources and the retrofitting of existing major stationary sources,

Recognizing that scientific and technical knowledge of these matters is developing and that it will be necessary to take such developments into account when reviewing the operation of this Protocol and deciding on further action,

Noting that the elaboration of an approach based on critical loads is aimed at the establishment of an effect-oriented scientific basis to be taken into account when reviewing the operation of this Protocol and at deciding on further internationally agreed measures to limit and reduce emissions of nitrogen oxides or their transboundary fluxes,

Recognizing that the expeditious consideration of procedures to create more favourable conditions for exchange of technology will contribute to the effective reduction of emissions of nitrogen oxides in the region of the Commission,

Noting with appreciation the mutual commitment undertaken by several countries to implement immediate and substantial reductions of national annual emissions of nitrogen oxides,

Acknowledging the measures already taken by some countries which have had the effect of reducing emissions of nitrogen oxides,

Have agreed as follows:

Article I

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. "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;

5. "Parties" means, unless the context otherwise requires, the Parties to the present Protocol;

6. "Commission" means the United Nations Economic Commission for Europe;

7. "Critical load" means a quantitative estimate of the exposure to one or more pollutants below which significant harmful effects on specified sensitive elements of the environment do not occur according to present knowledge;

8. "Major existing stationary source" means any existing stationary source the thermal input of which is at least 100 MW;

9. "Major new stationary source" means any new stationary source the thermal input of which is at least 50 MW;

10. "Major source category" means any category of sources which emit or may emit air pollutants in the form of nitrogen oxides, including the categories described in the Technical Annex, and which contribute at least 10 per cent of the total national emissions of nitrogen oxides on an annual basis as measured or calculated in the first calendar year after the date of entry into force of the present Protocol, and every fourth year thereafter;

11. "New stationary source" means any stationary source the construction or substantial modification of which is commenced after the expiration of two years from the date of entry into force of this Protocol;

12. "New mobile source" means a motor vehicle or other mobile source which is manufactured after the expiration of two years from the date of entry into force of the present Protocol.

Article 2

BASIC OBLIGATIONS

1. The Parties shall, as soon as possible and as a first step, take effective measures to control and/or reduce their national annual emissions of nitrogen oxides or their transboundary fluxes so that these, at the latest by 31 December 1994, do not exceed their national annual emissions of nitrogen oxides or transboundary fluxes of such emissions for the calendar year 1987 or any previous year to be specified upon signature of, or accession to, the Protocol, provided that in addition, with respect to any Party specifying such a previous year, its national average annual transboundary fluxes or national average annual emissions of nitrogen oxides for the period from 1 January 1987 to 1 January 1996 do not exceed its transboundary fluxes or national emissions for the calendar year 1987.

2. Furthermore, the Parties shall in particular, and no later than two years after the date of entry into force of the present Protocol:

(a) Apply national emissions standards to major new stationary sources and/or source categories, and to substantially modified stationary sources in major source categories, based on the best available technologies which are economically feasible, taking into consideration the Technical Annex;

(b) Apply national emission standards to new mobile sources in all major source categories based on the best available technologies which are economically feasible, taking into consideration the Technical Annex and the relevant decisions taken within the framework of the Inland Transport Committee of the Commission; and

(c) Introduce pollution control measures for major existing stationary sources, taking into consideration the Technical Annex and the characteristics of the plant, its age and its rate of utilization and the need to avoid undue operational disruption.

3. (a) The Parties shall, as a second step, commence negotiations, no later than six months after the date of entry into force of the present Protocol, on further steps to reduce national annual emissions of nitrogen oxides or transboundary fluxes of such emissions, taking into account the best available scientific and technological developments, internationally accepted critical loads and other elements resulting from the work programme undertaken under article 6.

(b) To this end, the Parties shall cooperate in order to establish:

- (i) Critical loads;
- (ii) Reductions in national annual emissions of nitrogen oxides or transboundary fluxes of such emissions as required to achieve agreed objectives based on critical loads; and
- (iii) Measures and a timetable commencing no later than 1 January 1996 for achieving such reductions.

4. Parties may take more stringent measures than those required by the present article.

Article 3

EXCHANGE OF TECHNOLOGY

1. The Parties shall, consistent with their national laws, regulations and practices, facilitate the exchange of technology to reduce emissions of nitrogen oxides, particularly through the promotion of:

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

2. In promoting the activities specified in subparagraphs (a) to (d) 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 emissions of nitrogen oxides.

Article 4

UNLEADED FUEL

The Parties shall, as soon as possible and no later than two years after the date of entry into force of the present Protocol, make unleaded fuel sufficiently available, in particular cases as a minimum along main international transit routes, to facilitate the circulation of vehicles equipped with catalytic converters.

Article 5

REVIEW PROCESS

1. Parties shall regularly review the present Protocol, taking into account the best available scientific substantiation and technological development.

2. The first review shall take place no later than one year after the date of entry into force of the present Protocol.

Article 6

WORK TO BE UNDERTAKEN

The Parties shall give high priority to research and monitoring related to the development and application of an approach based on critical loads to determine, on a scientific basis, necessary reductions in emissions of nitrogen oxides. The Parties shall, in particular, through national research programmes, in the work plan of the Executive Body and through other cooperative programmes within the framework of the Convention, seek to:

(a) Identify and quantify effects of emissions of nitrogen oxides on humans, plant and animal life, waters, soils and materials, taking into account the impact on these of nitrogen oxides from sources other than atmospheric deposition;

(b) Determine the geographical distribution of sensitive areas;

(c) Develop measurements and model calculations including harmonized methodologies for the calculation of emissions, to quantify the long-range transport of nitrogen oxides and related pollutants;

(d) Improve estimates of the performance and costs of technologies for control of emissions of nitrogen oxides and record the development of improved and new technologies; and

(e) Develop, in the context of an approach based on critical loads, methods to integrate scientific, technical and economic data in order to determine appropriate control strategies.

Article 7

NATIONAL PROGRAMMES, POLICIES AND STRATEGIES

The Parties shall develop without undue delay national programmes, policies and strategies to implement the obligations under the present Protocol that shall serve as a means of controlling and reducing emissions of nitrogen oxides or their transboundary fluxes.

Article 8

INFORMATION EXCHANGE AND ANNUAL REPORTING

1. The Parties shall exchange information by notifying the Executive Body of the national programmes, policies and strategies that they develop in accordance with article 7 and by reporting to it annually on progress achieved under, and any changes to, those programmes, policies and strategies, and in particular on:

(a) The levels of national annual emissions of nitrogen oxides and the basis upon which they have been calculated;

(b) Progress in applying national emission standards required under article 2, subparagraphs 2(a) and 2(b), and the national emission standards applied or to be applied, and the sources and/or source categories concerned;

(c) Progress in introducing the pollution control measures required under article 2, subparagraph 2(c), the sources concerned and the measures introduced or to be introduced;

(d) Progress in making unleaded fuel available;

(e) Measures taken to facilitate the exchange of technology; and

(f) Progress in establishing critical loads.

2. Such information shall, as far as possible, be submitted in accordance with a uniform reporting framework.

Article 9

CALCULATIONS

EMEP shall, utilizing appropriate models and in good time before the annual meetings of the Executive Body, provide to the Executive Body calculations of nitrogen budgets and also of transboundary fluxes and deposition of nitrogen oxides within the geographical scope of EMEP. In areas outside the geographical scope of EMEP, models appropriate to the particular circumstances of Parties to the Convention therein shall be used.

Article 10

TECHNICAL ANNEX

The Technical Annex to the present Protocol is recommendatory in character. It shall form an integral part of the Protocol.

Article 11

AMENDMENTS TO THE PROTOCOL

1. Any Party may propose amendments to the present Protocol.

2. Proposed amendments shall be submitted in writing to the Executive Secretary of the Commission who shall communicate them to all Parties. The Executive Body shall discuss the proposed amendments at its next annual meeting provided that these proposals have been circulated by the Executive Secretary to the Parties at least ninety days in advance.

3. Amendments to the Protocol, other than amendments to its Technical Annex, shall be adopted by consensus of the Parties present at a meeting of the Executive Body, and shall enter into force for the Parties which have accepted them on the ninetieth day after the date on which two thirds of the Parties have deposited their instruments of acceptance thereof. Amendments shall enter into force for any Party which has accepted them after two thirds of the Parties have

deposited their instruments of acceptance of the amendment, on the ninetieth day after the date on which that Party deposited its instrument of acceptance of the amendments.

4. Amendments to the Technical Annex shall be adopted by consensus of the Parties present at a meeting of the Executive Body and shall become effective thirty days after the date on which they have been communicated in accordance with paragraph 5 below.

5. Amendments under paragraphs 3 and 4 above shall, as soon as possible after their adoption, be communicated by the Executive Secretary to all Parties.

Article 12

SETTLEMENT OF DISPUTES

If a dispute arises between two or more Parties as to the interpretation or application of the present Protocol, they shall seek a solution by negotiation or by any other method of dispute settlement acceptable to the parties to the dispute.

Article 13

SIGNATURE

1. The present Protocol shall be open for signature at Sofia from 1 November 1988 until 4 November 1988 inclusive, then at the Headquarters of the United Nations in New York until 5 May 1989, by the member States of the Commission as well as States having consultative status with the Commission, pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations, constituted by sovereign States members of the Commission, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the Protocol, provided that the States and organizations concerned are Parties to the Convention.

2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and 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 14

RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

1. The present Protocol shall be subject to ratification, acceptance or approval by Signatories.

2. The present Protocol shall be open for accession as from 6 May 1989 by the States and organizations referred to in article 13, paragraph 1.

3. A State or organization which accedes to the present Protocol after 31 December 1993 may implement articles 2 and 4 no later than 31 December 1995.

4. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who will perform the functions of depositary.

Article 15

ENTRY INTO FORCE

1. The present Protocol shall enter into force on the ninetieth day following the date on which the sixteenth instrument of ratification, acceptance, approval or accession has been deposited.

2. For each State and organization referred to in article 13, paragraph 1, which ratifies, accepts or approves the present Protocol or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval, or accession, the Protocol shall enter into force on the ninetieth day following the date of deposit by such Party of its instrument of ratification, acceptance, approval, or accession.

Article 16

WITHDRAWAL

At any time after five years from the date on which the present Protocol has come into force with respect to a Party, that Party may withdraw from it by giving written notification to the depositary. Any such withdrawal shall take effect on the ninetieth day following the date of its receipt by the depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 17

AUTHENTIC TEXTS

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

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Protocol.

DONE at Sofia this thirty-first day of October one thousand nine hundred and eighty-eight.

1. Goods consigned from (Exporter's business name, address, country)		Reference No. GLOBAL SYSTEM OF TRADE PREFERENCES Certificate of Origin (Combined declaration and certificate)			
2. Goods consigned to (Consignee's name, address, country)		Issued in. (country) see Notes overleaf			
3. Means of transport and route (as far as known)			4. For Official use		
5. Tariff item number	6. Marks and numbers of packages	7. Number and kind of packages; description of goods	8. Origin criterion (see Notes overleaf)	9. Gross weight or other quantity	10. Number and date of invoices
11. Declaration by the exporter The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in (country) and they comply with the origin requirements specified for those goods in the Global System of Trade Preferences for goods exported to (importing country) Place and date, signature of authorized signatory			12. Certificate It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct Place and date, signature and stamp of certifying authority		

TECHNICAL ANNEX

1. Information regarding emission performance and costs is based on official documentation of the Executive Body and its subsidiary bodies, in particular documents EB.AIR/WG.3/R.8, R.9 and R.16, and ENV/WP.1/R.86, and Corr.1, as reproduced in chapter 7 of *Effects and Control of Transboundary Air Pollution*.^{*} Unless otherwise indicated, the technologies listed are considered to be well established on the basis of operational experience.^{**}

2. The information contained in this annex is incomplete. Because experience with new engines and new plants incorporating low emission technology, as well as with retrofitting existing plants, is continuously expanding, regular elaboration and amendment of the annex will be necessary. The annex cannot be an exhaustive statement of technical options; its aim is to provide guidance for the Parties in identifying economically feasible technologies for giving effect to the obligations of the Protocol.

I. CONTROL TECHNOLOGIES FOR NO_x EMISSIONS FROM STATIONARY SOURCES

3. Fossil fuel combustion is the main stationary source of anthropogenic NO_x emissions. In addition, some non-combustion processes can contribute relevant NO_x emissions.

4. Major stationary source categories of NO_x emissions may include:

- (a) Combustion plants;
- (b) Industrial process furnaces (e.g., cement manufacture);
- (c) Stationary gas turbines and internal combustion engines; and
- (d) Non-combustion processes (e.g., nitric acid production).

5. Technologies for the reduction of NO_x emissions focus on certain combustion/process modifications, and, especially for large power plants, on flue gas treatment.

6. For retrofitting of existing plants, the extent of application of low-NO_x technologies may be limited by negative operational side effects or by other site-specific constraints. In the case of retrofitting, therefore, only approximate estimates are given for typically achievable NO_x emission values. For new plants, negative side effects can be minimized or excluded by appropriate design features.

7. According to currently available data, the costs of combustion modifications can be considered as small for new plants. However, in the case of retrofitting, for instance at large power plants, they ranged from about 8 to 25 Swiss francs per kW_{el} (in 1985). As a rule, investment costs of flue gas treatment systems are considerable higher.

8. For stationary sources, emission factors are expressed in milligrams of NO₂ per normal (0° C, 1013 mb) cubic metre (mg/m³), dry basis.

Combustion plants

9. The category of combustion plants comprises fossil fuel combustion in furnaces, boilers, indirect heaters and other combustion facilities with a heat input larger

^{*}Air Pollution Studies No. 4 (United Nations publication, Sales No. E.87.II.E.36).

^{**}It is at present difficult to provide reliable data on the costs of control technologies in absolute terms. For cost data included in the present annex, emphasis should therefore be placed on the relationships between the costs of different technologies rather than on absolute cost figures.

than 10 MW, without mixing the combustion flue gases with other effluents or treated materials. The following combustion technologies, either singly or in combination, are available for new and existing installations:

- (a) Low-temperature design of the firebox, including fluidized bed combustion;
- (b) Low excess-air operation;
- (c) Installation of special low-NO_x burners;
- (d) Flue gas recirculation into the combustion air;
- (e) Staged combustion/overfire-air operation; and
- (f) Reburning (fuel staging).***

Performance standards that can be achieved are summarized in table 1.

10. Flue gas treatment by selective catalytic reduction (SCR) is an additional NO_x emission reduction measure with efficiencies of up to 80 per cent and more. Considerable operational experience from new and retrofitted installations is now being obtained within the region of the Commission, in particular for power plants larger than 300 MW (thermal). When combined with combustion modifications, emission values of 200 mg/m³ (solid fuels, 6 per cent O₂) and 150 mg/m³ (liquid fuels, 3 per cent O₂) can be easily met.

11. Selective non-catalytic reduction (SNCR), a flue gas treatment for a 20-60 per cent NO_x reduction, is a cheaper technology for special applications (e.g., refinery furnaces and base load gas combustion).

12. NO_x emissions from stationary gas turbines can be reduced either by combustion modification (dry control) or by water/steam injection (wet control). Both measures are well established. By these means, emission values of 150 mg/m³ (gas, 15 per cent O₂) and 300 mg/m³ (oil, 15 per cent O₂) can be met. Retrofit is possible.

13. NO_x emissions from stationary spark ignition IC engines can be reduced either by combustion modifications (e.g., lean-burn and exhaust gas recirculation concepts) or by flue gas treatment (closed-loop 3-way catalytic converter, SCR). The technical and economic feasibility of these various processes depends on engine size, engine type (two stroke/four stroke), and engine operation mode (constant/varying load). The lean-burn concept is capable of meeting NO_x emission values of 800 mg/m³ (5 per cent O₂), the SCR process reduces NO_x emissions well below 400 mg/m³ (5 per cent O₂), and the three-way catalytic converter reduces such emissions even below 200 mg/m³ (5 per cent O₂).

Industrial process furnaces — Cement calcinations

14. The precalcination process is being evaluated within the region of the Commission as a possible technology with the potential for reducing NO_x concentrations in the flue gas of new and existing cement calcination furnaces to about 300 mg/m³ (10 per cent O₂).

Non-combustion processes — Nitric acid production

15. Nitric acid production with a high pressure absorption (>8 bar) is capable of keeping NO_x concentrations in undiluted effluents below 400 mg/m³. The same emission performance can be met by medium pressure absorption in combination with a SCR process or any other similar efficient NO_x reduction process. Retrofit is possible.

II. CONTROL TECHNOLOGIES FOR NO_x EMISSIONS FROM MOTOR VEHICLES

16. The motor vehicles considered in this annex are those used for road transport, namely: petrol-fuelled and diesel-fuelled passenger cars, light-duty vehicles and heavy-duty vehicles. Appropriate reference is made, as necessary, to the specific vehicle categories (M₁, M₂, M₃, N₁, N₂, N₃) defined in ECE Regulation No. 13 pursuant to the 1958

***There is limited operational experience of this type of combustion technology.

TABLE 1. NO_x Performance Standards (mg/m^3) That Can Be Achieved By Combustion Modifications

Solid Fuels	Plant type g/l	Uncontrolled baseline	Range	Existing plant retrofit $lb/$ Typical value	New plant	O_2 %	
							Plant type g/l
Solid Fuels	10 MW $g/$ to 300 MW	Grate combustion (coal)	300 - 1 000	-	600	400	7
		Fluidized bed combustion					
	(i) Stationary	300 - 600	-	-	400	7	
	(ii) Circulating	150 - 300	-	-	200	7	
	Pulverized coal combustion	(i) Dry bottom	700 - 1 700	600 - 1 100	800	<600	6
		(ii) Wet bottom	1 000 - 2 300	1 000 - 1 400	-	<1 000	6
>300 MW	Pulverized coal combustion	(i) Dry bottom	700 - 1 700	600 - 1 100	-	< 600	6
		(ii) Wet bottom	1 000 - 2 300	1 000 - 1 400	-	< 1 000	6
Liquid Fuels	10 MW $g/$ to 300 MW	Distillate oil combustion	-	-	300	-	3
		Residual oil combustion	500 - 1 400	200 - 400	400	-	3
	>300 MW	Residual oil combustion	500 - 1 400	200 - 400	-	-	3
Gaseous Fuels	10 MW $g/$ to 300 MW		150 - 1 000	100 - 300	-	< 300	3
	>300 MW		250 - 1 400	100 - 300	-	< 300	3

$g/$ Capacity numbers refer to MW (thermal) heat input by fuel (lower heating value).

