Addis Ababa, Ethiopia
2–27 February 2015

STUDY MATERIALS
INTERNATIONAL ENVIRONMENTAL LAW

Codification Division of the United Nations Office of Legal Affairs

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Outline

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**Case Law**

*Environment, Sustainable Development and International Law - Extracts from Relevant Case Law*


34. Responsibilities and obligations of States sponsoring persons and entities with respect to activities in the Area, Seabed Disputes Chamber of the International Tribunal of the Law of the Sea, Advisory Opinion of 1 February 2011, paras. 121-137 and 141-163
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International environmental law

I. International environmental law: notions and principles

II. The Climate change regime and the prospects for a post-2012 arrangement

III. Nature conservation and biodiversity, with special emphasis on trade issues

IV. Fresh water and international law, with special emphasis on the protection of the environment
General Agreement on Tariffs and Trade (Article XX), 1947
The General Agreement on Tariffs and Trade (GATT 1947)

Article XX: General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

a. necessary to protect public morals;
b. necessary to protect human, animal or plant life or health;
c. relating to the importations or exportations of gold or silver;
d. necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;
e. relating to the products of prison labour;
f. imposed for the protection of national treasures of artistic, historic or archaeological value;
g. relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
h. undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted to the CONTRACTING PARTIES and not disapproved by them or which is itself so submitted and not so disapproved;*
i. involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; Provided that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;
j. essential to the acquisition or distribution of products in general or local short supply; Provided that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of the Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist. The CONTRACTING PARTIES shall review the need for this sub-paragraph not later than 30 June 1960.
Chapter 1
DECLARATION OF THE UNITED NATIONS CONFERENCE
ON THE HUMAN ENVIRONMENT

The United Nations Conference on the Human Environment,

Having met at Stockholm from 5 to 16 June 1972,

Having considered the need for a common outlook and for common principles to inspire and guide the peoples of the world in the preservation and enhancement of the human environment,

I

Proclaims that:

1. Man is both creature and moulder of his environment, which gives him physical sustenance and affords him the opportunity for intellectual, moral, social and spiritual growth. In the long and tortuous evolution of the human race on this planet a stage has been reached when, through the rapid acceleration of science and technology, man has acquired the power to transform his environment in countless ways and on an unprecedented scale. Both aspects of man's environment, the natural and the man-made, are essential to his well-being and to the enjoyment of basic human rights—even the right to life itself.

2. The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments.

3. Man has constantly to sum up experience and go on discovering, inventing, creating and advancing. In our time, man's capability to transform his surroundings, if used wisely, can bring to all peoples the benefits of development and the opportunity to enhance the quality of life. Wrongly or heedlessly applied, the same power can do incalculable harm to human beings and the human environment. We see around us growing evidence of man-made harm in many regions of the earth: dangerous levels of pollution in water, air, earth and living beings; major and undesirable disturbances to the ecological balance of the biosphere; destruction and depletion of irreplaceable resources; and gross deficiencies, harmful to the physical, mental and social health of man, in the man-made environment, particularly in the living and working environment.

4. In the developing countries most of the environmental problems are caused by under-development. Millions continue to live far below the minimum levels required for a decent human existence, deprived of adequate food and clothing, shelter and education, health and sanitation. Therefore, the developing countries must direct their efforts to development, bearing in mind their priorities and the need to safeguard and improve the environment. For the same purpose, the industrialized countries should make efforts to reduce the gap themselves and the developing countries. In the industrialized countries, environmental problems are generally related to industrialization and technological development.

5. The natural growth of population continuously presents problems for the preservation of the environment, and adequate policies and measures should be adopted, as appropriate, to face these problems. Of all things in the world, people are the most precious. It is the people that propel social progress, create social wealth, develop science and technology and, through their hard work, continuously transform the human environment. Along with social progress and the advance of production, science and technology, the capability of man to improve the environment increases with each passing day.