$lb/$ Only appropriate values can be given due to site-specific factors and greater uncertainty for retrofitting of existing plant.

$g/$ For small (10MW-100MW) plants, a greater degree of uncertainty applies to all figures given.

Agreement concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicles Equipment and Parts.

17. Road transport is a major source of anthropogenic NO_x emission in many Commission countries, contributing between 40 and 80 per cent of total national emissions. Typically, petrol-fuelled vehicles contribute two thirds of total road transport NO_x emissions.

18. The technologies available for the control of nitrogen oxides from motor vehicles are summarized in tables 3 and 6. It is convenient to group the technologies by reference to existing or proposed national and international emission standards differing in stringency of control. Because current regulatory test cycles only reflect urban and metropolitan driving, the estimates of relative NO_x emissions given below take account of higher speed driving where NO_x emissions can be particularly important.

19. The additional production cost figures for the various technologies given in tables 3 and 6 are manufacturing cost estimates rather than retail prices.

20. Control of production conformity and in-use vehicle performance is important in ensuring that the reduction potential of emission standards is achieved in practice.

21. Technologies that incorporate or are based on the use of catalytic converters require unleaded fuel. Free circulation of vehicles equipped with catalytic converters depends on the general availability of unleaded petrol.

Petro-fuelled and diesel-fuelled passenger cars (M_1)

22. In table 2, four emission standards are summarized. These are used in table 3 to group the various engine technologies for petrol vehicles according to their NO_x emission reduction potential.

23. The emission standards A, B, C and D include limits on hydrocarbon (HC) and carbon monoxide (CO) emissions as well as NO_x . Estimates of emission reductions for these pollutants, relative to the baseline ECE R.15-04 case, are given in table 4.

24. Current diesel cars can meet the NO_x emission requirements of standards A, B and C. Strict particulate emission requirements, together with the stringent NO_x limits of standard D, imply that diesel passenger cars will require further development, probably including electronic control of the fuel pump, advanced fuel injection systems, exhaust gas recirculation and particulate traps. Only experimental vehicles exist to date. (See also table 6, footnote a/.)

Other light-duty vehicles (N_1)

25. The control methods for passenger cars are applicable but NO_x reductions, cost and commercial lead time factors may differ.

Heavy-duty petrol-fuelled vehicles (M_2, M_3, N_2, N_3)

26. This class of vehicle is insignificant in western Europe and is decreasing in eastern Europe. US 1990 and US 1991 NO_x emission levels (see table 5) could be achieved at modest cost without significant technology advancement.

Heavy-duty diesel-fuelled vehicles M_2, M_3, N_2, N_3)

27. In table 5, three emission standards are summarized. These are used in table 6 to group engine technologies for heavy-duty diesel vehicles according to NO_x reduction potential. The baseline engine configuration is changing, with a trend away from naturally aspirated to turbo-charged engines. This trend has implications for improved baseline fuel consumption performance. Comparative estimates of consumption are therefore not included.

TABLE 2. DEFINITION OF EMISSION STANDARDS

Standard	Limits	Comments
A. ECE R.15-04	HC + NO _x : 19-28 g/test	Current ECE standard (Regulation No. 15, including the 04 series of amendments, pursuant to the 1958 Agreement referred to in paragraph 16 above), also adopted by the European Economic Community (Directive 83/351/EEC). ECE R.15 urban test cycle. Emission limit varies with vehicle mass.
B. "Luxembourg 1985"	HC + NO _x : 1.4-2.0 l : 8.0 g/test This standard only used to group technology (<1.4 l : 15.0 g/test, >2.0 l : 6.5 g/test)	Standards to be introduced during 1988-1993 in the European Economic Community, as discussed at the 1985 Luxembourg meeting of EEC Council of Ministers and finally agreed upon in December 1987. ECE R.15 urban test cycle applies. Standard for engines >2 l is generally equivalent to US 1983 standard. Standard for engines <1.4 l is provisional, definite standard to be elaborated. Standard for engines of 1.4-2.0 applies to all diesel cars >1.4 l.
C. "Stockholm 1985"	NO _x : 0.62 g/km NO _x : 0.76 g/km	Standards for national legislation based on the "master document" developed after the 1985 Stockholm meeting of Environment Ministers from eight countries. Matching US 1987 standards, with the following test procedures: US Federal Test Procedure (1975). Highway fuel economy test procedure.
D. "California 1989"	NO _x : 0.25 g/km	Standards to be introduced in the State of California, United States, from 1989 models onwards. US Federal Test Procedure.

TABLE 3. PETROL ENGINE TECHNOLOGIES, EMISSION PERFORMANCE, COSTS AND FUEL CONSUMPTION FOR EMISSION STANDARD LEVELS

Standard	Technology	Composite <u>a/</u> NO _x reduction (%)	Additional <u>b/</u> production cost (1986 Swiss francs)	Fuel consumption index <u>a/</u>
A	Baseline (current conventional spark-ignition engine with carburetor)	- <u>c/</u>	-	100
B	(a) Fuel injection + EGR + secondary air <u>d/</u>	25	200	105
	(b) Open-loop three-way catalys (+EGR)	55	150	103
	(c) Lean-burn engine with oxidation catalyst (+EGR) <u>e/</u>	60	200-600	90
C	Closed-loop three-way catalyst	90	300-600	95
D	Closed-loop three-way catalyst (+EGR)	92	350-650	98

a/ Composite NO_x reduction and fuel consumption index estimates are for an average-weight European car operating under average European driving conditions.

b/ Additional production costs could be more realistically expressed as a percentage of the total car cost. However, since cost estimates are primarily for comparison in relative terms only, the formulation of the original documents has been retained.

c/ Composite NO_x emission factor = 2.6 g/km.

d/ "EGR" means exhaust gas recirculation.

e/ Based entirely on data for experimental engines. Virtually no production of lean-burn engined vehicles exists.

TABLE 4. ESTIMATED REDUCTIONS IN HC AND CO EMISSIONS
FROM PETROL-FUELLED PASSENGER CARS
FOR DIFFERENT TECHNOLOGIES

Standard	HC-reduction (%)	CO-reduction (%)
B	(a) 30-40	50
	(b) 50-60	40-50
	(c) 70-90	70-90
C	90	90
D	90	90

TABLE 5. DEFINITION OF EMISSION STANDARDS

Standard	NO _x limits (g/kWh)	Comments
I ECE R.49	18	13, mode test
II US-1990	8.0	Transient test
III US-1991	6.7	Transient test

TABLE 6. HEAVY-DUTY DIESEL ENGINE TECHNOLOGIES, EMISSION PERFORMANCE^{a/}
AND COSTS FOR EMISSION STANDARD LEVELS

Standard	Technology	NO _x reduction estimate(%)	Additional production cost (1984 US\$)
I	Current conventional direct injection diesel engine	-	-
II b/	Turbo-charging + after-cooling + injection timing retard (Combustion chamber and port modification) (Naturally aspirated engines are unlikely to meet this standard)	40	\$115 (\$69 attributable to NO _x standard) c/
III b/	Further refinements of technologies listed under II together with variable injection timing and use of electronics	50	\$404 (\$68 attributable to NO _x standard) c/

a/ Deterioration in diesel fuel quality would adversely affect emission and may affect fuel consumption for both heavy and light duty vehicles.

b/ It is still necessary to verify on a large scale the availability of new components.

c/ Particulate control and other considerations account for the balance.

3. UNITED NATIONS CONVENTION ON INTERNATIONAL BILLS OF EXCHANGE AND INTERNATIONAL PROMISSORY NOTES.⁴ DONE AT NEW YORK ON 9 DECEMBER 1988

CHAPTER I. SPHERE OF APPLICATION AND FORM OF THE INSTRUMENT

Article 1

1. This Convention applies to an international bill of exchange when it contains the heading “International bill of exchange (UNCITRAL Convention)” and also contains in its text the words “International bill of exchange (UNCITRAL Convention).”

2. This Convention applies to an international promissory note when it contains the heading “International promissory note (UNCITRAL Convention)” and also contains in its text the words “International promissory note (UNCITRAL Convention).”

3. This Convention does not apply to cheques.

Article 2

1. An international bill of exchange is a bill of exchange which specifies at least two of the following places and indicates that any two so specified are situated in different States:

- (a) The place where the bill is drawn;
- (b) The place indicated next to the signature of the drawer;
- (c) The place indicated next to the name of the drawee;
- (d) The place indicated next to the name of the payee;
- (e) The place of payment,

provided that either the place where the bill is drawn or the place of payment is specified on the bill and that such place is situated in a Contracting State.

2. An international promissory note is a promissory note which specifies at least two of the following places and indicates that any two so specified are situated in different States:

- (a) The place where the note is made;
- (b) The place indicated next to the signature of the maker;
- (c) The place indicated next to the name of the payee;
- (d) The place of payment,

provided that the place of payment is specified on the note and that such place is situated in a Contracting State.

3. This Convention does not deal with the question of sanctions that may be imposed under national law in cases where an incorrect or false statement has been made on an instrument in respect of a place referred to in paragraph 1 or 2 of this article. However, any such sanctions shall not affect the validity of the instrument or the application of this Convention.

Article 3

1. A bill of exchange is a written instrument which:

(a) Contains an unconditional order whereby the drawer directs the drawee to pay a definite sum of money to the payee or to his order;

(b) Is payable on demand or at a definite time;

(c) Is dated;

(d) Is signed by a drawer.

2. A promissory note is a written instrument which:

(a) Contains an unconditional promise whereby the maker undertakes to pay a definite sum of money to the payee or to his order;

(b) Is payable on demand or at a definite time;

(c) Is dated;

(d) Is signed by the maker.

CHAPTER II. INTERPRETATION

SECTION 1. GENERAL PROVISIONS

Article 4

In the interpretation of this Convention, regard is to be had to its international character and to the need to promote uniformity in its application and the observance of good faith in international transactions.

Article 5

In this Convention:

(a) “Bill” means an international bill of exchange governed by this Convention;

(b) “Note” means an international promissory note governed by this Convention;

(c) “Instrument” means a bill or a note;

(d) “Drawee” means a person on whom a bill is drawn and who has not accepted it;

(e) “Payee” means a person in whose favour the drawer directs payment to be made or to whom the maker promises to pay;

(f) “Holder” means a person in possession of an instrument in accordance with article 15;

(g) “Protected holder” means a holder who meets the requirements of article 29;

(h) “Guarantor” means any person who undertakes an obligation of guarantee under article 46, whether governed by paragraph 4(b) (“guaranteed”) or paragraph 4(c) (“*aval*”) of article 47;

(i) “Party” means a person who has signed an instrument as drawer, maker, acceptor, endorser or guarantor;

(j) “Maturity” means the time of payment referred to in paragraphs 4, 5, 6 and 7 of article 9;

(k) “Signature” means a handwritten signature, its facsimile or an equivalent authentication effected by any other means; “forged signature” includes a signature by the wrongful use of such means;

(l) “Money” or “currency” includes a monetary unit or account which is established by an intergovernmental institution or by agreement between two or more States, provided that this Convention shall apply without prejudice to the rules of the intergovernmental institution or to the stipulations of the agreement.

Article 6

For the purposes of this Convention, a person is considered to have knowledge of a fact if he has actual knowledge of that fact or could not have been unaware of its existence.

SECTION 2. INTERPRETATION OF FORMAL REQUIREMENTS

Article 7

The sum payable by an instrument is deemed to be a definite sum although the instrument states that it is to be paid:

(a) With interest;

(b) By instalments at successive dates;

(c) By instalments at successive dates with a stipulation in the instrument that upon default in payment of any instalment the unpaid balance becomes due;

(d) According to a rate of exchange indicated in the instrument or to be determined as directed by the instrument; or

(e) In a currency other than the currency in which the sum is expressed in the instrument.

Article 8

1. If there is a discrepancy between the sum expressed in words and the sum expressed in figures, the sum payable by the instrument is the sum expressed in words.

2. If the sum is expressed more than once in words, and there is a discrepancy, the sum payable is the smaller sum. The same rule applies if the sum is expressed more than once in figures only, and there is a discrepancy.

3. If the sum is expressed in a currency having the same description as that of at least one other State than the State where payment is to be made, as indicated in the instrument, and the specified currency is not identified as the currency of any particular State, the currency is to be considered as the currency of the State where payment is to be made.

4. If an instrument states that the sum is to be paid with interest, without specifying the date from which interest is to run, interest runs from the date of the instrument.

5. A stipulation stating that the sum is to be paid with interest is deemed not to have been written on the instrument unless it indicates the rate at which interest is to be paid.

6. A rate at which interest is to be paid may be expressed either as a definite rate or as a variable rate. For a variable rate to qualify for this purpose, it must vary in relation to one or more reference rates of interest in accordance with provisions stipulated in the instrument and each such reference rate must be published or otherwise available to the public and not be subject, directly or indirectly, to unilateral determination by a person who is named in the instrument at the time the bill is drawn or the note is made, unless the person is named only in the reference rate provisions.

7. If the rate at which interest is to be paid is expressed as a variable rate, it may be stipulated expressly in the instrument that such rate shall not be less than or exceed a specified rate of interest, or that the variations are otherwise limited.

8. If a variable rate does not qualify under paragraph 6 of this article or for any reason it is not possible to determine the numerical value of the variable rate for any period, interest shall be payable for the relevant period at the rate calculated in accordance with paragraph 2 of article 70.

Article 9

1. An instrument is deemed to be payable on demand:

(a) If it states that it is payable at sight or on demand or on presentment or if it contains words of similar import; or

(b) If no time of payment is expressed.

2. An instrument payable at a definite time which is accepted or endorsed or guaranteed after maturity is an instrument payable on demand as regards the acceptor, the endorser or the guarantor.

3. An instrument is deemed to be payable at a definite time if it states that it is payable:

(a) On a stated date or at a fixed period after a stated date or at a fixed period after the date of the instrument;

(b) At a fixed period after sight;

(c) By instalments at successive dates; or

(d) By instalments at successive dates with the stipulation in the instrument that upon default in payment of any instalment the unpaid balance becomes due.

4. The time of payment of an instrument payable at a fixed period after date is determined by reference to the date of the instrument.

5. The time of payment of a bill payable at a fixed period after sight is determined by the date of acceptance or, if the bill is dishonoured by non-acceptance, by the date of protest or, if protest is dispensed with, by the date of dishonour.

6. The time of payment of an instrument payable on demand is the date on which the instrument is presented for payment.

7. The time of payment of a note payable at a fixed period after sight is determined by the date of the visa signed by the maker on the note or, if his visa is refused, by the date of presentment.

8. If an instrument is drawn, or made, payable one or more months after a stated date or after the date of the instrument or after sight, the instrument is payable on the corresponding date of the month when payment must be made. If there is no corresponding date, the instrument is payable on the last day of that month.

Article 10

1. A bill may be drawn:

(a) By two or more drawers;

(b) Payable to two or more payees.

2. A note may be made:

(a) By two or more makers;

(b) Payable to two or more payees.

3. If an instrument is payable to two or more payees in the alternative, it is payable to any one of them and any one of them in possession of the instrument may exercise the rights of a holder. In any case the instrument is payable to all of them and the rights of a holder may be exercised only by all of them.

Article 11

A bill may be drawn by the drawer:

- (a) On himself;
- (b) Payable to his order.

SECTION 3. COMPLETION OF AN INCOMPLETE INSTRUMENT

Article 12

1. An incomplete instrument which satisfies the requirements set out in paragraph 1 of article 1 and bears the signature of the drawer or the acceptance of the drawee, or which satisfies the requirements set out in paragraph 2 of article 1 and paragraph 2(d) of article 3, but which lacks other elements pertaining to one or more of the requirements set out in articles 2 and 3, may be completed, and the instrument so completed is effective as a bill or a note.

2. If such an instrument is completed without authority or otherwise than in accordance with the authority given:

(a) A party who signed the instrument before the completion may invoke such lack of authority as a defence against a holder who had knowledge of such lack of authority when he became a holder;

(b) A party who signed the instrument after the completion is liable according to the terms of the instrument so completed.

CHAPTER III. TRANSFER

Article 13

An instrument is transferred:

(a) By endorsement and delivery of the instrument by the endorser to the endorsee; or

(b) By mere delivery of the instrument if the last endorsement is in blank.

Article 14

1. An endorsement must be written on the instrument or on a slip affixed thereto (“allonge”). It must be signed.

2. An endorsement may be:

(a) In blank, that is, by a signature alone or by a signature accompanied by a statement to the effect that the instrument is payable to a person in possession of it;

(b) Special, that is, by a signature accompanied by an indication of the person to whom the instrument is payable.

3. A signature alone, other than that of the drawee, is an endorsement only if placed on the back of the instrument.

Article 15

1. A person is a holder if he is:

(a) The payee in possession of the instrument; or

(b) In possession of an instrument which has been endorsed to him, or on which the last endorsement is in blank, and on which there appears an uninterrupted series of endorsements, even if any endorsement was forged or was signed by an agent without authority.

2. If an endorsement in blank is followed by another endorsement, the person who signed this last endorsement is deemed to be an endorsee by the endorsement in blank.

3. A person is not prevented from being a holder by the fact that the instrument was obtained by him or any previous holder under circumstances, including incapacity or fraud, duress or mistake of any kind, that would give rise to a claim to, or a defence against liability on, the instrument.

Article 16

The holder of an instrument on which the last endorsement is in blank may:

(a) Further endorse it either by an endorsement in blank or by a special endorsement;

(b) Convert the blank endorsement into a special endorsement by indicating in the endorsement that the instrument is payable to himself or to some other specified person; or

(c) Transfer the instrument in accordance with subparagraph (b) of article 13.

Article 17

1. If the drawer or the maker has inserted in the instrument such words as “not negotiable”, “not transferable”, “not to order”, “pay (X) only”, or words of similar import, the instrument may not be transferred except for purposes of collection, and any endorsement, even if it does not contain words authorizing the endorsee to collect the instrument, is deemed to be an endorsement for collection.

2. If an endorsement contains the words “not negotiable”, “not transferable”, “not to order”, “pay (X) only”, or words of similar import, the instrument may not be transferred further except for purposes of collection, and any subsequent endorsement, even if it does not contain words authorizing the endorsee to collect the instrument, is deemed to be an endorsement for collection.

Article 18

1. An endorsement must be unconditional.
2. A conditional endorsement transfers the instrument whether or not the condition is fulfilled. The condition is ineffective as to those parties and transferees who are subsequent to the endorsee.

Article 19

An endorsement in respect of a part of the sum due under the instrument is ineffective as an endorsement.

Article 20

If there are two or more endorsements, it is presumed, unless the contrary is proved, that each endorsement was made in the order in which it appears on the instrument.

Article 21

1. If an endorsement contains the words “for collection”, “for deposit”, “value in collection”, “by procuration”, “pay any bank”, or words of similar import authorizing the endorsee to collect the instrument, the endorsee is a holder who:

- (a) May exercise all rights arising out of the instrument;
- (b) May endorse the instrument only for purposes of collection;
- (c) Is subject only to the claims and defences which may be set up against the endorser.

2. The endorser for collection is not liable on the instrument to any subsequent holder.

Article 22

1. If an endorsement contains the words “value in security”, “value in pledge”, or any other words indicating a pledge, the endorsee is a holder who:

- (a) May exercise all rights arising out of the instrument;
- (b) May endorse the instrument only for purposes of collection;
- (c) Is subject only to the claims and defences specified in article 28 or article 30.

2. If such endorsee endorses for collection, he is not liable on the instrument to any subsequent holder.

Article 23

The holder of an instrument may transfer it to a prior party or to the drawee in accordance with article 13; however, if the transferee has previously been a holder of the instrument, no endorsement is required, and any endorsement which would prevent him from qualifying as a holder may be struck out.

Article 24

An instrument may be transferred in accordance with article 13 after maturity, except by the drawee, the acceptor or the maker.

Article 25

1. If an endorsement is forged, the person whose endorsement is forged, or a party who signed the instrument before the forgery, has the right to recover compensation for any damage that he may have suffered because of the forgery against:

- (a) The forger;
- (b) The person to whom the instrument was directly transferred by the forger;
- (c) A party or the drawee who paid the instrument to the forger directly or through one or more endorsees for collection.

2. However, an endorsee for collection is not liable under paragraph 1 of this article if he is without knowledge of the forgery:

- (a) At the time he pays the principal or advises him of the receipt of payment; or
- (b) At the time he receives payment, if this is later,

unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

3. Furthermore, a party or the drawee who pays an instrument is not liable under paragraph 1 of this article if, at the time he pays the instrument, he is without knowledge of the forgery, unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

4. Except as against the forger, the damages recoverable under paragraph 1 of this article may not exceed the amount referred to in article 70 or article 71.

Article 26

1. If an endorsement is made by an agent without authority or power to bind his principal in the matter, the principal, or a party who signed the instrument before such endorsement, has the right to recover compensation for any damage that he may have suffered because of such endorsement against:

- (a) The agent;
- (b) The person to whom the instrument was directly transferred by the agent;
- (c) A party or the drawee who paid the instrument to the agent directly or through one or more endorsees for collection.

2. However, an endorsee for collection is not liable under paragraph 1 of this article if he is without knowledge that the endorsement does not bind the principal:

- (a) At the time he pays the principal or advises him of the receipt of payment; or

(b) At the time he receives payment, if this is later, unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

3. Furthermore, a party or the drawee who pays an instrument is not liable under paragraph 1 of this article if, at the time he pays the instrument, he is without knowledge that the endorsement does not bind the principal, unless his lack of knowledge is due to his failure to act in good faith or to exercise reasonable care.

4. Except as against the agent, the damages recoverable under paragraph 1 of this article may not exceed the amount referred to in article 70 or article 71.

CHAPTER IV. RIGHTS AND LIABILITIES

SECTION 1. THE RIGHTS OF A HOLDER AND OF A PROTECTED HOLDER

Article 27

1. The holder of an instrument has all the rights conferred on him by this Convention against the parties to the instrument.

2. The holder may transfer the instrument in accordance with article 13.

Article 28

1. A party may set up against a holder who is not a protected holder:

(a) Any defence that may be set up against a protected holder in accordance with paragraph 1 of article 30;

(b) Any defence based on the underlying transaction between himself and the drawer or between himself and his transferee, but only if the holder took the instrument with knowledge of such defence or if he obtained the instrument by fraud or theft or participated at any time in a fraud or theft concerning it;

(c) Any defence arising from the circumstances as a result of which he became a party, but only if the holder took the instrument with knowledge of such defence or if he obtained the instrument by fraud or theft or participated at any time in a fraud or theft concerning it;

(d) Any defence which may be raised against an action in contract between himself and the holder;

(e) Any other defence available under this Convention.

2. The rights to an instrument of a holder who is not a protected holder are subject to any valid claim to the instrument on the part of any person, but only if he took the instrument with knowledge of such claim or if he obtained the instrument by fraud or theft or participated at any time in a fraud or theft concerning it.

3. A holder who takes an instrument after the expiration of the time limit for presentment for payment is subject to any claim to, or defence against liability on, the instrument to which his transferor is subject.

4. A party may not raise as a defence against a holder who is not a protected holder the fact that a third person has a claim to the instrument unless:

- (a) The third person asserted a valid claim to the instrument; or
- (b) The holder acquired the instrument by theft or forged the signature of the payee or an endorsee, or participated in the theft or the forgery.

Article 29

“Protected holder” means the holder of an instrument which was complete when he took it or which was incomplete within the meaning of paragraph 1 of article 12 and was completed in accordance with authority given, provided that when he became a holder:

- (a) He was without knowledge of a defence against liability on the instrument referred to in paragraphs 1(a), (b), (c) and (e) of article 28;
- (b) He was without knowledge of a valid claim to the instrument of any person;
- (c) He was without knowledge of the fact that it had been dishonoured by non-acceptance or by non-payment;
- (d) The time limit provided by article 55 for presentment of that instrument for payment had not expired;
- (e) He did not obtain the instrument by fraud or theft or participate in a fraud or theft concerning it.

Article 30

1. A party may not set up against a protected holder any defence except:

- (a) Defences under paragraph 1 of article 33, article 34, paragraph 1 of article 35, paragraph 3 of article 36, paragraph 1 of article 53, paragraph 1 of article 57, paragraph 1 of article 63 and article 84 of this Convention;
- (b) Defences based on the underlying transaction between himself and such holder or arising from any fraudulent act on the part of such holder in obtaining the signature on the instrument of that party;
- (c) Defences based on his incapacity to incur liability on the instrument or the fact that he signed without knowledge that his signature made him a party to the instrument, provided that his lack of knowledge was not due to his negligence and provided that he was fraudulently induced so to sign.

2. The rights to an instrument of a protected holder are not subject to any claim to the instrument on the part of any person, except a valid claim arising from the underlying transaction between himself and the person by whom the claim is raised.

Article 31

- 1. The transfer of an instrument by a protected holder vests in any subsequent holder the rights to and on the instrument which the protected holder had.
- 2. Those rights are not vested in a subsequent holder if:

has previously been a holder, but not a protected holder.

Article 32

Every holder is presumed to be a protected holder unless the contrary is proved.

SECTION 2. LIABILITIES OF THE PARTIES

A. *General provisions*

Article 33

1. Subject to the provisions of articles 34 and 36, a person is not liable on an instrument unless he signs it.

2. A person who signs an instrument in a name which is not his own is liable as if he had signed it in his own name.

Article 34

A forged signature on an instrument does not impose any liability on the person whose signature was forged. However, if he consents to be bound by the forged signature or represents that it is his own, he is liable as if he had signed the instrument himself.

Article 35

1. If an instrument is materially altered:

(a) A party who signs it after the material alteration is liable according to the terms of the altered text;

(b) A party who signs it before the material alteration is liable according to the terms of the original text. However, if a party makes, authorizes or assents to a material alteration, he is liable according to the terms of the altered text.

2. A signature is presumed to have been placed on the instrument after the material alteration unless the contrary is proved.

3. Any alteration is material which modifies the written undertaking on the instrument of any party in any respect.

Article 36

1. An instrument may be signed by an agent.

2. The signature of an agent placed by him on an instrument with the authority of his principal and showing on the instrument that he is signing in a representative capacity for that named principal, or the signature of a principal placed on the instrument by an agent with his authority, imposes liability on the principal and not on the agent.

3. A signature placed on an instrument by a person as agent but who lacks authority to sign or exceeds his authority, or by an agent who has authority to sign but who does not show on the instrument that he is signing in a representative capacity for a named person, or who shows on the instrument that he is signing in a representative capacity but does not name the person whom he represents, imposes liability on the person signing and not on the person whom he purports to represent.

4. The question whether a signature was placed on the instrument in a representative capacity may be determined only by reference to what appears on the instrument.

5. A person who is liable pursuant to paragraph 3 of this article and who pays the instrument has the same rights as the person for whom he purported to act would have had if that person had paid the instrument.

Article 37

The order to pay contained in a bill does not of itself operate as an assignment to the payee of funds made available for payment by the drawer with the drawee.

B. *The drawer*

Article 38

1. The drawer engages that upon dishonour of the bill by non-acceptance or by non-payment, and upon any necessary protest, he will pay the bill to the holder, or to any endorser or any endorser's guarantor who takes up and pays the bill.

2. The drawer may exclude or limit his own liability for acceptance or for payment by an express stipulation in the bill. Such a stipulation is effective only with respect to the drawer. A stipulation excluding or limiting liability for payment is effective only if another party is or becomes liable on the bill.

C. *The maker*

Article 39

1. The maker engages that he will pay the note in accordance with its terms to the holder, or to any party who takes up and pays the note.

2. The maker may not exclude or limit his own liability by a stipulation in the note. Any such stipulation is ineffective.

D. *The drawee and the acceptor*

Article 40

1. The drawee is not liable on a bill until he accepts it.

2. The acceptor engages that he will pay the bill in accordance with the terms of his acceptance to the holder, or to any party who takes up and pays the bill.

Article 41

1. An acceptance must be written on the bill and may be effected:

(a) By the signature of the drawee accompanied by the word “accepted” or by words of similar import; or

(b) By the signature alone of the drawee.

2. An acceptance may be written on the front or on the back of the bill.

Article 42

1. An incomplete bill which satisfies the requirements set out in paragraph 1 of article 1 may be accepted by the drawee before it has been signed by the drawer, or while otherwise incomplete.

2. A bill may be accepted before, at or after maturity, or after it has been dishonoured by non-acceptance or by non-payment.

3. If a bill drawn payable at a fixed period after sight, or a bill which must be presented for acceptance before a specified date, is accepted, the acceptor must indicate the date of his acceptance; failing such indication by the acceptor, the drawer or the holder may insert the date of acceptance.

4. If a bill drawn payable at a fixed period after sight is dishonoured by non-acceptance and the drawee subsequently accepts it, the holder is entitled to have the acceptance dated as of the date on which the bill was dishonoured.

Article 43

1. An acceptance must be unqualified. An acceptance is qualified if it is conditional or varies the terms of the bill.

2. If the drawee stipulates in the bill that his acceptance is subject to qualification:

(a) He is nevertheless bound according to the terms of his qualified acceptance;

(b) The bill is dishonoured by non-acceptance.

3. An acceptance relating to only a part of the sum payable is a qualified acceptance. If the holder takes such an acceptance, the bill is dishonoured by non-acceptance only as to the remaining part.

4. An acceptance indicating that payment will be made at a particular address or by a particular agent is not a qualified acceptance, provided that:

(a) The place in which payment is to be made is not changed;

(b) The bill is not drawn payable by another agent.

E. *The endorser*

Article 44

1. The endorser engages that upon dishonour of the instrument by non-acceptance or by non-payment, and upon any necessary protest, he will pay the instrument to the holder, or to any subsequent endorser or any endorser's guarantor who takes up and pays the instrument.

2. An endorser may exclude or limit his own liability by an express stipulation in the instrument. Such a stipulation is effective only with respect to that endorser.

F. *The transferor by endorsement or by mere delivery*

Article 45

1. Unless otherwise agreed, a person who transfers an instrument, by endorsement and delivery or by mere delivery, represents to the holder to whom he transfers the instrument that:

(a) The instrument does not bear any forged or unauthorized signature;

(b) The instrument has not been materially altered;

(c) At the time of transfer, he has no knowledge of any fact which would impair the right of the transferee to payment of the instrument against the acceptor of a bill or, in the case of an unaccepted bill, the drawer, or against the maker of a note.

2. Liability of the transferor under paragraph 1 of this article is incurred only if the transferee took the instrument without knowledge of the matter giving rise to such liability.

3. If the transferor is liable under paragraph 1 of this article, the transferee may recover, even before maturity, the amount paid by him to the transferor, with interest calculated in accordance with article 70, against return of the instrument.

G. *The guarantor*

Article 46

1. Payment of an instrument, whether or not it has been accepted, may be guaranteed, as to the whole or part of its amount, for the account of a party or the drawee. A guarantee may be given by any person, who may or may not already be a party.

2. A guarantee must be written on the instrument or on a slip affixed thereto ("*allonge*").

3. A guarantee is expressed by the words "guaranteed", "*aval*", "good as *aval*" or words of similar import, accompanied by the signature of the guaran-

tor. For the purposes of this Convention, the words “prior endorsements guaranteed” or words of similar import do not constitute a guarantee.

4. A guarantee may be effected by a signature alone on the front of the instrument. A signature alone on the front of the instrument, other than that of the maker, the drawer or the drawee, is a guarantee.

5. A guarantor may specify the person for whom he has become guarantor. In the absence of such specification, the person for whom he has become guarantor is the acceptor or the drawee in the case of a bill, and the maker in the case of a note.

6. A guarantor may not raise as a defence to his liability the fact that he signed the instrument before it was signed by the person for whom he is a guarantor, or while the instrument was incomplete.

Article 47

1. The liability of a guarantor on the instrument is of the same nature as that of the party for whom he has become guarantor.

2. If the person for whom he has become guarantor is the drawee, the guarantor engages:

(a) To pay the bill at maturity to the holder, or to any party who takes up and pays the bill;

(b) If the bill is payable at a definite time, upon dishonour by non-acceptance and upon any necessary protest, to pay it to the holder, or to any party who takes up and pays the bill.

3. In respect of defences that are personal to himself, a guarantor may set up:

(a) Against a holder who is not a protected holder only those defences which he may set up under paragraphs 1, 3 and 4 of article 28;

(b) Against a protected holder only those defences which he may set up under paragraph 1 of article 30.

4. In respect of defences that may be raised by the person for whom he has become a guarantor:

(a) A guarantor may set up against a holder who is not a protected holder only those defences which the person for whom he has become a guarantor may set up against such holder under paragraphs 1, 3 and 4 of article 28;

(b) A guarantor who expresses his guarantee by the words “guaranteed”, “payment guaranteed” or “collection guaranteed”, or words of similar import, may set up against a protected holder only those defences which the person for whom he has become a guarantor may set up against a protected holder under paragraph 1 of article 30;

(c) A guarantor who expresses his guarantee by the words “*aval*” or “good as *aval*” may set up against a protected holder only:

- (i) The defence, under paragraph 1(b) of article 30, that the protected holder obtained the signature on the instrument of the person for whom he has become a guarantor by a fraudulent act;
- (ii) The defence, under article 53 or article 57, that the instrument was not presented for acceptance or for payment;
- (iii) The defence, under article 63, that the instrument was not duly protested for non-acceptance or for non-payment;
- (iv) The defence, under article 84, that a right of action may no longer be exercised against the person for whom he has become guarantor;

(d) A guarantor who is not a bank or other financial institution and who expresses his guarantee by a signature alone may set up against a protected holder only the defences referred to in subparagraph (b) of this paragraph;

(e) A guarantor which is a bank or other financial institution and which expresses its guarantee by a signature alone may set up against a protected holder only the defences referred to in subparagraph (c) of this paragraph.

Article 48

1. Payment of an instrument by the guarantor in accordance with article 72 discharges the party for whom he became guarantor of his liability on the instrument to the extent of the amount paid.

2. The guarantor who pays the instrument may recover from the party for whom he has become guarantor and from the parties who are liable on it to that party the amount paid and any interest.

CHAPTER V. PRESENTMENT, DISHONOR BY NON-ACCEPTANCE OR NON-PAYMENT, AND RECOURSE

SECTION 1. PRESENTMENT FOR ACCEPTANCE AND DISHONOUR BY NON-ACCEPTANCE

Article 49

- 1. A bill may be presented for acceptance.
- 2. A bill must be presented for acceptance:

(a) If the drawer has stipulated in the bill that it must be presented for acceptance;

(b) If the bill is payable at a fixed period after sight; or

(c) If the bill is payable elsewhere than at the residence or place of business of the drawee, unless it is payable on demand.

Article 50

1. The drawer may stipulate in the bill that it must not be presented for acceptance before a specified date or before the occurrence of a specified event. Except where a bill must be presented for acceptance under paragraph 2(b) or (c) of article 49, the drawer may stipulate that it must not be presented for acceptance.

2. If a bill is presented for acceptance notwithstanding a stipulation permitted under paragraph 1 of this article and acceptance is refused, the bill is not thereby dishonoured.

3. If the drawee accepts a bill notwithstanding a stipulation that it must not be presented for acceptance, the acceptance is effective.

Article 51

A bill is duly presented for acceptance if it is presented in accordance with the following rules:

(a) The holder must present the bill to the drawee on a business day at a reasonable hour;

(b) Presentment for acceptance may be made to a person or authority other than the drawee if that person or authority is entitled under the applicable law to accept the bill;

(c) If a bill is payable on a fixed date, presentment for acceptance must be made before or on that date;

(d) A bill payable on demand or at a fixed period after sight must be presented for acceptance within one year of its date;

(e) A bill in which the drawer has stated a date or time limit for presentment for acceptance must be presented on the stated date or within the stated time limit.

Article 52

1. A necessary or optional presentment for acceptance is dispensed with if:

(a) The drawee is dead, or no longer has the power freely to deal with his assets by reason of his insolvency, or is a fictitious person, or is a person not having capacity to incur liability on the instrument as an acceptor; or

(b) The drawee is a corporation, partnership, association or other legal entity which has ceased to exist.