6. A point has been reached in history when we must shape our actions throughout the world with a more prudent care for their environmental consequences. Through ignorance or indifference we can do massive and irreversible harm to the earthly environment on which our life and well-being depend. Conversely, through fuller knowledge and wiser action, we can achieve for ourselves and our posterity a better life in an environment more in keeping with human needs and hopes. There are broad vistas for the enhancement of environmental quality and the creation of a good life. What is needed is an enthusiastic but calm state of mind and intense but orderly work. For the purpose of attaining freedom in the world of nature, man must use knowledge to build, in collaboration with nature, a better environment. To defend and improve the human environment for present and future generations has become an imperative goal for mankind—a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of worldwide economic and social development.

7. To achieve this environmental goal will demand the acceptance of responsibility by citizens and communities and by enterprises and institutions at every level, all sharing equitably in common efforts. Individuals in all walks of life as well as organizations in many fields, by their values and the sum of their actions, will shape the world environment of the future. Local and national governments will bear the greatest burden for
large-scale environmental policy and action within their jurisdictions. International co-operation is also needed in order to raise resources to support the developing countries in carrying out their responsibilities in this field. A growing class of environmental problems, because they are regional or global in extent or because they affect the common international realm, will require extensive co-operation among nations and action by international organizations in the common interest. The Conference calls upon Governments and peoples to exert common efforts for the preservation and improvement of the environment, for the benefit of all the people and for their posterity.

II

Principles

States the common conviction that:

Principle 1

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.

Principle 2

The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

Principle 3

The capacity of the earth to produce vital renewable resources must be maintained and, wherever practicable, restored or improved.

Principle 4

Man has a special responsibility to safeguard and wisely manage the heritage of wildlife and its habitat, which are now gravely imperilled by a combination of adverse factors. Nature conservation, including wildlife, must therefore receive importance in planning for economic development.

Principle 5

The non-renewable resources of the earth must be employed in such a way as to guard against the danger of their future exhaustion and to ensure that benefits from such employment are shared by all mankind.

Principle 6

The discharge of toxic substances or of other substances and the release of heat, in such quantities or concentrations as to exceed the capacity of the environment to render them harmless, must be halted in order to ensure that serious or irreversible damage is not inflicted upon ecosystems. The just struggle of the peoples of all countries against pollution should be supported.

Principle 7

States shall take all possible steps to prevent pollution of the seas by substances that are liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea.

Principle 8

Economic and social development is essential for ensuring a favourable living and working environment for man and for creating conditions on earth that are necessary for the improvement of the quality of life.

Principle 9

Environmental deficiencies generated by the conditions of under-development and natural disasters of grave problems and can best be remedied by accelerated development through the transfer of substantial quantities of financial and technological assistance as a supplement to the domestic effort of the developing countries and such timely assistance as may be required.

Principle 10

For the developing countries, stability of prices and adequate earnings for primary commodities and raw materials are essential to environmental management since economic factors as well as ecological processes must be taken into account.

Principle 11

The environmental policies of all States should enhance and not adversely affect the present or future development potential of developing countries, nor should they hamper the attainment of better living conditions for all, and appropriate steps should be taken by States and international organizations with a view to reaching agreement on meeting the possible national and international economic consequences resulting from the application of environmental measures.

Principle 12

Resources should be made available to preserve and improve the environment, taking into account the circumstances and particular requirements of developing countries and any costs which may emanate from their incorporating environmental safeguards into their development planning and the need for making available to them, upon their request, additional international technical and financial assistance for this purpose.

Principle 13

In order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and co-ordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment for the benefit of their population.
Principle 14
Rational planning constitutes an essential tool for reconciling any conflict between the needs of development and the need to protect and improve the environment.

Principle 15
Planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and obtaining maximum social, economic and environmental benefits for all. In this respect, projects which are designed for colonialist and racist domination must be abandoned.

Principle 16
Demographic policies which are without prejudice to basic human rights and which are deemed appropriate by Governments concerned should be applied in those regions where the rate of population growth or excessive population concentrations are likely to have adverse effects on the environment of the human environment and impede development.

Principle 17
Appropriate national institutions must be entrusted with the task of planning, managing or controlling the environmental resources of States with a view to enhancing environmental quality.