2. A necessary presentment for acceptance is dispensed with if:

(a) A bill is payable on a fixed date, and presentment for acceptance cannot be effected before or on that date due to circumstances which are beyond the control of the holder and which he could neither avoid nor overcome; or

(b) A bill is payable at a fixed period after sight, and presentment for acceptance cannot be effected within one year of its date due to circumstances which are beyond the control of the holder and which he could neither avoid nor overcome.

3. Subject to paragraphs 1 and 2 of this article, delay in a necessary presentment for acceptance is excused, but presentment for acceptance is not dispensed with, if the bill is drawn with a stipulation that it must be presented for acceptance within a stated time limit, and the delay in the presentment for acceptance is caused by circumstances which are beyond the control of the holder and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, presentment must be made with reasonable diligence.

Article 53

1. If a bill which must be presented for acceptance is not so presented, the drawer, the endorsers and their guarantors are not liable on the bill.
2. Failure to present a bill for acceptance does not discharge the guarantor of the drawee of liability on the bill.

Article 54

1. A bill is considered to be dishonoured by non-acceptance:
 - (a) If the drawee, upon due presentment, expressly refuses to accept the bill or acceptance cannot be obtained with reasonable diligence or if the holder cannot obtain the acceptance to which he is entitled under this Convention;
 - (b) If presentment for acceptance is dispensed with pursuant to article 52, unless the bill is in fact accepted.
2. (a) If a bill is dishonoured by non-acceptance in accordance with paragraph 1(a) of this article, the holder may exercise an immediate right of recourse against the drawer, the endorsers and their guarantors, subject to the provisions of article 59.
 - (b) If a bill is dishonoured by non-acceptance in accordance with paragraph 1(b) of this article, the holder may exercise an immediate right of recourse against the drawer, the endorsers and their guarantors.
 - (c) If a bill is dishonoured by non-acceptance in accordance with paragraph 1 of this article, the holder may claim payment from the guarantor of the drawee upon any necessary protest.
3. If a bill payable on demand is presented for acceptance, but acceptance is refused, it is not considered to be dishonoured by non-acceptance.

SECTION 2. PRESENTMENT FOR PAYMENT AND DISHONOUR BY NON-PAYMENT

Article 55

- An instrument is duly presented for payment if it is presented in accordance with the following rules:
- (a) The holder must present the instrument to the drawee or to the acceptor or to the maker on a business day at a reasonable hour;
 - (b) A note signed by two or more makers may be presented to any one of them, unless the note clearly indicates otherwise;
 - (c) If the drawee or the acceptor or the maker is dead, presentment must be made to the persons who under the applicable law are his heirs or the persons entitled to administer his estate;
 - (d) Presentment for payment may be made to a person or authority other than the drawee, the acceptor or the maker if that person or authority is entitled under the applicable law to pay the instrument;

(e) An instrument which is not payable on demand must be presented for payment on the date of maturity or on one of the two business days which follow;

(f) An instrument which is payable on demand must be presented for payment within one year of its date;

(g) An instrument must be presented for payment:

- (i) At the place of payment specified on the instrument;
- (ii) If no place of payment is specified, at the address of the drawee or the acceptor or the maker indicated in the instrument; or
- (iii) If no place of payment is specified and the address of the drawee or the acceptor or the maker is not indicated, at the principal place of business or habitual residence of the drawee or the acceptor or the maker;

(h) An instrument which is presented at a clearing-house is duly presented for payment if the law of the place where the clearing house is located or the rules or customs of that clearing-house so provide.

Article 56

1. Delay in making presentment for payment is excused if the delay is caused by circumstances which are beyond the control of the holder and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, presentment must be made with reasonable diligence.

2. Presentment for payment is dispensed with:

(a) If the drawer, an endorser or a guarantor has expressly waived presentment; such waiver:

- (i) If made on the instrument by the drawer, binds any subsequent party and benefits any holder;
- (ii) If made on the instrument by a party other than the drawer, binds only that party but benefits any holder;
- (iii) If made outside the instrument, binds only the party making it and benefits only a holder in whose favour it was made;

(b) If an instrument is not payable on demand, and the cause of delay in making presentment referred to in paragraph 1 of this article continues to operate beyond thirty days after maturity;

(c) If an instrument is payable on demand, and the cause of delay in making presentment referred to in paragraph 1 of this article continues to operate beyond thirty days after the expiration of the time limit for presentment for payment;

(d) If the drawee, the maker or the acceptor no longer has the power freely to deal with his assets by reason of his insolvency, or is a fictitious person or a

person not having capacity to make payment, or if the drawee, the maker or the acceptor is a corporation, partnership, association or other legal entity which has ceased to exist;

(e) If there is no place at which the instrument must be presented in accordance with subparagraph (g) of article 55.

3. Presentment for payment is also dispensed with as regards a bill, if the bill has been protested for dishonour by non-acceptance.

Article 57

1. If an instrument is not duly presented for payment, the drawer, the endorsers and their guarantors are not liable on it.

2. Failure to present an instrument for payment does not discharge the acceptor, the maker and their guarantors or the guarantor of the drawee of liability on it.

Article 58

1. An instrument is considered to be dishonoured by non-payment:

(a) If payment is refused upon due presentment or if the holder cannot obtain the payment to which he is entitled under this Convention;

(b) If presentment for payment is dispensed with pursuant to paragraph 2 of article 56 and the instrument is unpaid at maturity.

2. If a bill is dishonoured by non-payment, the holder may, subject to the provisions of article 59, exercise a right of recourse against the drawer, the endorsers and their guarantors.

3. If a note is dishonoured by non-payment, the holder may, subject to the provisions of article 59, exercise a right of recourse against the endorsers and their guarantors.

SECTION 3. RECOURSE

Article 59

If an instrument is dishonoured by non-acceptance or by non-payment, the holder may exercise a right of recourse only after the instrument has been duly protested for dishonour in accordance with the provisions of articles 60 to 62.

A. Protest

Article 60

1. A protest is a statement of dishonour drawn up at the place where the instrument has been dishonoured and signed and dated by a person authorized in that respect by the law of that place. The statement must specify:

(a) The person at whose request the instrument is protested;

(b) The place of protest;

(c) The demand made and the answer given, if any, or the fact that the drawee or the acceptor or the maker could not be found.

2. A protest may be made:

(a) On the instrument or on a slip affixed thereto (“*allonge*”); or

(b) As a separate document, in which case it must clearly identify the instrument that has been dishonoured.

3. Unless the instrument stipulates that protest must be made, a protest may be replaced by a declaration written on the instrument and signed and dated by the drawee or the acceptor or the maker, or, in the case of an instrument domiciled with a named person for payment, by that named person; the declaration must be to the effect that acceptance or payment is refused.

4. A declaration made in accordance with paragraph 3 of this article is a protest for the purpose of this Convention.

Article 61

Protest for dishonour of an instrument by non-acceptance or by non-payment must be made on the day on which the instrument is dishonoured or on one of the four business days which follow.

Article 62

1. Delay in protesting an instrument for dishonour is excused if the delay is caused by circumstances which are beyond the control of the holder and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, protest must be made with reasonable diligence.

2. Protest for dishonour by non-acceptance or by non-payment is dispensed with:

(a) If the drawer, an endorser or a guarantor has expressly waived protest; such waiver:

(i) If made on the instrument by the drawer, binds any subsequent party and benefits any holder;

(ii) If made on the instrument by a party other than the drawer, binds only that party but benefits any holder;

(iii) If made outside the instrument, binds only the party making it and benefits only a holder in whose favour it was made;

(b) If the cause of delay in making protest referred to in paragraph 1 of this article continues to operate beyond thirty days after the date of dishonour;

(c) As regards the drawer of a bill, if the drawer and the drawee or the acceptor are the same person;

(d) If presentment for acceptance or for payment is dispensed with in accordance with article 52 or paragraph 2 of article 56.

Article 63

1. If an instrument which must be protested for non-acceptance or for non-payment is not duly protested, the drawer, the endorsers and their guarantors are not liable on it.

2. Failure to protest an instrument does not discharge the acceptor, the maker and their guarantors or the guarantor of the drawee of liability on it.

B. Notice of dishonour

Article 64

1. The holder, upon dishonour of an instrument by non-acceptance or by non-payment, must give notice of such dishonour:

(a) To the drawer and the last endorser;

(b) To all other endorsers and guarantors whose addresses the holder can ascertain on the basis of information contained in the instrument.

2. An endorser or a guarantor who receives notice must give notice of dishonour to the last party preceding him and liable on the instrument.

3. Notice of dishonour operates for the benefit of any party who has a right of recourse on the instrument against the party notified.

Article 65

1. Notice of dishonour may be given in any form whatever and in any terms which identify the instrument and state that it has been dishonoured. The return of the dishonoured instrument is sufficient notice, provided it is accompanied by a statement indicating that it has been dishonoured.

2. Notice of dishonour is duly given if it is communicated or sent to the party to be notified by means appropriate in the circumstances, whether or not it is received by that party.

3. The burden of proving that notice has been duly given rests upon the person who is required to give such notice.

Article 66

Notice of dishonour must be given within the two business days which follow:

(a) The day of protest or, if protest is dispensed with, the day of dishonour;
or

(b) The day of receipt of notice of dishonour.

Article 67

1. Delay in giving notice of dishonour is excused if the delay is caused by circumstances which are beyond the control of the person required to give notice, and which he could neither avoid nor overcome. When the cause of the

delay ceases to operate, notice must be given with reasonable diligence.

2. Notice of dishonour is dispensed with:

(a) If, after the exercise of reasonable diligence, notice cannot be given;

(b) If the drawer, an endorser or a guarantor has expressly waived notice of dishonour; such waiver:

(i) If made on the instrument by the drawer, binds any subsequent party and benefits any holder;

(ii) If made on the instrument by a party other than the drawer, binds only that party but benefits any holder;

(iii) If made outside the instrument, binds only the party making it and benefits only a holder in whose favour it was made;

(c) As regards the drawer of the bill, if the drawer and the drawee or the acceptor are the same person.

Article 68

If a person who is required to give notice of dishonour fails to give it to a party who is entitled to receive it, he is liable for any damages which that party may suffer from such failure, provided that such damages do not exceed the amount referred to in article 70 or article 71.

SECTION 4. AMOUNT PAYABLE

Article 69

1. The holder may exercise his rights on the instrument against any one party, or several or all parties, liable on it and is not obliged to observe the order in which the parties have become bound. Any party who takes up and pays the instrument may exercise his rights in the same manner against parties liable to him.

2. Proceedings against a party do not preclude proceedings against any other party, whether or not subsequent to the party originally proceeded against.

Article 70

1. The holder may recover from any party liable:

(a) At maturity: the amount of the instrument with interest, if interest has been stipulated for;

(b) After maturity:

(i) The amount of the instrument with interest, if interest has been stipulated for, to the date of maturity;

- (ii) If interest has been stipulated to be paid after maturity, interest at the rate stipulated, or, in the absence of such stipulation, interest at the rate specified in paragraph 2 of this article, calculated from the date of presentment on the sum specified in subparagraph (b)(i) of this paragraph;
 - (iii) Any expenses of protest and of the notices given by him;
- (c) Before maturity:
- (i) The amount of the instrument with interest, if interest has been stipulated for, to the date of payment; or, if no interest has been stipulated for, subject to a discount from the date of payment to the date of maturity, calculated in accordance with paragraph 4 of this article;
 - (ii) Any expenses of protest and of the notices given by him.

2. The rate of interest shall be the rate that would be recoverable in legal proceedings taken in the jurisdiction where the instrument is payable.

3. Nothing in paragraph 2 of this article prevents a court from awarding damages or compensation for additional loss caused to the holder by reason of delay in payment.

4. The discount shall be at the official rate (discount rate) or other similar appropriate rate effective on the date when recourse is exercised at the place where the holder has his principal place of business, or, if he does not have a place of business, his habitual residence, or, if there is no such rate, then at such rate as is reasonable in the circumstances.

Article 71

A party who pays an instrument and is thereby discharged in whole or in part of his liability on the instrument may recover from the parties liable to him:

- (a) The entire sum which he has paid;
- (b) Interest on that sum at the rate specified in paragraph 2 of article 70, from the date on which he made payment;
- (c) Any expenses of the notices given by him.

CHAPTER VI. DISCHARGE

SECTION 1 DISCHARGE BY PAYMENT

Article 72

1. A party is discharged of liability on the instrument when he pays the holder, or a party subsequent to himself who has paid the instrument and is in possession of it, the amount due pursuant to article 70 or article 71:

- (a) At or after maturity; or
- (b) Before maturity, upon dishonour by non-acceptance.

2. Payment before maturity other than under paragraph 1(b) of this article does not discharge the party making the payment of his liability on the instrument except in respect of the person to whom payment was made.

3. A party is not discharged of liability if he pays a holder who is not a protected holder, or a party who has taken up and paid the instrument, and knows at the time of payment that the holder or that party acquired the instrument by theft or forged the signature of the payee or an endorsee, or participated in the theft or the forgery.

4. (a) A person receiving payment of an instrument must, unless agreed otherwise, deliver:

- (i) To the drawee making such payment, the instrument;
- (ii) To any other person making such payment, the instrument, a receipted account, and any protest.

(b) In the case of an instrument payable by instalments at successive dates, the drawee or a party making a payment, other than payment of the last instalment, may require that mention of such payment be made on the instrument or on a slip affixed thereto (“*allonge*”) and that a receipt therefor be given to him.

(c) If an instrument payable by instalments at successive dates is dishonoured by non-acceptance or by non-payment as to any of its instalments and a party, upon dishonour, pays the instalment, the holder who receives such payment must give the party a certified copy of the instrument and any necessary authenticated protest in order to enable such party to exercise a right on the instrument.

(d) The person from whom payment is demanded may withhold payment if the person demanding payment does not deliver the instrument to him. Withholding payment in these circumstances does not constitute dishonour by non-payment under article 58.

(e) If payment is made but the person paying, other than the drawee, fails to obtain the instrument, such person is discharged but the discharge cannot be set up as a defence against a protected holder to whom the instrument has been subsequently transferred.

Article 73

1. The holder is not obliged to take partial payment.

2. If the holder who is offered partial payment does not take it, the instrument is dishonoured by non-payment.

3. If the holder takes partial payment from the drawee, the guarantor of the drawee, or the acceptor or the maker:

(a) The guarantor of the drawee, or the acceptor or the maker is discharged of his liability on the instrument to the extent of the amount paid;

(b) The instrument is to be considered as dishonoured by non-payment as to the amount unpaid.

4. If the holder takes partial payment from a party to the instrument other than the acceptor, the maker or the guarantor of the drawee:

(a) The party making payment is discharged of his liability on the instrument to the extent of the amount paid;

(b) The holder must give such party a certified copy of the instrument and any necessary authenticated protest in order to enable such party to exercise a right on the instrument.

5. The drawee or a party making partial payment may require that mention of such payment be made on the instrument and that a receipt therefor be given to him.

6. If the balance is paid, the person who receives it and who is in possession of the instrument must deliver to the payor the receipted instrument and any authenticated protest.

Article 74

1. The holder may refuse to take payment at a place other than the place where the instrument was presented for payment in accordance with article 55.

2. In such case if payment is not made at the place where the instrument was presented for payment in accordance with article 55, the instrument is considered to be dishonoured by non-payment.

Article 75

1. An instrument must be paid in the currency in which the sum payable is expressed.

2. If the sum payable is expressed in a monetary unit of account within the meaning of subparagraph (I) of article 5 and the monetary unit of account is transferable between the person making payment and the person receiving it, then, unless the instrument specifies a currency of payment, payment shall be made by transfer of monetary units of account. If the monetary unit of account is not transferable between those persons, payment shall be made in the currency specified in the instrument or, if no such currency is specified, in the currency of the place of payment.

3. The drawer or the maker may indicate in the instrument that it must be paid in a specified currency other than the currency in which the sum payable is expressed. In that case:

(a) The instrument must be paid in the currency so specified;

(b) The amount payable is to be calculated according to the rate of exchange indicated in the instrument. Failing such indication, the amount payable is to be calculated according to the rate of exchange for sight drafts (or, if there is no such rate, according to the appropriate established rate of exchange) on the date of maturity:

(i) Ruling at the place where the instrument must be presented for payment in accordance with subparagraph (g) of article 55, if the specified currency is that of that place (local currency); or

- (ii) If the specified currency is not that of that place, according to the usages of the place where the instrument must be presented for payment in accordance with subparagraph (g) of article 55;
- (c) If such an instrument is dishonoured by non-acceptance, the amount payable is to be calculated:
 - (i) If the rate of exchange is indicated in the instrument, according to that rate;
 - (ii) If no rate of exchange is indicated in the instrument, at the option of the holder, according to the rate of exchange ruling on the date of dishonour or on the date of actual payment;
- (d) If such an instrument is dishonoured by non-payment, the amount payable is to be calculated:
 - (i) If the rate of exchange is indicated in the instrument, according to that rate;
 - (ii) If no rate of exchange is indicated in the instrument, at the option of the holder, according to the rate of exchange ruling on the date of maturity or on the date of actual payment.

4. Nothing in this article prevents a court from awarding damages for loss caused to the holder by reason of fluctuations in rates of exchange if such loss is caused by dishonour for non-acceptance or by non-payment.

5. The rate of exchange ruling at a certain date is the rate of exchange ruling, at the option of the holder, at the place where the instrument must be presented for payment in accordance with subparagraph (g) of article 55 or at the place of actual payment.

Article 76

1. Nothing in this Convention prevents a Contracting State from enforcing exchange control regulations applicable in its territory and its provisions relating to the protection of its currency, including regulations which it is bound to apply by virtue of international agreements to which it is a party.

2. (a) If, by virtue of the application of paragraph 1 of this article, an instrument drawn in a currency which is not that of the place of payment must be paid in local currency, the amount payable is to be calculated according to the rate of exchange for sight drafts (or, if there is no such rate, according to the appropriate established rate of exchange) on the date of presentment ruling at the place where the instrument must be presented for payment in accordance with subparagraph (g) of article 55.

- (b) (i) If such an instrument is dishonoured by non-acceptance, the amount payable is to be calculated, at the option of the holder, at the rate of exchange ruling on the date of dishonour or on the date of actual payment.

- (ii) If such an instrument is dishonoured by non-payment, the amount is to be calculated, at the option of the holder, according to the rate of exchange ruling on the date of presentment or on the date of actual payment.
- (iii) Paragraphs 4 and 5 of article 75 are applicable where appropriate.

SECTION 2. DISCHARGE OF OTHER PARTIES

Article 77

1. If a party is discharged in whole or in part of his liability on the instrument, any party who has a right on the instrument against him is discharged to the same extent.

2. Payment by the drawee of the whole or a part of the amount of a bill to the holder, or to any party who takes up and pays the bill, discharges all parties of their liability to the same extent, except where the drawee pays a holder who is not a protected holder, or a party who has taken up and paid the bill, and knows at the time of payment that the holder or that party acquired the bill by theft or forged the signature of the payee or an endorsee, or participated in the theft or the forgery.

CHAPTER VII. LOST INSTRUMENTS

Article 78

1. If an instrument is lost, whether by destruction, theft or otherwise, the person who lost the instrument has, subject to the provisions of paragraph 2 of this article, the same right to payment which he would have had if he had been in possession of the instrument. The party from whom payment is claimed cannot set up as a defence against liability on the instrument the fact that the person claiming payment is not in possession of the instrument.

2. (a) The person claiming payment of a lost instrument must state in writing to the party from whom he claims payment:

- (i) The elements of the lost instrument pertaining to the requirements set forth in paragraph 1 or paragraph 2 of articles 1, 2, and 3; for this purpose the person claiming payment of the lost instrument may present to that party a copy of that instrument;
- (ii) The facts showing that, if he had been in possession of the instrument, he would have had a right to payment from the party from whom payment is claimed;
- (iii) The facts which prevent production of the instrument.

(b) The party from whom payment of a lost instrument is claimed may require the person claiming payment to give security in order to indemnify him

for any loss which he may suffer by reason of the subsequent payment of the lost instrument.

(c) The nature of the security and its terms are to be determined by agreement between the person claiming payment and the party from whom payment is claimed. Failing such an agreement, the court may determine whether security is called for and, if so, the nature of the security and its terms.

(d) If the security cannot be given, the court may order the party from whom payment is claimed to deposit the sum of the lost instrument, and any interest and expenses which may be claimed under article 70 or article 71, with the court or any other competent authority or institution, and may determine the duration of such deposit. Such deposit is to be considered as payment to the person claiming payment.

Article 79

1. A party who has paid a lost instrument and to whom the instrument is subsequently presented for payment by another person must give notice of such presentment to the person whom he paid.

2. Such notice must be given on the day the instrument is presented or on one of the two business days which follow and must state the name of the person presenting the instrument and the date and place of presentment.

3. Failure to give notice renders the party who has paid the lost instrument liable for any damages which the person whom he paid may suffer from such failure, provided that the damages do not exceed the amount referred to in article 70 or article 71.

4. Delay in giving notice is excused when the delay is caused by circumstances which are beyond the control of the person who has paid the lost instrument and which he could neither avoid nor overcome. When the cause of the delay ceases to operate, notice must be given with reasonable diligence.

5. Notice is dispensed with when the cause of delay in giving notice continues to operate beyond thirty days after the last day on which it should have been given.

Article 80

1. A party who has paid a lost instrument in accordance with the provisions of article 78 and who is subsequently required to, and does, pay the instrument, or who, by reason of the loss of the instrument, then loses his right to recover from any party liable to him, has the right:

(a) If security was given, to realize the security; or

(b) If an amount was deposited with the court or other competent authority or institution, to reclaim the amount so deposited.

2. The person who has given security in accordance with the provisions of paragraph 2(b) of article 78 is entitled to obtain release of the security when the party for whose benefit the security was given is no longer at risk to suffer loss because of the fact that the instrument is lost.

Article 81

For the purpose of making protest for dishonour by non-payment, a person claiming payment of a lost instrument may use a written statement that satisfies the requirements of paragraph 2(a) of article 78.

Article 82

A person receiving payment of a lost instrument in accordance with article 78 must deliver to the party paying the written statement required under paragraph 2(a) of article 78, received by him, and any protest and a receipted account.

Article 83

1. A party who pays a lost instrument in accordance with article 78 has the same rights which he would have had if he had been in possession of the instrument.

2. Such party may exercise his rights only if he is in possession of the received written statement referred to in article 82.

CHAPTER VIII. LIMITATION (PRESCRIPTION)

Article 84

1. A right of action arising on an instrument may no longer be exercised after four years have elapsed:

(a) Against the maker, or his guarantor, of a note payable on demand, from the date of the note;

(b) Against the acceptor or the maker or their guarantor of an instrument payable at a definite time, from the date of maturity;

(c) Against the guarantor of the drawee of a bill payable at a definite time, from the date of maturity or, if the bill is dishonoured by non-acceptance, from the date of protest for dishonour or, where protest is dispensed with, from the date of dishonour;

(d) Against the acceptor of a bill payable on demand or his guarantor, from the date on which it was accepted or, if no such date is shown, from the date of the bill;

(e) Against the guarantor of the drawee of a bill payable on demand, from the date on which he signed the bill or, if no such date is shown, from the date of the bill;

(f) Against the drawer or an endorser or their guarantor, from the date of protest for dishonour by non-acceptance or by non-payment or, where protest is dispensed with, from the date of dishonour.

2. A party who pays the instrument in accordance with article 70 or article 71 may exercise his right of action against a party liable to him within one year from the date on which he paid the instrument.

CHAPTER IX. FINAL PROVISIONS

Article 85

The Secretary-General of the United Nations is hereby designated as the Depositary for this Convention.

Article 86

1. This Convention is open for signature by all States at the Headquarters of the United Nations, New York, until 30 June 1990.

2. This Convention is subject to ratification, acceptance or approval by the signatory States.

3. This Convention is open for accession by all States which are not signatory States as from the date it is open for signature.

4. Instruments of ratification, acceptance, approval and accession are to be deposited with the Secretary-General of the United Nations.

Article 87

1. If a Contracting State has two or more territorial units in which, according to its constitution, different systems of law are applicable in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification, acceptance, approval or accession, declare that this Convention is to extend to all its territorial units or only to one or more of them, and may amend its declaration by submitting another declaration at any time.

2. These declarations are to be notified to the Depositary and are to state expressly the territorial units to which the Convention extends.

3. If a Contracting State makes no declaration under paragraph 1 of this article, the Convention is to extend to all territorial units of that State.

Article 88

1. Any State may declare at the time of signature, ratification, acceptance, approval or accession that its courts will apply the Convention only if both the place indicated in the instrument where the bill is drawn, or the note is made, and the place of payment indicated in the instrument are situated in Contracting States.

2. No other reservations are permitted.

Article 89

1. This Convention enters into force on the first day of the month following the expiration of twelve months after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession.

2. When a State ratifies, accepts, approves or accedes to this Convention after the deposit of the tenth instrument of ratification, acceptance, approval or

accession, this Convention enters into force in respect of that State on the first day of the month following the expiration of twelve months after the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 90

1. A Contracting State may denounce this Convention by a formal notification in writing addressed to the Depositary.

2. The denunciation takes effect on the first day of the month following the expiration of six months after the notification is received by the Depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation takes effect upon the expiration of such longer period after the notification is received by the Depositary. The Convention remains applicable to instruments drawn or made before the date at which the denunciation takes effect.

DONE at New York, this ninth day of December, one thousand nine hundred and eighty-eight in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

IN WITNESS WHEREOF the undersigned plenipotentiaries, being duly authorized by their respective Governments, have signed this Convention.

4. UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES.⁵
DONE AT VIENNA ON 20 DECEMBER 1988

Adopted by the Conference at its 6th plenary meeting on 19 December 1988

The Parties to this Convention,

Deeply concerned by the magnitude of and rising trend in the illicit production of, demand for and traffic in narcotic drugs and psychotropic substances, which pose a serious threat to the health and welfare of human beings and adversely affect the economic, cultural and political foundations of society,

Deeply concerned also by the steadily increasing inroads into various social groups made by illicit traffic in narcotic drugs and psychotropic substances, and particularly by the fact that children are used in many parts of the world as an illicit drug consumers market and for purposes of illicit production, distribution and trade in narcotic drugs and psychotropic substances, which entails a danger of incalculable gravity,

Recognizing the links between illicit traffic and other related organized criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States,

Recognizing also that illicit traffic is an international criminal activity, the suppression of which demands urgent attention and the highest priority,

Aware that illicit traffic generates large financial profits and wealth enabling transnational criminal organizations to penetrate, contaminate and corrupt the structures of government, legitimate commercial and financial business, and society at all its levels,

Determined to deprive persons engaged in illicit traffic of the proceeds of their criminal activities and thereby eliminate their main incentive for so doing,

Desiring to eliminate the root causes of the problem of abuse of narcotic drugs and psychotropic substances, including the illicit demand for such drugs and substances and the enormous profits derived from illicit traffic,

Considering that measures are necessary to monitor certain substances, including precursors, chemicals and solvents, which are used in the manufacture of narcotic drugs and psychotropic substances, the ready availability of which has led to an increase in the clandestine manufacture of such drugs and substances,

Determined to improve international cooperation in the suppression of illicit traffic by sea,

Recognizing that eradication of illicit traffic is a collective responsibility of all States and that, to that end, coordinated action within the framework of international cooperation is necessary,

Acknowledging the competence of the United Nations in the field of control of narcotic drugs and psychotropic substances and desirous that the international organs concerned with such control should be within the framework of that Organization,

Reaffirming the guiding principles of existing treaties in the field of narcotic drugs and psychotropic substances and the system of control which they embody,

Recognizing the need to reinforce and supplement the measures provided in the Single Convention on Narcotic Drugs, 1953, that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1953, and the 1971 Convention on Psychotropic Substances, in order to counter the magnitude and extent of illicit traffic and its grave consequences,⁶

Recognizing also the importance of strengthening and enhancing effective legal means for international cooperation in criminal matters for suppressing the international criminal activities of illicit traffic,

Desiring to conclude a comprehensive, effective and operative international convention that is directed specifically against illicit traffic and that considers the various aspects of the problem as a whole, in particular those aspects not envisaged in the existing treaties in the field of narcotic drugs and psychotropic substances,

Hereby agree as follows:

Article 1

DEFINITIONS

Except where otherwise expressly indicated or where the context otherwise requires, the following definitions shall apply throughout this Convention:

(a) “Board” means the International Narcotics Control Board established by the Single Convention on Narcotic Drugs, 1961, and that Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;⁶

(b) “Cannabis plant” means any plant of the genus *Cannabis*;

(c) “Coca bush” means the plant of any species of the genus *Erythroxylon*;

(d) “Commercial carrier” mean any person or any public, private or other entity engaged in transporting persons, goods or mails for remuneration, hire or any other benefit;

(e) “Commission” means the Commission on Narcotic Drugs of the Economic and Social Council of the United Nations;

(f) “Confiscation”, which includes forfeiture where applicable, means the permanent deprivation of property by order of a court or other competent authority;

(g) “Controlled delivery” means the technique of allowing illicit or suspect consignments of narcotic drugs, psychotropic substances, substances in table I and table II annexed to this Convention, or substances substituted for them, to pass out of, through or into the territory of one or more countries, with the knowledge and under the supervision of their competent authorities, with a view to identifying persons involved in the commission of offences established in accordance with article 3, paragraph 1, of the Convention;

(h) “1961 Convention” means the Single Convention on Narcotic Drugs, 1961;

(i) “1961 Convention as amended” means the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;

(j) “1971 Convention” means the Convention on Psychotropic Substances,⁶ 1971;

(k) “Council” means the Economic and Social Council of the United Nations;

(l) “Freezing” or “seizure” means temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or a competent authority;

(m) “Illicit traffic” means the offences set forth in article 3, paragraphs 1 and 2, of this Convention;

(n) “Narcotic drug” means any of the substances, natural or synthetic, in Schedules I and II of the Single Convention on Narcotic Drugs, 1961, and that

Convention as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;

(o) “Opium poppy” means the plant of the species *Papaver somniferum* L;

(p) “Proceeds” means any property derived from or obtained, directly or indirectly, through the commission of an offence established in accordance with article 3, paragraph 1;

(q) “Property” means assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

(r) “Psychotropic substance” means any substance, natural or synthetic, or any natural material in schedules I, II, III and IV of the Convention on Psychotropic Substances, 1971;

(s) “Secretary-General” means the Secretary-General of the United Nations;

(t) “Table I” and “table II” mean the correspondingly numbered lists of substances annexed to this Convention, as amended from time to time in accordance with article 12;

(u) “Transit State” means a State through the territory of which illicit narcotic drugs, psychotropic substances and substances in table I and table II are being moved, which is neither the place of origin nor the place of ultimate destination thereof.

Article 2

SCOPE OF THE CONVENTION

1. The purpose of this Convention is to promote cooperation among the Parties so that they may address more effectively the various aspects of illicit traffic in narcotic drugs and psychotropic substances having an international dimension. In carrying out their obligations under the Convention, the Parties shall take necessary measures, including legislative and administrative measures, in conformity with the fundamental provisions of their respective domestic legislative systems.

2. The Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

3. A Party shall not undertake in the territory of another Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other Party by its domestic law.

Article 3

OFFENCES AND SANCTIONS

1. Each Party shall adopt such measures as may be necessary to establish as criminal offences under its domestic law, when committed intentionally:

- (a) (i) The production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention;
- (ii) The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the provisions of the 1961 Convention and the 1961 Convention as amended;
- (iii) The possession or purchase of any narcotic drug or psychotropic substance for the purpose of any of the activities enumerated in (i) above;
- (iv) The manufacture, transport or distribution of equipment, materials or of substances listed in table I and table II, knowing that they are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances;
- (v) The organization, management or financing of any of the offences enumerated in (i), (ii), (iii) or (iv) above;
- (b) (i) The conversion or transfer of property, knowing that such property is derived from any offence or offences established in accordance with subparagraph (a) of this paragraph, or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions;
- (ii) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offence or offences established in accordance with subparagraph (a) of this paragraph or from an act of participation in such an offence or offences;
- (c) Subject to its constitutional principles and the basic concepts of its legal system:
 - (i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from an offence or offences established in accordance with subparagraph (a) of this paragraph or from an act of participation in such offence or offences;
 - (ii) The possession of equipment or materials or substances listed in table I and table II, knowing that they are being or are to be used in or for the illicit cultivation, production or manufacture of narcotic drugs or psychotropic substances;

- (iii) Publicly inciting or inducing others, by any means, to commit any of the offences established in accordance with this article or to use narcotic drugs or psychotropic substances illicitly;
- (iv) Participation in, association or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counseling the commission of any of the offences established in accordance with this article.

2. Subject to its constitutional principles and the basic concepts of its legal system, each Party shall adopt such measures as may be necessary to establish as a criminal offence under its domestic law, when committed intentionally, the possession, purchase or cultivation of narcotic drugs or psychotropic substances for personal consumption contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention.

3. Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances.

4. (a) Each Party shall make the commission of the offences established in accordance with paragraph 1 of this article liable to sanctions which take into account the grave nature of these offences, such as imprisonment or other forms of deprivation of liberty, pecuniary sanctions and confiscation.

(b) The Parties may provide, in addition to conviction or punishment, for an offence established in accordance with paragraph 1 of this article, that the offender shall undergo measures such as treatment, education, aftercare, rehabilitation or social reintegration.

(c) Notwithstanding the preceding subparagraphs, in appropriate cases of a minor nature, the Parties may provide, as alternatives to conviction or punishment, measures such as education, rehabilitation or social reintegration, as well as, when the offender is a drug abuser, treatment and aftercare.

(d) The Parties may provide, either as an alternative to conviction or punishment, or in addition to conviction or punishment of an offence established in accordance with paragraph 2 of this article, measures for the treatment, education, aftercare, rehabilitation or social reintegration of the offender.

5. The Parties shall ensure that their courts and other competent authorities having jurisdiction can take into account factual circumstances which make the commission of the offences established in accordance with paragraph 1 of this article particularly serious, such as:

(a) The involvement in the offence of an organized criminal group to which the offender belongs;

(b) The involvement of the offender in other international organized criminal activities;

(c) The involvement of the offender in other illegal activities facilitated by commission of the offence;

(d) The use of violence or arms by the offender;

(e) The fact that the offender holds a public office and that the offence is connected with the office in question;

(f) The victimization or use of minors;

(g) The fact that the offence is committed in a penal institution or in an educational institution or social service facility or in their immediate vicinity or in other places to which schoolchildren and students resort for educational, sports and social activities;

(h) Prior conviction, particularly for similar offences, whether foreign or domestic, to the extent permitted under the domestic law of a Party.

6. The Parties shall endeavour to ensure that any discretionary legal powers under their domestic law relating to the prosecution of persons for offences established in accordance with this article are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

7. The Parties shall ensure that their courts or other competent authorities bear in mind the serious nature of the offences enumerated in paragraph 1 of this article and the circumstances enumerated in paragraph 5 of this article when considering the eventuality of early release or parole of persons convicted of such offences.

8. Each Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with paragraph 1 of this article, and a longer period where the alleged offender has evaded the administration of justice.

9. Each Party shall take appropriate measures, consistent with its legal system, to ensure that a person charged with or convicted of an offence established in accordance with paragraph 1 of this article, who is found within its territory, is present at the necessary criminal proceedings.

10. For the purpose of cooperation among the Parties under this Convention, including, in particular, cooperation under articles 5, 6, 7 and 9, offences established in accordance with this article shall not be considered as fiscal offences or as political offences or regarded as politically motivated, without prejudice to the constitutional limitations and the fundamental domestic law of the Parties.

11. Nothing contained in this article shall affect the principle that the description of the offences to which it refers and of legal defences thereto is reserved to the domestic law of a Party and that such offences shall be prosecuted and punished in conformity with that law.

Article 4

JURISDICTION

1. Each Party:

(a) Shall take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when:

(i) The offence is committed in its territory;

(ii) The offence is committed on board a vessel flying its flag or an aircraft which is registered under its laws at the time the offence is committed;

(b) May take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when:

- (i) The offence is committed by one of its nationals or by a person who has habitual residence in its territory;
- (ii) The offence is committed on board a vessel concerning which that Party has been authorized to take appropriate action pursuant to article 17, provided that such jurisdiction shall be exercised only on the basis of agreements or arrangements referred to in paragraphs 4 and 9 of that article;
- (iii) The offence is one of those established in accordance with article 3, paragraph 1, subparagraph (c)(iv), and is committed outside its territory with a view to the commission, within its territory, of an offence established in accordance with article 3, paragraph 1.