Principle 18
Science and technology, as part of their contribution to economic and social development, must be applied to the identification, avoidance and control of environmental risks and the solution of environmental problems and for the common good of mankind.

Principle 19
Education in environmental matters, for the younger generation as well as adults, giving due consideration to the underprivileged, is essential in order to broaden the basis for an enlightened opinion and responsible conduct by individuals, enterprises and communities in protecting and improving the environment in its full human dimension. It is also essential that mass media of communications avoid contributing to the deterioration of the environment, but, on the contrary, disseminate information of an educational nature on the need to protect and improve the environment in order to enable man to develop in every respect.

Principle 20
Scientific research and development in the context of environmental problems, both national and multinational, must be promoted in all countries, especially the developing countries. In this connexion, the free flow of up-to-date scientific information and transfer of experience must be supported and assisted, to facilitate the solution of environmental problems; environmental technologies should be made available to developing countries on terms which would encourage their wide dissemination without constituting an economic burden on the developing countries.

Principle 21
States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 22
States shall co-operate to develop further the international law regarding liability and compensation for the victims of pollution and other environmental damage caused by activities within the jurisdiction or control of such States to areas beyond their jurisdiction.

Principle 23
Without prejudice to such criteria as may be agreed upon by the international community, or to standards which will have to be determined nationally, it will be essential in all cases to consider the systems of values prevailing in each country, and the extent of the applicability of standards which are valid for the most advanced countries but which may be inappropriate and of unwarranted social cost for the developing countries.

Principle 24
International matters concerning the protection and improvement of the environment should be handled in a co-operative spirit by all countries, big and small, on an equal footing. Co-operation through multilateral or bilateral arrangements or other appropriate means is essential to effectively control, prevent, reduce and eliminate adverse environmental effects resulting from activities conducted in all spheres, in such a way that due account is taken of the sovereignty and interests of all States.

Principle 25
States shall ensure that international organizations play a co-ordinated, efficient and dynamic role for the protection and improvement of the environment.

Principle 26
Man and his environment must be spared the effects of nuclear weapons and all other means of mass destruction. States must strive to reach prompt agreement, in the relevant international organs, on the elimination and complete destruction of such weapons.

21st plenary meeting
16 June 1972
Vienna Convention for the Protection of the Ozone Layer, 1985
Treaty Series

Treaties and international agreements registered
or filed and recorded
with the Secretariat of the United Nations

VOLUME 1513

Recueil des Traités

Traités et accords internationaux enregistrés
ou classés et inscrits au répertoire au Secrétariat de l'Organisation des Nations Unies

No. 26164

MULTILATERAL

Vienna Convention for the Protection of the Ozone Layer (with annexes and Final Act). Concluded at Vienna on 22 March 1985


MULTILATÉRAL

Convention de Vienne pour la protection de la couche d'ozone (avec annexes et Acte final). Conclue à Vienne le 22 mars 1985

VIENNA CONVENTION FOR THE PROTECTION OF THE OZONE LAYER

PREAMBLE

The Parties to this Convention,

Aware of the potentially harmful impact on human health and the environment through modification of the ozone layer,

1 Came into force on 22 September 1988, i.e., the ninetieth day following the date of deposit with the Secretary-General of the United Nations of the nineteenth instrument of ratification, acceptance, approval or accession, in accordance with article 17 (1):