2. Each Party:

(a) Shall also take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when the alleged offender is present in its territory and it does not extradite him to another Party on the ground:

- (i) That the offence has been committed in its territory or on board a vessel flying its flag or an aircraft which was registered under its law at the time the offence was committed; or
- (ii) That the offence has been committed by one of its nationals;

(b) May also take such measures as may be necessary to establish its jurisdiction over the offences it has established in accordance with article 3, paragraph 1, when the alleged offender is present in its territory and it does not extradite him to another Party.

3. This Convention does not exclude the exercise of any criminal jurisdiction established by a Party in accordance with its domestic law.

Article 5

CONFISCATION

1. Each Party shall adopt such measures as may be necessary to enable confiscation of:

(a) Proceeds derived from offences established in accordance with article 3, paragraph 1, or property the value of which corresponds to that of such proceeds;

(b) Narcotic drugs and psychotropic substances, materials and equipment or other instrumentalities used in or intended for use in any manner in offences established in accordance with article 3, paragraph 1.

2. Each Party shall also adopt such measures as may be necessary to enable its competent authorities to identify, trace, and freeze or seize proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article, for the purpose of eventual confiscation.

3. In order to carry out the measures referred to in this article, each Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. A Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

4. (a) Following a request made pursuant to this article by another Party having jurisdiction over an offence established in accordance with article 3, paragraph 1, the Party in whose territory proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article are situated shall:

- (i) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such order is granted, give effect to it; or
- (ii) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by the requesting Party in accordance with paragraph 1 of this article, in so far as it relates to proceeds, property, instrumentalities or any other things referred to in paragraph 1 situated in the territory of the requested Party.

(b) Following a request made pursuant to this article by another Party having jurisdiction over an offence established in accordance with article 3, paragraph 1, the requested Party shall take measures to identify, trace, and freeze or seize proceeds, property, instrumentalities or any other things referred to in paragraph 1 of this article for the purpose of eventual confiscation to be ordered either by the requesting Party or, pursuant to a request under subparagraph (a) of this paragraph, by the requested Party.

(c) The decisions or actions provided for in subparagraphs (a) and (b) of this paragraph shall be taken by the requested Party, in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting Party.

(d) The provisions of article 7, paragraphs 6 to 19, are applicable *mutatis mutandis*. In addition to the information specified in article 7, paragraph 10, requests made pursuant to this article shall contain the following:

- (i) In the case of a request pertaining to subparagraph (a)(i) of this paragraph, a description of the property to be confiscated and a statement of the facts relied upon by the requesting Party sufficient to enable the requested Party to seek the order under its domestic law;
- (ii) In the case of a request pertaining to subparagraph (a)(ii), a legally admissible copy of an order of confiscation issued by the requesting Party upon which the request is based, a statement of the facts and information as to the extent to which the execution of the order is requested;

(iii) In the case of a request pertaining to subparagraph (b), a statement of the facts relied upon by the requesting Party and a description of the actions requested.

(e) Each party shall furnish to the Secretary-General the text of any of its laws and regulations which give effect to this paragraph and the text of any subsequent changes to such laws and regulations.

(f) If a Party elects to make the taking of the measures referred to in subparagraphs (a) and (b) of this paragraph conditional on the existence of a relevant treaty, that Party shall consider this Convention as the necessary and sufficient treaty basis.

(g) The Parties shall seek to conclude bilateral and multilateral treaties, agreements or arrangements to enhance the effectiveness of international cooperation pursuant to this article.

5. (a) Proceeds or property confiscated by a Party pursuant to paragraph 1 or paragraph 4 of this article shall be disposed of by that Party according to its domestic law and administrative procedures.

(b) When acting on the request of another Party in accordance with this article, a Party may give special consideration to concluding agreements on:

- (i) Contributing the value of such proceeds and property, or funds derived from the sale of such proceeds or property, or a substantial part thereof, to intergovernmental bodies specializing in the fight against illicit traffic in and abuse of narcotic drugs and psychotropic substances;
- (ii) Sharing with other Parties, on a regular or case-by-case basis, such proceeds or property, or funds derived from the sale of such proceeds or property, in accordance with its domestic law, administrative procedures or bilateral or multilateral agreements entered into for this purpose.

6. (a) If proceeds have been transformed or converted into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

(b) If proceeds have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to seizure or freezing, be liable to confiscation up to the assessed value of the intermingled proceeds.

(c) Income or other benefits derived from:

- (i) Proceeds;
- (ii) Property into which proceeds have been transformed or converted; or
- (iii) Property with which proceeds have been intermingled;

shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds.

7. Each Party may consider ensuring that the onus of proof be reversed regarding the lawful origin of alleged proceeds or other property liable to confiscation, to the extent that such action is consistent with the principles of its domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a Party.

Article 6

EXTRADITION

1. This article shall apply to the offences established by the Parties in accordance with article 3, paragraph 1.

2. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. The Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

3. If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of any offence to which this article applies. The Parties which require detailed legislation in order to use this Convention as a legal basis for extradition shall consider enacting such legislation as may be necessary.

4. The Parties which do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

5. Extradition shall be subject to the conditions provided for by the law of the requested Party or by applicable extradition treaties, including the grounds upon which the requested Party may refuse extradition.

6. In considering requests received pursuant to this article, the requested State may refuse to comply with such requests where there are substantial grounds leading its judicial or other competent authorities to believe that compliance would facilitate the prosecution or punishment of any person on account of his race, religion, nationality or political opinions, or would cause prejudice for any of those reasons to any person affected by the request.

7. The Parties shall endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

8. Subject to the provisions of its domestic law and its extradition treaties, the requested Party may, upon being satisfied that the circumstances so warrant and are urgent, and at the request of the requesting Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his presence at extradition proceedings.

9. Without prejudice to the exercise of any criminal jurisdiction established in accordance with its domestic law, a Party in whose territory an alleged offender is found shall:

(a) If it does not extradite him in respect of an offence established in accordance with article 3, paragraph 1, on the grounds set forth in article 4, paragraph 2, subparagraph (a), submit the case to its competent authorities for the purpose of prosecution, unless otherwise agreed with the requesting Party;

(b) If it does not extradite him in respect of such an offence and has established its jurisdiction in relation to that offence in accordance with article 4, paragraph 2, subparagraph (b), submit the case to its competent authorities for the purpose of prosecution, unless otherwise requested by the requesting Party for the purposes of preserving its legitimate jurisdiction.

10. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested Party, the requested Party shall, if its law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence which has been imposed under the law of the requesting Party, or the remainder thereof.

11. The Parties shall seek to conclude bilateral and multilateral agreements to carry out or to enhance the effectiveness of extradition.

12. The Parties may consider entering into bilateral or multilateral agreements, whether ad hoc or general, on the transfer to their country of persons sentenced to imprisonment and other forms of deprivation of liberty for offences to which this article applies, in order that they may complete their sentences there.

Article 7

MUTUAL LEGAL ASSISTANCE

1. The Parties shall afford one another, pursuant to this article, the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences established in accordance with article 3, paragraph 1.

2. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(a) Taking evidence or statements from persons;

(b) Effecting service of judicial documents;

(c) Executing searches and seizures;

(d) Examining objects and sites;

(e) Providing information and evidentiary items;

(f) Providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records;

(g) Identifying or tracing proceeds, property, instrumentalities or other things for evidentiary purposes.

3. The Parties may afford one another any other forms of mutual legal assistance allowed by the domestic law of the requested Party.

4. Upon request, the Parties shall facilitate or encourage, to the extent consistent with their domestic law and practice, the presence or availability of persons, including persons in custody, who consent to assist in investigations or participate in proceedings.

5. A Party shall not decline to render mutual legal assistance under this article on the ground of bank secrecy.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual legal assistance in criminal matters.

7. Paragraphs 8 to 19 of this article shall apply to requests made pursuant to this article if the Parties in question are not bound by a treaty of mutual assistance. If these Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the Parties agree to apply paragraphs 8 to 19 of this article in lieu thereof.

8. Parties shall designate an authority, or when necessary authorities, which shall have the responsibility and power to execute requests for mutual legal assistance or to transmit them to the competent authorities for execution. The authority or the authorities designated for this purpose shall be notified to the Secretary-General. Transmission of requests for mutual legal assistance and any communication related thereto shall be effected between the authorities designated by the Parties; this requirement shall be without prejudice to the right of a Party to require that such requests and communications be addressed to it through the diplomatic channel and, in urgent circumstances, where the Parties agree, through channels of the International Criminal Police Organization, if possible.

9. Requests shall be made in writing in a language acceptable to the requested Party. The language or languages acceptable to each Party shall be notified to the Secretary-General. In urgent circumstances, and where agreed by the Parties, requests may be made orally, but shall be confirmed in writing forthwith.

10. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or proceeding to which the request relates, and the name and the functions of the authority conducting such investigation, prosecution or proceeding;

(c) A summary of the relevant facts, except in respect of requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure the requesting Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned;

(f) The purpose for which the evidence, information or action is sought.

11. The requested Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

12. A request shall be executed in accordance with the domestic law of the requested Party and, to the extent not contrary to the domestic law of the requested Party and where possible, in accordance with the procedures specified in the request.

13. The requesting Party shall not transmit nor use information or evidence furnished by the requested Party for investigations, prosecutions or proceedings other than those stated in the request without the prior consent of the requested Party.

14. The requesting Party may require that the requested Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.

15. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;

(c) If the authorities of the requested Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested Party relating to mutual legal assistance for the request to be granted.

16. Reasons shall be given for any refusal of mutual legal assistance.

17. Mutual legal assistance may be postponed by the requested Party on the ground that it interferes with an ongoing investigation, prosecution or proceeding. In such a case, the requested Party shall consult with the requesting Party to determine if the assistance can still be given subject to such terms and conditions as the requested Party deems necessary.

18. A witness, expert or other person who consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting Party, shall not be prosecuted, detained, punished or subjected to any other restriction of his personal liberty in that territory in respect of acts, omissions or convictions prior to his departure from the territory of the requested Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days, or for any period agreed upon by the Parties, from the date on which he has been officially informed that his presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory or having left it, has returned of his own free will.

19. The ordinary costs of executing a request shall be borne by the requested Party, unless otherwise agreed by the Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.

20. The Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this article.

Article 8

TRANSFER OF PROCEEDINGS

The Parties shall give consideration to the possibility of transferring to one another proceedings for criminal prosecution of offences established in accordance with article 3, paragraph 1, in cases where such transfer is considered to be in the interests of a proper administration of justice.

Article 9

OTHER FORMS OF COOPERATION AND TRAINING

1. The Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, with a view to enhancing the effectiveness of law enforcement action to suppress the commission of offences established in accordance with article 3, paragraph 1. They shall, in particular, on the basis of bilateral or multilateral agreements or arrangements:

(a) Establish and maintain channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences established in accordance with article 3, paragraph 1, including, if the Parties concerned deem it appropriate, links with other criminal activities;

(b) Cooperate with one another in conducting enquiries, with respect to offences established in accordance with article 3, paragraph 1, having an international character, concerning:

- (i) The identity, whereabouts and activities of persons suspected of being involved in offences established in accordance with article 3, paragraph 1;
- (ii) The movement of proceeds or property derived from the commission of such offences;
- (iii) The movement of narcotic drugs, psychotropic substances, substances in table I and table II of this Convention and instrumentalities used or intended for use in the commission of such offences;

(c) In appropriate cases and if not contrary to domestic law, establish joint teams, taking into account the need to protect the security of persons and of operations, to carry out the provisions of this paragraph. Officials of any Party taking part in such teams shall act as authorized by the Party in whose territory the operation is to take place; in all such cases, the Parties involved shall ensure that the sovereignty of the Party on whose territory the operation is to take place is fully respected;

(d) Provide, when appropriate, necessary quantities of substances for analytical or investigative purposes;

(e) Facilitate effective coordination between their competent agencies and services and promote the exchange of personnel and other experts, including the posting of liaison officers.

2. Each Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement and other personnel, including customs, charged with the suppression of offences established in accordance with article 3, paragraph 1. Such programmes shall deal, in particular, with the following:

(a) Methods used in the detection and suppression of offences established in accordance with article 3, paragraph 1;

(b) Routes and techniques used by persons suspected of being involved in offences established in accordance with article 3, paragraph 1, particularly in transit States, and appropriate countermeasures;

(c) Monitoring of the import and export of narcotic drugs, psychotropic substances and substances in table I and table II;

(d) Detection and monitoring of the movement of proceeds and property derived from, and narcotic drugs, psychotropic substances and substances in table I and table II, and instrumentalities used or intended for use in, the commission of offences established in accordance with article 3, paragraph 1;

(e) Methods used for the transfer, concealment or disguise of such proceeds, property and instrumentalities;

(f) Collection of evidence;

(g) Control techniques in free trade zones and free ports;

(h) Modern law enforcement techniques.

3. The Parties shall assist one another to plan and implement research and training programmes designed to share expertise in the areas referred to in paragraph 2 of this article and, to this end, shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

Article 10

INTERNATIONAL COOPERATION AND ASSISTANCE FOR TRANSIT STATES

1. The Parties shall cooperate, directly or through competent international or regional organizations, to assist and support transit States and, in particular, developing countries in need of such assistance and support, to the extent possible, through programmes of technical cooperation on interdiction and other related activities.

2. The Parties may undertake, directly or through competent international or regional organizations, to provide financial assistance to such transit States for the purpose of augmenting and strengthening the infrastructure needed for effective control and prevention of illicit traffic.

3. The Parties may conclude bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation pursuant to this article and may take into consideration financial arrangements in this regard.

Article 11

CONTROLLED DELIVERY

1. If permitted by the basic principles of their respective domestic legal systems, the Parties shall take the necessary measures, within their possibilities, to allow for the appropriate use of controlled delivery at the international level, on the basis of agreements or arrangements mutually consented to, with a view to identifying persons involved in offences established in accordance with article 3, paragraph 1, and to taking legal action against them.

2. Decisions to use controlled delivery shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the Parties concerned.

3. Illicit consignments whose controlled delivery is agreed to may, with the consent of the Parties concerned, be intercepted and allowed to continue with the narcotic drugs or psychotropic substances intact or removed or replaced in whole or in part.

Article 12

SUBSTANCES FREQUENTLY USED IN THE ILLICIT MANUFACTURE OF NARCOTIC DRUGS OR PSYCHOTROPIC SUBSTANCES

1. The Parties shall take the measures they deem appropriate to prevent diversion of substances in table I and table II used for the purpose of illicit manufacture of narcotic drugs or psychotropic substances, and shall cooperate with one another to this end.

2. If a Party or the Board has information which in its opinion may require the inclusion of a substance in table I or table II, it shall notify the Secretary-General and furnish him with the information in support of that notification. The procedure described in paragraphs 2 to 7 of this article shall also apply when a Party or the Board has information justifying the deletion of a substance from table I or table II, or the transfer of a substance from one table to the other.

3. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties, to the Commission, and, where notification is made by a Party, to the Board. The Parties shall communicate their comments concerning the notification to the Secretary-General, together with all supplementary information which may assist the Board in establishing an assessment and the Commission in reaching a decision.

4. If the Board, taking into account the extent, importance and diversity of the licit use of the substance, and the possibility and ease of using alternate substances both for licit purposes and for the illicit manufacture of narcotic drugs or psychotropic substances, finds:

(a) That the substance is frequently used in the illicit manufacture of a narcotic drug or psychotropic substance;

(b) That the volume and extent of the illicit manufacture of a narcotic drug or psychotropic substance creates serious public health or social problems, so as to warrant international action, it shall communicate to the Commission an assessment of the substance, including the likely effect of adding the substance to either table I or table II on both licit use and illicit manufacture, together with recommendations of monitoring measures, if any, that would be appropriate in the light of its assessment.

5. The Commission, taking into account the comments submitted by the Parties and the comments and recommendations of the Board, whose assessment shall be determinative as to scientific matters, and also taking into due consideration any other relevant factors, may decide by a two-thirds majority of its members to place a substance in table I or table II.

6. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States and other entities which are, or which are entitled to become, Parties to this Convention, and to the Board. Such decision shall become fully effective with respect to each Party one hundred and eighty days after the date of such communication.

7. (a) The decisions of the Commission taken under this article shall be subject to review by the Council upon the request of any Party filed within one hundred and eighty days after the date of notification of the decision. The request for review shall be sent to the Secretary-General, together with all relevant information upon which the request for review is based.

(b) The Secretary-General shall transmit copies of the request for review and the relevant information to the Commission, to the Board and to all the Parties, inviting them to submit their comments within ninety days. All comments received shall be submitted to the Council for consideration.

(c) The Council may confirm or reverse the decision of the Commission. Notification of the Council's decision shall be transmitted to all States and other entities which are, or which are entitled to become, Parties to this Convention, to the Commission and to the Board.

8. (a) Without prejudice to the generality of the provisions contained in paragraph 1 of this article and the provisions of the 1961 Convention, the 1961 Convention as amended and the 1971 Convention, the Parties shall take the measures they deem appropriate to monitor the manufacture and distribution of substances in table I and table II which are carried out within their territory.

(b) To this end, the Parties may:

- (i) Control all persons and enterprises engaged in the manufacture and distribution of such substances;
- (ii) Control under licence the establishment and premises in which such manufacture or distribution may take place;

- (iii) Require that licensees obtain a permit for conducting the aforesaid operations;
- (iv) Prevent the accumulation of such substances in the possession of manufacturers and distributors, in excess of the quantities required for the normal conduct of business and the prevailing market conditions.

9. Each Party shall, with respect to substances in table I and table II, take the following measures:

(a) Establish and maintain a system to monitor international trade in substances in table I and table II in order to facilitate the identification of suspicious transactions. Such monitoring systems shall be applied in close cooperation with manufacturers, importers, exporters, wholesalers and retailers, who shall inform the competent authorities of suspicious orders and transactions.