<table>
<thead>
<tr>
<th>State</th>
<th>Date of deposit of the instrument of ratification, acceptance (A), approval (AA) or accession (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>16 September 1987 a</td>
</tr>
<tr>
<td>Austria</td>
<td>19 August 1987</td>
</tr>
<tr>
<td>Byelorussian Soviet Socialist Republic</td>
<td>20 June 1986 A</td>
</tr>
<tr>
<td>Canada</td>
<td>4 June 1986</td>
</tr>
<tr>
<td>Egypt</td>
<td>9 May 1988</td>
</tr>
<tr>
<td>Finland*</td>
<td>26 September 1985</td>
</tr>
<tr>
<td>France</td>
<td>4 December 1987 AA</td>
</tr>
<tr>
<td>Guatemala</td>
<td>11 September 1987</td>
</tr>
<tr>
<td>Hungary</td>
<td>4 May 1988 a</td>
</tr>
<tr>
<td>Maldives</td>
<td>26 April 1988 a</td>
</tr>
<tr>
<td>Mexico</td>
<td>14 September 1987</td>
</tr>
<tr>
<td>New Zealand*</td>
<td>2 June 1987</td>
</tr>
<tr>
<td>(With a declaration of application to the Cook Islands and Niue.)</td>
<td></td>
</tr>
<tr>
<td>Norway*</td>
<td>23 September 1986</td>
</tr>
<tr>
<td>Sweden</td>
<td>26 November 1986</td>
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<tr>
<td>Switzerland</td>
<td>17 December 1987</td>
</tr>
<tr>
<td>Uganda</td>
<td>24 June 1988 a</td>
</tr>
<tr>
<td>Ukrainian Soviet Socialist Republic</td>
<td>18 June 1986 A</td>
</tr>
<tr>
<td>Union of Soviet Socialist Republics</td>
<td>18 June 1986 A</td>
</tr>
<tr>
<td>United States of America</td>
<td>27 August 1986</td>
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</tbody>
</table>

1 See p. 422 of this volume for the texts of the declarations made upon ratification.

Subsequently, the Convention came into force in respect of each of the States listed below the ninetieth day following the date of deposit with the Secretary-General of the United Nations of its instrument of ratification, acceptance, approval or accession, in accordance with article 17 (3):

<table>
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<th>State</th>
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<tbody>
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<td>Spain</td>
<td>25 July 1988 (a)</td>
</tr>
<tr>
<td>(With effect from 23 October 1988.)</td>
<td></td>
</tr>
<tr>
<td>Emiratios Arabiyyah Al Muttahidah</td>
<td>17 August 1988 (a)</td>
</tr>
<tr>
<td>(With effect from 15 November 1988.)</td>
<td></td>
</tr>
<tr>
<td>Venezuela</td>
<td>1 September 1988 (a)</td>
</tr>
<tr>
<td>(With effect from 30 November 1988.)</td>
<td></td>
</tr>
<tr>
<td>Ireland</td>
<td>15 September 1988 (a)</td>
</tr>
<tr>
<td>Malta</td>
<td>15 September 1988 (a)</td>
</tr>
<tr>
<td>(With effect from 14 December 1988.)</td>
<td></td>
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<tr>
<td>Italy</td>
<td>19 September 1988</td>
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<tr>
<td>(With effect from 18 December 1988.)</td>
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</tbody>
</table>

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, and in particular principle 21, which provides that "States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction",

Taking into account the circumstances and particular requirements of developing countries,

Mindful of the work and studies proceeding within both international and national organizations and, in particular, of the World Plan of Action on the Ozone Layer of the United Nations Environment Programme,

Mindful also of the precautionary measures for the protection of the ozone layer which have already been taken at the national and international levels,

Aware that measures to protect the ozone layer from modifications due to human activities require international co-operation and action, and should be based on relevant scientific and technical considerations,

Aware also of the need for further research and systematic observations to further develop scientific knowledge of the ozone layer and possible adverse effects resulting from its modification,

Determined to protect human health and the environment against adverse effects resulting from modifications of the ozone layer,

Have agreed as follows:

Article 1. DEFINITIONS

For the purposes of this Convention:

1. "The ozone layer" means the layer of atmospheric ozone above the planetary boundary layer.

2. "Adverse effects" means changes in the physical environment or biota, including changes in climate, which have significant deleterious effects on human health or on the composition, resilience and productivity of natural and managed ecosystems, or on materials useful to mankind.

3. "Alternative technologies or equipment" means technologies or equipment the use of which makes it possible to reduce or effectively eliminate emissions of substances which have or are likely to have adverse effects on the ozone layer.

4. "Alternative substances" means substances which reduce, eliminate or avoid adverse effects on the ozone layer.

5. "Parties" means, unless the text otherwise indicates, Parties to this Convention.

6. "Regional economic integration organization" means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention or its protocols and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the instruments concerned.

7. "Protocols" means protocols to this Convention.
**Article 2. General obligations**

1. The Parties shall take appropriate measures in accordance with the provisions of this Convention and of those protocols in force to which they are party to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer.

2. To this end the Parties shall, in accordance with the means at their disposal and their capabilities:

   (a) Co-operate by means of systematic observations, research and information exchange in order to better understand and assess the effects of human activities on the ozone layer and the effects on human health and the environment from modification of the ozone layer;

   (b) Adopt appropriate legislative or administrative measures and co-operate in harmonizing appropriate policies to control, limit, reduce or prevent human activities under their jurisdiction or control should it be found that these activities have or are likely to have adverse effects resulting from modification or likely modification of the ozone layer;

   (c) Co-operate in the formulation of agreed measures, procedures and standards for the implementation of this Convention, with a view to the adoption of protocols and annexes;

   (d) Co-operate with competent international bodies to implement effectively this Convention and protocols to which they are party.

3. The provisions of this Convention shall in no way affect the right of Parties to adopt, in accordance with international law, domestic measures additional to those referred to in paragraphs 1 and 2 above, nor shall they affect additional domestic measures already taken by a Party, provided that these measures are not incompatible with their obligations under this Convention.

4. The application of this article shall be based on relevant scientific and technical considerations.

**Article 3. Research and systematic observations**

1. The Parties undertake, as appropriate, to initiate and co-operate in, directly or through competent international bodies, the conduct of research and scientific assessments on:

   (a) The physical and chemical processes that may affect the ozone layer;

   (b) The human health and other biological effects deriving from any modifications of the ozone layer, particularly those resulting from changes in ultra-violet solar radiation having biological effects (UV-B);

   (c) Climatic effects deriving from any modifications of the ozone layer;

   (d) Effects deriving from any modifications of the ozone layer and any consequent change in UV-B radiation or natural and synthetic materials useful to mankind;

   (e) Substances, practices, processes and activities that may affect the ozone layer, and their cumulative effects;

   (f) Alternative substances and technologies;

   (g) Related socio-economic matters;

   and as further elaborated in annexes I and II.

2. The Parties undertake to promote or establish, as appropriate, directly or through competent international bodies and taking fully into account national legislation and relevant ongoing activities at both the national and international levels, joint or complementary programmes for systematic observation of the state of the ozone layer and other relevant parameters, as elaborated in annex I.

3. The Parties undertake to co-operate, directly or through competent international bodies, in ensuring the collection, validation and transmission of research and observational data through appropriate world data centres in a regular and timely fashion.

**Article 4. Co-operation in the legal, scientific and technical fields**

1. The Parties shall facilitate and encourage the exchange of scientific, technical, socio-economic, commercial and legal information relevant to this Convention as further elaborated in annex II. Such information shall be supplied to bodies agreed upon by the Parties. Any such body receiving information regarded as confidential by the supplying Party shall ensure that such information is not disclosed and shall aggregate it to protect its confidentiality before it is made available to all Parties.

2. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of the developing countries, in promoting, directly or through competent international bodies, the development and transfer of technology and knowledge. Such co-operation shall be carried out particularly through:

   (a) Facilitation of the acquisition of alternative technologies by other Parties;

   (b) Provision of information on alternative technologies and equipment, and supply of special manuals or guides to them;

   (c) The supply of necessary equipment and facilities for research and systematic observations;

   (d) Appropriate training of scientific and technical personnel.

**Article 5. Transmission of information**

The Parties shall transmit, through the secretariat, to the Conference of the Parties established under article 6 information on the measures adopted by them in implementation of this Convention and of protocols to which they are party in such form and at such intervals as the meetings of the parties to the relevant instruments may determine.

**Article 6. Conference of the Parties**

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the secretariat designated on an interim basis under article 7 not later than one year after entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.
3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure and financial rules for itself and for any subsidiary bodies it may establish, as well as financial provisions governing the functioning of the secretariat.