(b) Provide for the seizure of any substance in table I or table II if there is sufficient evidence that it is for use in the illicit manufacture of a narcotic drug or psychotropic substance.

(c) Notify, as soon as possible, the competent authorities and services of the Parties concerned if there is reason to believe that the import, export or transit of a substance in table I or table II is destined for the illicit manufacture of narcotic drugs or psychotropic substances, including in particular information about the means of payment and any other essential elements which led to that belief.

(d) Require that imports and exports be properly labeled and documented. Commercial documents such as invoices, cargo manifests, customs, transport and other shipping documents shall include the names, as stated in table I or table II, of the substances being imported or exported, the quantity being imported or exported, and the name and address of the exporter, the importer and, when available, the consignee.

(e) Ensure that documents referred to in subparagraph (d) of this paragraph are maintained for a period of not less than two years and may be made available for inspection by the competent authorities.

10. (a) In addition to the provisions of paragraph 9, and upon request to the Secretary-General by the interested Party, each Party from whose territory a substance in table I is to be exported shall ensure that, prior to such export, the following information is supplied by its competent authorities to the competent authorities of the importing country:

- (i) Name and address of the exporter and importer and, when available, the consignee;
- (ii) Name of the substance in table I;
- (iii) Quantity of the substance to be exported;
- (iv) Expected point of entry and expected date of dispatch;
- (v) Any other information which is mutually agreed upon by the Parties.

(b) A Party may adopt more strict or severe measures of control than those provided by this paragraph if, in its opinion, such measures are desirable or necessary.

11. Where a Party furnishes information to another Party in accordance with paragraphs 9 and 10 of this article, the Party furnishing such information may require that the Party receiving it keep confidential any trade, business, commercial or professional secret or trade process.

12. Each Party shall furnish annually to the Board, in the form and manner provided for by it and on forms made available by it, information on:

(a) The amounts seized of substances in table I and table II and, when known, their origin;

(b) Any substance not included in table I or table II which is identified as having been used in illicit manufacture of narcotic drugs or psychotropic substances, and which is deemed by the Party to be sufficiently significant to be brought to the attention of the Board;

(c) Methods of diversion and illicit manufacture.

13. The Board shall report annually to the Commission on the implementation of this article and the Commission shall periodically review the adequacy and propriety of table I and table II.

14. The provisions of this article shall not apply to pharmaceutical preparations, nor to other preparations containing substances in table I or table II that are compounded in such a way that such substances cannot be easily used or recovered by readily applicable means.

Article 13

MATERIALS AND EQUIPMENT

The Parties shall take such measures as they deem appropriate to prevent trade in and the diversion of materials and equipment for illicit production or manufacture of narcotic drugs and psychotropic substances and shall cooperate to this end.

Article 14

MEASURES TO ERADICATE ILLICIT CULTIVATION OF NARCOTIC PLANTS AND TO ELIMINATE ILLICIT DEMAND FOR NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

1. Any measures taken pursuant to this Convention by Parties shall not be less stringent than the provisions applicable to the eradication of illicit cultivation of plants containing narcotic and psychotropic substances and to the elimination of illicit demand for narcotic drugs and psychotropic substances under the provisions of the 1961 Convention, the 1961 Convention as amended and the 1971 Convention.

2. Each Party shall take appropriate measures to prevent illicit cultivation of and to eradicate plants containing narcotic or psychotropic substances, such as opium poppy, coca bush and cannabis plants, cultivated illicitly in its territory. The measures adopted shall respect fundamental human rights and

shall take due account of traditional licit uses, where there is historic evidence of such use, as well as the protection of the environment.

3. (a) The Parties may cooperate to increase the effectiveness of eradication efforts. Such cooperation may, *inter alia*, include support, when appropriate, for integrated rural development leading to economically viable alternatives to illicit cultivation. Factors such as access to markets, the availability of resources and prevailing socio-economic conditions should be taken into account before such rural development programmes are implemented. The Parties may agree on any other appropriate measures of cooperation.

(b) The Parties shall also facilitate the exchange of scientific and technical information and the conduct of research concerning eradication.

(c) Whenever they have common frontiers, the Parties shall seek to cooperate in eradication programmes in their respective areas along those frontiers.

4. The Parties shall adopt appropriate measures aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances, with a view to reducing human suffering and eliminating financial incentives for illicit traffic. These measures may be based, *inter alia*, on the recommendations of the United Nations, specialized agencies of the United Nations such as the World Health Organization, and other competent international organizations, and on the Comprehensive Multidisciplinary Outline adopted by the International Conference on Drug Abuse and Illicit Trafficking, held in 1987, as it pertains to governmental and non-governmental agencies and private efforts in the fields of prevention, treatment and rehabilitation. The Parties may enter into bilateral or multilateral agreements or arrangements aimed at eliminating or reducing illicit demand for narcotic drugs and psychotropic substances.

5. The Parties may also take necessary measures for early destruction or lawful disposal of the narcotic drugs, psychotropic substances and substances in table I and table II which have been seized or confiscated and for the admissibility as evidence of duly certified necessary quantities of such substances.

Article 15

COMMERCIAL CARRIERS

1. The Parties shall take appropriate measures to ensure that means of transport operated by commercial carriers are not used in the commission of offences established in accordance with article 3, paragraph 1; such measures may include special arrangements with commercial carriers.

2. Each Party shall require commercial carriers to take reasonable precautions to prevent the use of their means of transport for the commission of offences established in accordance with article 3, paragraph 1. Such precautions may include:

(a) If the principal place of business of a commercial carrier is within the territory of the Party:

(i) Training of personnel to identify suspicious consignments or persons;

- (ii) Promotion of integrity of personnel;
- (b) If a commercial carrier is operating within the territory of the Party:
 - (i) Submission of cargo manifests in advance, whenever possible;
 - (ii) Use of tamper-resistant, individually verifiable seals on containers;
- (iii) Reporting to the appropriate authorities at the earliest opportunity all suspicious circumstances that may be related to the commission of offences established in accordance with article 3, paragraph 1.

3. Each Party shall seek to ensure that commercial carriers and the appropriate authorities at points of entry and exit and other customs control areas cooperate, with a view to preventing unauthorized access to means of transport and cargo and to implementing appropriate security measures.

Article 16

COMMERCIAL DOCUMENTS AND LABELLING OF EXPORTS

1. Each Party shall require that lawful exports of narcotic drugs and psychotropic substances be properly documented. In addition to the requirements for documentation under article 31 of the 1961 Convention, article 31 of the 1961 Convention as amended and article 12 of the 1971 Convention, commercial documents such as invoices, cargo manifests, customs, transport and other shipping documents shall include the names of the narcotic drugs and psychotropic substances being exported as set out in the respective Schedules of the 1961 Convention, the 1961 Convention as amended and the 1971 Convention, the quantity being exported, and the name and address of the exporter, the importer and, when available, the consignee.

2. Each Party shall require that consignments of narcotic drugs and psychotropic substances being exported be not mislabelled.

Article 17

ILLICIT TRAFFIC BY SEA

1. The Parties shall cooperate to the fullest extent possible to suppress illicit traffic by sea, in conformity with the international law of the sea.

2. A Party which has reasonable grounds to suspect that a vessel flying its flag or not displaying a flag or marks of registry is engaged in illicit traffic may request the assistance of other Parties in suppressing its use for that purpose. The Parties so requested shall render such assistance within the means available to them.

3. A Party which has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying marks of registry of another Party is engaged in illicit traffic may so notify the flag State, request confirmation of registry and, if confirmed, request authorization from the flag State to take appropriate measures in regard to that vessel.

4. In accordance with paragraph 3 or in accordance with treaties in force between them or in accordance with any agreement or arrangement otherwise reached between those Parties, the flag State may authorize the requesting State to, *inter alia*:

- (a) Board the vessel;
- (b) Search the vessel;
- (c) If evidence of involvement in illicit traffic is found, take appropriate action with respect to the vessel, persons and cargo on board.

5. Where action is taken pursuant to this article, the Parties concerned shall take due account of the need not to endanger the safety of life at sea, the security of the vessel and the cargo or to prejudice the commercial and legal interests of the flag State or any other interested State.

6. The flag State may, consistent with its obligations in paragraph 1 of this article, subject its authorization to conditions to be mutually agreed between it and the requesting Party, including conditions relating to responsibility.

7. For the purposes of paragraphs 3 and 4 of this article, a Party shall respond expeditiously to a request from another Party to determine whether a vessel that is flying its flag is entitled to do so, and to requests for authorization made pursuant to paragraph 3. At the time of becoming a Party to this Convention, each Party shall designate an authority or, when necessary, authorities to receive and respond to such requests. Such designation shall be notified through the Secretary-General to all other Parties within one month of the designation.

8. A Party which has taken any action in accordance with this article shall promptly inform the flag State concerned of the results of that action.

9. The Parties shall consider entering into bilateral or regional agreements or arrangements to carry out, or to enhance the effectiveness of, the provisions of this article.

10. Action pursuant to paragraph 4 of this article shall be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

11. Any action taken in accordance with this article shall take due account of the need not to interfere with or affect the rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea.

Article 18

FREE TRADE ZONES AND FREE PORTS

1. The Parties shall apply measures to suppress illicit traffic in narcotic drugs, psychotropic substances and substances in table I and table II in free trade zones and in free ports that are no less stringent than those applied in other parts of their territories.

2. The Parties shall endeavour:

- (a) To monitor the movement of goods and persons in free trade zones and free ports, and, to that end, shall empower the competent authorities to

search cargoes and incoming and outgoing vessels, including pleasure craft and fishing vessels, as well as aircraft and vehicles, and, when appropriate, to search crew members, passengers and their baggage;

(b) To establish and maintain a system to detect consignments suspected of containing narcotic drugs, psychotropic substances and substances in table I and table II passing into or out of free trade zones and free ports;

(c) To establish and maintain surveillance systems in harbour and dock areas and at airports and border control points in free trade zones and free ports.

Article 19

THE USE OF THE MAILS

1. In conformity with their obligations under the Convention of the Universal Postal Union, and in accordance with the basic principles of their domestic legal systems, the Parties shall adopt measures to suppress the use of the mails for illicit traffic and shall cooperate with one another to that end.

2. The measures referred to in paragraph 1 of this article shall include, in particular:

(a) Coordinated action for the prevention and repression of the use of the mails for illicit traffic;

(b) Introduction and maintenance by authorized law enforcement personnel of investigative and control techniques designed to detect illicit consignments of narcotic drugs, psychotropic substances and substances in table I and table II in the mails;

(c) Legislative measures to enable the use of appropriate means to secure evidence required for judicial proceedings.

Article 20

INFORMATION TO BE FURNISHED BY THE PARTIES

1. The Parties shall furnish, through the Secretary-General, information to the Commission on the working of the Convention in their territories and, in particular:

(a) The text of laws and regulations promulgated in order to give effect to this Convention;

(b) Particulars of cases of illicit traffic within their jurisdiction which they consider important because of new trends disclosed, the quantities involved, the sources from which the substances are obtained, or the methods employed by persons so engaged.

2. The Parties shall furnish such information in such a manner and by such dates as the Commission may request.

Article 21

FUNCTIONS OF THE COMMISSION

The Commission is authorized to consider all matters pertaining to the aims of this Convention and, in particular:

(a) The Commission shall, on the basis of the information submitted by the Parties in accordance with article 20, review the operation of this Convention;

(b) The Commission may make suggestions and general recommendations based on the examination of the information received from the Parties;

(c) The Commission may call the attention of the Board to any matters which may be relevant to the functions of the Board;

(d) The Commission shall, on any matter referred to it by the Board under article 22, paragraph 1(b), take such action as it deems appropriate;

(e) The Commission may, in conformity with the procedures laid down in article 12, amend table I and table II;

(f) The Commission may draw the attention of non-Parties to decisions and recommendations which it adopts under this Convention, with a view to their considering taking action in accordance therewith.

Article 22

FUNCTIONS OF THE BOARD

1. Without prejudice to the functions of the Commission under article 21, and without prejudice to the functions of the Board and the Commission under the 1961 Convention, the 1961 Convention as amended and the 1971 Convention:

(a) If, on the basis of its examination of information available to it, to the Secretary-General or to the Commission, or of information communicated by United Nations organs, the Board has reason to believe that the aims of this Convention in matters related to its competence are not being met, the Board may invite a Party or Parties to furnish any relevant information;

(b) With respect to articles 12, 13 and 16:

(i) After taking action under subparagraph (a) of this article, the Board, if satisfied that it is necessary to do so, may call upon the Party concerned to adopt such remedial measures as shall seem under the circumstances to be necessary for the execution of the provisions of articles 12, 13 and 16;

(ii) Prior to taking action under (iii) below, the Board shall treat as confidential its communications with the Party concerned under the preceding subparagraphs;

(iii) If the Board finds that the Party concerned has not taken remedial measures which it has been called upon to take under this subpara-

graph, it may call the attention of the Parties, the Council and the Commission to the matter. Any report published by the Board under this subparagraph shall also contain the views of the Party concerned if the latter so requests.

2. Any Party shall be invited to be represented at a meeting of the Board at which a question of direct interest to it is to be considered under this article.

3. If in any case a decision of the Board which is adopted under this article is not unanimous, the views of the minority shall be stated.

4. Decisions of the Board under this article shall be taken by a two-thirds majority of the whole number of the Board.

5. In carrying out its functions pursuant to subparagraph 1(a) of this article, the Board shall ensure the confidentiality of all information which may come into its possession.

6. The Board's responsibility under this article shall not apply to the implementation of treaties or agreements entered into between Parties in accordance with the provisions of this Convention.

7. The provisions of this article shall not be applicable to disputes between Parties falling under the provisions of article 32.

Article 23

REPORTS OF THE BOARD

1. The Board shall prepare an annual report on its work containing an analysis of the information at its disposal and, in appropriate cases, an account of the explanations, if any, given by or required of Parties, together with any observations and recommendations which the Board desires to make. The Board may make such additional reports as it considers necessary. The reports shall be submitted to the Council through the Commission which may make such comments as it sees fit.

2. The reports of the Board shall be communicated to the Parties and subsequently published by the Secretary-General. The Parties shall permit their unrestricted distribution.

Article 24

APPLICATION OF STRICTER MEASURES THAN THOSE REQUIRED BY THIS CONVENTION

A Party may adopt more strict or severe measures than those provided by this Convention if, in its opinion, such measures are desirable or necessary for the prevention or suppression of illicit traffic.

Article 25

NON-DEROGATION FROM EARLIER TREATY RIGHTS AND OBLIGATIONS

The provisions of this Convention shall not derogate from any rights enjoyed or obligations undertaken by Parties to this Convention under the 1961 Convention, the 1961 Convention as amended and the 1971 Convention.

Article 26

SIGNATURE

This Convention shall be open for signature at the United Nations Office at Vienna, from 20 December 1988 to 28 February 1989, and thereafter at the Headquarters of the United Nations at New York, until 20 December 1989, by:

- (a) All States;
- (b) Namibia, represented by the United Nations Council for Namibia;
- (c) Regional economic integration organizations which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention, references under the Convention to Parties, States or national services being applicable to these organizations within the limits of their competence.

Article 27

RATIFICATION, ACCEPTANCE, APPROVAL OR ACT OF FORMAL CONFIRMATION

1. This Convention is subject to ratification, acceptance or approval by States and by Namibia, represented by the United Nations Council for Namibia, and to acts of formal confirmation by regional economic integration organizations referred to in article 26, subparagraph (c). The instruments of ratification, acceptance or approval and those relating to acts of formal confirmation shall be deposited with the Secretary-General.

2. In their instruments of formal confirmation, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Secretary-General of any modification in the extent of their competence with respect to the matters governed by the Convention.

Article 28

ACCESSION

1. This Convention shall remain open for accession by any State, by Namibia, represented by the United Nations Council for Namibia, and by regional economic integration organizations referred to in article 26, subparagraph (c). Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.

2. In their instruments of accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Secretary-General of any modification in the extent of their competence with respect to the matters governed by the Convention.

Article 29

ENTRY INTO FORCE

1. This Convention shall enter into force on the ninetieth day after the date of the deposit with the Secretary-General of the twentieth instrument of ratification, acceptance, approval or accession by States or by Namibia, represented by the Council for Namibia.

2. For each State or for Namibia, represented by the Council for Namibia, ratifying, accepting, approving or acceding to this Convention after the deposit of the twentieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of the deposit of its instrument of ratification, acceptance, approval or accession.

3. For each regional economic integration organization referred to in article 26, subparagraph (c), depositing an instrument relating to an act of formal confirmation or an instrument of accession, this Convention shall enter into force on the ninetieth day after such deposit, or at the date the Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

Article 30

DENUNCIATION

1. A Party may denounce this Convention at any time by a written notification addressed to the Secretary-General.

2. Such denunciation shall take effect for the Party concerned one year after the date of receipt of the notification by the Secretary-General.

Article 31

AMENDMENTS

1. Any Party may propose an amendment to this Convention. The text of any such amendment and the reasons therefor shall be communicated by that Party to the Secretary-General, who shall communicate it to the other Parties and shall ask them whether they accept the proposed amendment. If a proposed amendment so circulated has not been rejected by any Party within twenty-four months after it has been circulated, it shall be deemed to have been accepted and shall enter into force in respect of a Party ninety days after that Party has deposited with the Secretary-General an instrument expressing its consent to be bound by that amendment.

2. If a proposed amendment has been rejected by any Party, the Secretary-General shall consult with the Parties and, if a majority so requests, he shall bring the matter, together with any comments made by the Parties, before the Council which may decide to call a conference in accordance with Article 62, paragraph 4, of the Charter of the United Nations. Any amendment resulting from such a Conference shall be embodied in a Protocol of Amendment. Consent to be bound by such a Protocol shall be required to be expressed specifically to the Secretary-General.

Article 32

SETTLEMENT OF DISPUTES

1. If there should arise between two or more Parties a dispute relating to the interpretation or application of this Convention, the Parties shall consult together with a view to the settlement of the dispute by negotiation, enquiry, mediation, conciliation, arbitration, recourse to regional bodies, judicial process or other peaceful means of their own choice.

2. Any such dispute which cannot be settled in the manner prescribed in paragraph 1 of this article shall be referred, at the request of any one of the States Parties to the dispute, to the International Court of Justice for decision.

3. If a regional economic integration organization referred to in article 26, subparagraph (c), is a Party to a dispute which cannot be settled in the manner prescribed in paragraph 1 of this article, it may, through a State Member of the United Nations, request the Council to request an advisory opinion of the International Court of Justice in accordance with article 65 of the Statute of the Court, which opinion shall be regarded as decisive.

4. Each State, at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, or each regional economic integration organization, at the time of signature or deposit of an act of formal confirmation or accession, may declare that it does not consider itself bound by paragraphs 2 and 3 of this article. The other Parties shall not be bound by paragraphs 2 and 3 with respect to any Party having made such a declaration.

5. Any Party having made a declaration in accordance with paragraph 4 of this article may at any time withdraw the declaration by notification to the Secretary-General.

Article 33

AUTHENTIC TEXTS

The Arabic, Chinese, English, French, Russian and Spanish texts of this Convention are equally authentic.

Article 34

DEPOSITARY

The Secretary-General shall be the depositary of this Convention.

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

DONE at Vienna, in one original, this twentieth day of December, one thousand nine hundred and eighty-eight.

ANNEX

Table I

Ephedrine
Ergometrine
Ergotamine
Lysergic acid
1-phenyl-2-propanone
Pseudoephedrine

The salts of the substances
listed in this Table whenever
the existence of such salts is
possible.

Table II

Acetic anhydride
Acetone
Anthranilic acid
Ethyl ether
Phenylacetic acid
Piperidine

The salts of the substance
listed in this Table whenever
the existence of such salts is
possible

B. Treaties concerning international law concluded under the auspices of intergovernmental organizations related to the United Nations

1. INTERNATIONAL CIVIL AVIATION ORGANIZATION

PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION, SUPPLEMENTARY TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION.⁷ DONE AT MONTREAL ON 24 DECEMBER 1988

The States Parties to this Protocol,

Considering that unlawful acts of violence which endanger or are likely to endanger the safety of persons at airports serving international civil aviation or which jeopardize the safe operation of such airports undermine the confidence of the peoples of the world in safety at such airports and disturb the safe and orderly conduct of civil aviation for all States;

Considering that the occurrence of such acts is a matter of grave concern to the international community and that, for the purpose of deterring such acts, there is an urgent need to provide appropriate measures for punishment of offenders;

Considering that it is necessary to adopt provisions supplementary to those of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation,⁸ done at Montreal on 23 September 1971, to deal with such unlawful acts of violence at airports serving international civil aviation.

Have agreed as follows:

Article I

This Protocol supplements the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (hereinafter referred to as “the Convention”), and, as between the Parties to this Protocol, the Convention and the Protocol shall be read and interpreted together as one single instrument.

Article II

1. In article I of the Convention, the following shall be added as new paragraph 1 *bis*:

“1 *bis*. Any person commits an offence if he unlawfully and intentionally, using any device, substance or weapon:

(a) Performs an act of violence against a person at an airport serving international civil aviation which causes serious injury or death; or

(b) Destroys or seriously damages the facilities of an airport serving international civil aviation or aircraft not in service located thereon or disrupts the services of the airport, if such an act endangers or is likely to endanger safety at that airport.”

2. In paragraph 2(a) of article I of the Convention, the following words shall be inserted after the words “paragraph 1”: “or paragraph 1 *bis*”.

Article III

In article 5 of the Convention, the following shall be added as paragraph 2 *bis*:

“2 *bis*. Each Contracting State shall likewise take such measures as may be necessary to establish its jurisdiction over the offences mentioned in article I, paragraph 2, insofar as that paragraph relates to those offences, in the case where the alleged offender is present in its territory and it does not extradite him pursuant to article 8 to the State mentioned in paragraph 1(a) of this article.”

Article IV

This Protocol shall be open for signature at Montreal on 24 February 1988 by States participating in the International Conference on Air Law held at Montreal from 9 to 24 February 1988. After 1 March 1988, the Protocol shall be open for signature to all States in London, Moscow, Washington and Montreal, until it enters into force in accordance with article VI.

Article V

1. This Protocol shall be subject to ratification by the signatory States.

2. Any State which is not a Contracting State to the Convention may ratify this Protocol if at the same time it ratifies or accedes to the Convention in accordance with article 15 thereof.

3. Instruments of ratification shall be deposited with the Governments of the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America or with the International Civil Aviation Organization, which are hereby designated the Depositories.

Article VI

1. As soon as ten of the signatory States have deposited their instruments of ratification of this Protocol, it shall enter into force between them on the thirtieth day after the date of the deposit of the tenth instrument of ratification. It shall enter into force for each State which deposits its instrument of ratification after that date on the thirtieth day after deposit of its instruments of ratification.

2. As soon as this Protocol enters into force, it shall be registered by the Depositories pursuant to Article 102 of the Charter of the United Nations and pursuant to article 83 of the Convention on International Civil Aviation (Chicago, 1944).⁹

Article VII

1. This Protocol shall, after it has entered into force, be open for accession by any non-signatory State.

2. Any State which is not a Contracting State to the Convention may accede to this Protocol if at the same time it ratifies or accedes to the Convention in accordance with article 15 thereof.

3. Instruments of accession shall be deposited with the Depositories and accession shall take effect on the thirtieth day after the deposit.

Article VIII

1. Any Party to this Protocol may denounce it by written notification addressed to the Depositories.

2. Denunciation shall take effect six months following the date on which notification is received by the Depositories.

3. Denunciation of this Protocol shall not of itself have the effect of denunciation of the Convention.

4. Denunciation of the Convention by a Contracting State to the Convention as supplemented by this Protocol shall also have the effect of denunciation of this Protocol.

Article IX

1. The Depositories shall promptly inform all signatory and acceding States to this Protocol and all signatory and acceding States to the Convention:

(a) Of the date of each signature and the date of deposit of each instrument of ratification of, or accession to, this Protocol; and

(b) Of the receipt of any notification of denunciation of this Protocol and the date thereof.

2. The Depositaries shall also notify the States referred to in paragraph 1 of the date on which this Protocol enters into force in accordance with article VI.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorized thereto by their Governments, have signed this Protocol.

DONE at Montreal on the twenty-fourth day of February of the year One Thousand Nine Hundred and Eighty-eight, in four originals each being drawn up in four authentic texts in the English, French, Russian and Spanish languages.

2. INTERNATIONAL MARITIME ORGANIZATION

CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION AND PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTINENTAL SHELF.¹⁰
DONE AT ROME ON 10 MARCH 1988

The States Parties to this Convention,

Having in mind the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and cooperation among States,

Recognizing in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights¹¹ and the International Covenant on Civil and Political Rights,¹²

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Considering that unlawful acts against the safety of maritime navigation jeopardize the safety of persons and property, seriously affect the operation of maritime services, and undermine the confidence of the peoples of the world in the safety of maritime navigation,

Considering that the occurrence of such acts is a matter of grave concern to the international community as a whole,

Being convinced of the urgent need to develop international cooperation between States in devising and adopting effective and practical measures for the prevention of all unlawful acts against the safety of maritime navigation, and the prosecution and punishment of their perpetrators,

Recalling United Nations General Assembly resolution 40/61 of 9 December 1985, which, *inter alia*, “urges all States, unilaterally and in cooperation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of causes underlying international terrorism and to pay

special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security”,

Recalling further that resolution 40/61 “unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security,”

Recalling also that by resolution 40/61, the International Maritime Organization was invited to “study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures,”

Having in mind resolution A.584(14) of 20 November 1985, of the Assembly of the International Maritime Organization, which called for development of measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews,

Noting that acts of the crew which are subject to normal shipboard discipline are outside the purview of this Convention,

Affirming the desirability of monitoring rules and standards relating to the prevention and control of unlawful acts against ships and persons on board ships, with a view to updating them as necessary, and, to this effect, taking note with satisfaction, of the Measures to Prevent Unlawful Acts against Passengers and Crews on Board Ships, recommended by the Maritime Safety Committee of the International Maritime Organization,

Affirming further that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

Recognizing the need for all States, in combating unlawful acts against the safety of maritime navigation, strictly to comply with rules and principles of general international law,

Have agreed as follows:

Article 1

For the purposes of this Convention, “ship” means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles, or any other floating craft.

Article 2

1. This Convention does not apply to:
 - (a) A warship; or
 - (b) A ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes; or
 - (c) A ship which has been withdrawn from navigation or laid up.
2. Nothing in this Convention affects the immunities of warships and other Government ships operated for non-commercial purposes.

Article 3

1. Any person commits an offence if that person unlawfully and intentionally:

(a) Seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or

(b) Performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or

(c) Destroys a ship or causes damage to a ship or its cargo which is likely to endanger the safe navigation of that ship; or

(d) Places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or

(e) Destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or

(f) Communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or

(g) Injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).

2. Any person also commits an offence if that person:

(a) Attempts to commit any of the offences set forth in paragraph 1; or

(b) Abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or

(c) Threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.

Article 4

1. This Convention applies if the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.

2. In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

Article 5

Each State Party shall make the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences.

Article 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 when the offence is committed:

(a) Against or on board a ship flying the flag of the State at the time the offence is committed; or

(b) In the territory of that State, including its territorial sea; or

(c) By a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) It is committed by a stateless person whose habitual residence is in that State; or

(b) During its commission a national of that State is seized, threatened, injured or killed; or

(c) It is committed in an attempt to compel that State to do or abstain from doing any act.

3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General of the International Maritime Organization (hereinafter referred to as "the Secretary-General"). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

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

Article 7

1. Upon being satisfied that the circumstances so warrant, any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceeding to be instituted.

2. Such State shall immediately make a preliminary enquiry into the facts, in accordance with its own legislation.

3. Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;

(b) Be visited by a representative of that State.

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the proviso that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1, and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 8

1. The master of a ship of a State Party (the “flag State”) may deliver to the authorities of any other State Party (the “receiving State”) any person who he has reasonable grounds to believe has committed one of the offences set forth in article 3.

2. The flag State shall ensure that the master of its ship is obliged whenever practicable, and if possible before entering the territorial sea of the receiving State carrying on board any person whom the master intends to deliver in accordance with paragraph 1, to give notification to the authorities of the receiving State of his intention to deliver such person and the reasons therefor.

3. The receiving State shall accept the delivery, except where it has grounds to consider that the Convention is not applicable to the acts giving rise to the delivery, and shall proceed in accordance with the provisions of article 7. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for refusal.

4. The flag State shall ensure that the master of its ship is obliged to furnish the authorities of the receiving State with the evidence in the master’s possession which pertains to the alleged offence.

5. A receiving State which has accepted the delivery of a person in accordance with paragraph 3 may in turn request the flag State to accept delivery of that person. The flag State shall consider any such request, and if it accedes to the request it shall proceed in accordance with article 7. If the flag State declines a request, it shall furnish the receiving State with a statement of the reasons therefor.

Article 9

Nothing in this Convention shall affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag.

Article 10

1. The State Party in the territory of which the offender or the alleged offender is found shall, in cases in which article 6 applies, if it does not extradite him be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 3 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided for such proceedings by the law of the State in the territory of which he is present.

Article 11

1. The offences set forth in article 3 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences 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, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 3. Extradition shall be subject to the other conditions provided by the law of the requested State Party.

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

4. If necessary, the offences set forth in article 3 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.

5. A State Party which receives more than one request for extradition from States which have established jurisdiction in accordance with article 7 and which decides not to prosecute shall, in selecting the State to which the offender or alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

6. In considering a request for the extradition of an alleged offender pursuant to this Convention, the requested State shall pay due regard to whether his rights as set forth in article 7, paragraph 3, can be effected in the requesting State.

7. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent that they are incompatible with this Convention.

Article 12

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 3, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford each other assistance in accordance with their national law.

Article 13

1. States Parties shall cooperate in the prevention of the offences set forth in article 3, particularly by:

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

(b) Exchanging information in accordance with their national law, and coordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 3.

2. When, due to the commission of an offence set forth in article 3, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

Article 14

Any State Party having reason to believe that an offence set forth in article 3 will be committed shall, in accordance with its national law, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the States having established jurisdiction in accordance with article 6.

Article 15

1. Each State Party shall, in accordance with its national law, provide to the Secretary-General, as promptly as possible, any relevant information in its possession concerning:

(a) The circumstances of the offence;

(b) The action taken pursuant to article 13, paragraph 2;

(c) The measures taken in relation to the offender or the alleged offender, and, in particular, the results of any extradition proceedings or other legal proceedings.

2. The State Party where the alleged offender is prosecuted shall, in accordance with its national law, communicate the final outcome of the proceedings to the Secretary-General.

3. The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary-General to all States Parties, to members of the International Maritime Organization (hereinafter referred to as “the Organization”), to the other States concerned, and to the appropriate international inter-governmental organizations.

Article 16

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time 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 request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.

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

Article 17

1. This Convention shall be open for signature at Rome on 10 March 1988 by States participating in the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation and at the headquarters of the Organization by all States from 14 March 1988 to 9 March 1989. It shall thereafter remain open for accession.

2. States may express their consent to be bound by this Convention by:

(a) Signature without reservation as to ratification, acceptance or approval;
or

(b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) Accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 18

1. This Convention shall enter into force ninety days following the date on which fifteen States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Convention after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

Article 19

1. This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

Article 20

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.

3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Article 21

1. This Convention shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) Inform all States which have signed this Convention or acceded

(i) Each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;

(ii) The date of the entry into force of this Convention;

(iii) The deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;

(iv) The receipt of any declaration or notification made under this Convention;

(b) Transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United

Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 22

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

DONE at Rome this tenth day of March one thousand nine hundred and eighty-eight.

PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST
THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTI-
NENTAL SHELF

The States Parties to this Protocol,

Being parties to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,

Recognizing that the reasons for which the Convention was elaborated also apply to fixed platforms located on the continental shelf,

Taking account of the provisions of that Convention,

Affirming that matters not regulated by this Protocol continue to be governed by the rules and principles of general international law,

Have agreed as follows:

Article 1

1. The provisions of articles 5 and 7 and of articles 10 to 16 of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (hereinafter referred to as “the Convention”) shall also apply *mutatis mutandis* to the offences set forth in article 2 of this Protocol where such offences are committed on board or against fixed platforms located on the continental shelf.

2. In cases where the Protocol does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State in whose internal waters or territorial sea the fixed platform is located.

3. For the purposes of this Protocol, “fixed platform” means an artificial island, installation or structure permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes.

Article 2

1. Any person commits an offence if that person unlawfully and intentionally:

(a) Seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation; or

(b) Performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety; or

(c) Destroys a fixed platform or causes damage to it which is likely to endanger its safety; or

(d) Places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety; or

(e) Injures or kills any person in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (b).

2. Any person also commits an offence if that person:

(a) Attempts to commit any of the offences set forth in paragraph 1; or

(b) Abets the commission of any such offences perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or

(c) Threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph 1, subparagraphs (b) and (c), if that threat is likely to endanger the safety of the fixed platform.

Article 3

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when the offence is committed:

(a) Against or on board a fixed platform while it is located on the continental shelf of that State; or

(b) By a national of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) It is committed by a stateless person whose habitual residence is in that State;

(b) During its commission a national of that State is seized, threatened, injured or killed; or

(c) It is committed in an attempt to compel that State to do or abstain from doing any act.

3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General of the International Maritime Orga-

nization (hereinafter referred to as “the Secretary-General”). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.

4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.

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

Article 4

Nothing in this Protocol shall affect in any way the rules of international law pertaining to fixed platforms located on the continental shelf.

Article 5

1. This Protocol shall be open for signature at Rome on 10 March 1988 and at the Headquarters of the International Maritime Organization (hereinafter referred to as “the Organization”) from 14 March 1988 to 9 March 1989 by any State which has signed the Convention. It shall thereafter remain open for accession. [cf-see good ms 333]

2. States may express their consent to be bound by this Protocol by:

(a) Signature without reservation as to ratification, acceptance or approval;
or

(b) Signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) Accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

4. Only a State which has signed the Convention without reservation as to ratification, acceptance or approval, or has ratified, accepted, approved or acceded to the Convention, may become a Party to this Protocol.

Article 6

1. This Protocol shall enter into force ninety days following the date on which three States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval, or accession in respect thereof. However, this Protocol shall not enter into force before the Convention has entered into force.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Protocol after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

Article 7

1. This Protocol may be denounced by any State Party at any time after the expiry of one year from the date on which this Protocol enters into force for that State.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

4. A denunciation of the Convention by a State Party shall be deemed to be a denunciation of this Protocol by that Party.

Article 8

1. A conference for the purpose of revising or amending this Protocol may be convened by the Organization.

2. The Secretary-General shall convene a conference of the States Parties to this Protocol for revising or amending the Protocol, at the request of one third of the States Parties, or five States Parties, whichever is the higher figure.

3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Protocol shall be deemed to apply to the Protocol as amended.

Article 9

1. This Protocol shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) Inform all States which have signed this Protocol or acceded thereto, and all members of the Organization, of:

(i) Each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) The date of entry into force of this Protocol;

(iii) The deposit of any instrument of denunciation of this Protocol together with the date on which it is received and the date on which the denunciation takes effect;

(iv) The receipt of any declaration or notification made under this Protocol or under the Convention, concerning this Protocol;

(b) Transmit certified true copies of this Protocol to all States which have signed this Protocol or acceded thereto.

3. As soon as this Protocol enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 10

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

DONE at Rome this tenth day of March one thousand nine hundred and eighty-eight.

NOTES

¹*International Legal Materials*, vol. XXVII, No. 5 (September 1988), p. 1204.

²*Ibid.*, vol. XXVIII, No. 1 (January 1989), p. 212.

³E/ECE (XXXIV)/L.18.

⁴Not yet published.

⁵*International Legal Materials*, vol. XXVIII, No. 2 (March 1989), p. 493.

⁶See chap. III.A3(g) of this *Yearbook*.

⁷United Nations *Treaty Series*, vol. 1589, p.

⁸*Ibid.*, *Treaty Series*, vol. 974, p. 177.

⁹*Ibid.*, vol. 15, p. 295.

¹⁰*International Legal Materials*, vol. XXVII, No. 3 (May 1988), p. 668.

¹¹United Nations, *Treaty Series*, vol. 999, p. 17.

¹²General Assembly resolution 217 A III.