4. The Conference of the Parties shall keep under continuous review the implementation of this Convention, and, in addition, shall:

(a) Establish the form and the intervals for transmitting the information to be submitted in accordance with article 5 and consider such information as well as reports submitted by any subsidiary body;

(b) Review the scientific information on the ozone layer, on its possible modification and on possible effects of any such modification;

(c) Promote, in accordance with article 2, the harmonization of appropriate policies, strategies and measures for minimizing the release of substances causing or likely to cause modification of the ozone layer, and make recommendations on any other measures relating to this Convention;

(d) Adopt, in accordance with articles 3 and 4, programmes for research, systematic observations, scientific and technological co-operation, the exchange of information and the transfer of technology and knowledge;

(e) Consider and adopt, as required, in accordance with articles 9 and 10, amendments to this Convention and its annexes;

(f) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;

(g) Consider and adopt, as required, in accordance with article 10, additional annexes to this Convention;

(h) Consider and adopt, as required, protocols in accordance with article 8;

(i) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention;

(j) Seek, where appropriate, the services of competent international bodies and scientific committees, in particular the World Meteorological Organization and the World Health Organization, as well as the Co-ordinating Committee on the Ozone Layer, in scientific research, systematic observations and other activities pertinent to the objectives of this Convention, and make use as appropriate of information from these bodies and committees;

(k) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Convention, may be represented at meetings of the Conference of the Parties by observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.


Article 7. Secretariat

1. The functions of the secretariat shall be:

(a) To arrange for and service meetings provided for in articles 6, 8, 9 and 10;

(b) To prepare and transmit reports based upon information received in accordance with articles 4 and 5, as well as upon information derived from meetings of subsidiary bodies established under article 6;

(c) To perform the functions assigned to it by any protocol;

(d) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;

(e) To ensure the necessary co-ordination with other relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

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

2. The secretariat functions will be carried out on an interim basis by the United Nations Environment Programme until the completion of the first ordinary meeting of the Conference of the Parties held pursuant to article 6. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

Article 8. Adoption of Protocols

1. The Conference of the Parties may at a meeting adopt protocols pursuant to article 2.

2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a meeting.

Article 9. Amendment of the Convention or Protocols

1. Any Party may propose amendments to this Convention or to any protocol. Such amendments shall take due account, inter alia, of relevant scientific and technical considerations.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval or acceptance.
4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the parties to that protocol present and voting at the meeting shall suffice for their adoption.

5. Ratification, approval or acceptance of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between parties having accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three-fourths of the Parties to this Convention or by at least two-thirds of the parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after the Party deposits its instrument of ratification, approval or acceptance of the amendments.

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

**Article 10. Adoption and Amendment of Annexes**

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:

(a) Annexes to this Convention shall be proposed and adopted according to the procedure laid down in article 9, paragraphs 2 and 3, while annexes to any protocol shall be proposed and adopted according to the procedure laid down in article 9, paragraphs 2 and 4;

(b) Any party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;

(c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provision of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical considerations.

4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the protocol concerned enters into force.

**Article 11. Settlement of Disputes**

1. In the event of a dispute between Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.

2. If the parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.

3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:

(a) Arbitration in accordance with procedures to be adopted by the Conference of the Parties at its first ordinary meeting;

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

4. If the parties have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with paragraph 5 below unless the parties otherwise agree.

5. A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall be composed of an equal number of members appointed by each party concerned and a chairman chosen jointly by the members appointed by each party. The commission shall render a final and recommendatory award, which the parties shall consider in good faith.

6. The provisions of this article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.

**Article 12. Signature**


**Article 13. Ratification, Acceptance or Approval**

1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention or any protocol without any of its member States being a Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Party to the Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligation under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.
3. In their instruments of ratification, acceptance or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

**Article 14. Accession**

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

3. The provisions of article 13, paragraph 2, shall apply to regional economic integration organizations which accede to this Convention or any protocol.

**Article 15. Right to Vote**

1. Each Party to this Convention or to any protocol shall have one vote.

2. Except as provided for in paragraph 1 above, regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

**Article 16. Relationship between the Convention and its Protocols**

1. A State or a regional economic integration organization may not become a party to a protocol unless it is, or becomes at the same time, a Party to the Convention.

2. Decisions concerning any protocol shall be taken only by the parties to the protocol concerned.

**Article 17. Entry into Force**

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

2. Any protocol, except as otherwise provided in such protocol, shall enter into force on the ninetieth day after the date of deposit of the eleventh instrument of ratification, acceptance or approval of such protocol or accession thereto.

3. For each Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the twenty instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit of such Party of its instrument of ratification, acceptance, approval or accession.

4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a Party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that party deposits its instrument of ratification, acceptance, approval or accession, or on the date on which the Convention enters into force for that Party, whichever shall be the later.

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

**Article 18. Reservations**

No reservations may be made to this Convention.

**Article 19. Withdrawal**

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

2. Except as may be provided in any protocol, at any time after four years from the date on which such protocol has entered into force for a party, that party may withdraw from the protocol by giving written notification to the Depositary.

3. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

4. Any Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is party.

**Article 20. Depositary**

1. The Secretary-General of the United Nations shall assume the functions of depositary of this Convention and any protocols.

2. The Depositary shall inform the Parties, in particular, of:
   
   (a) The signature of this Convention and of any protocol, and the deposit of instruments of ratification, acceptance, approval or accession in accordance with articles 13 and 14;
   
   (b) The date on which the Convention and any protocol will come into force in accordance with article 17;
   
   (c) Notifications of withdrawal made in accordance with article 17;
   
   (d) Amendments adopted with respect to the Convention and any protocol, their acceptance by the parties and their date of entry into force in accordance with article 9;
   
   (e) All communications relating to the adoption and approval of annexes and to the amendment of annexes in accordance with article 10;
   
   (f) Notifications by regional economic integration organizations of the extent of their competence with respect to matters governed by this Convention and any protocols, and of any modifications thereto.
   
   (g) Declarations made in accordance with article 11, paragraph 3.
Article 21. AUTHENTIC TEXTS

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

In witness whereof the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at Vienna on the 22nd day of March 1985.

ANNEX I

RESEARCH AND SYSTEMATIC OBSERVATIONS

1. The Parties to the Convention recognize that the major scientific issues are:

(a) Modification of the ozone layer which would result in a change in the amount of solar ultra-violet radiation having biological effects (UV-B) that reaches the Earth's surface and the potential consequences for human health, for organisms, ecosystems and materials useful to mankind;

(b) Modification of the vertical distribution of ozone, which could change the temperature structure of the atmosphere and the potential consequences for weather and climate.

2. The Parties to the Convention, in accordance with article 3, shall co-operate in conducting research and systematic observations and in formulating recommendations for future research and observation in such areas as:

(a) Research into the physics and chemistry of the atmosphere

(i) Comprehensive theoretical models: further development of models which consider the interaction between radiative, dynamic and chemical processes; studies of the simultaneous effects of various man-made and naturally occurring species upon atmospheric ozone; interpretation of satellite and non-satellite measurement data sets; evaluation of trends in atmospheric and geophysical parameters, and the development of methods for attributing changes in these parameters to specific causes;

(ii) Laboratory studies: rate coefficients, absorption cross-sections and mechanisms of tropospheric and stratospheric chemical and photochemical processes; spectroscopic data to support field measurements in all relevant spectral regions;

(iii) Field measurements: the concentration and fluxes of key source gases of both natural and anthropogenic origin; atmospheric dynamics studies; simultaneous measurements of photochemically-related species down to the planetary boundary layer, using in situ and remote sensing instruments; intercomparison of different sensors, including co-ordinated measurements for satellite instrumentation; three-dimensional fields of key atmospheric trace constituents, solar spectral flux and meteorological parameters;

(iv) Instrument development, including satellite and non-satellite sensors for atmospheric trace constituents, solar flux and meteorological parameters;

(b) Research into health, biological and photodegradation effects

(i) The relationship between human exposure to visible and ultra-violet solar radiation and (a) the development of both non-melanoma and melanoma skin cancer and (b) the effects on the immunological system;

(ii) Effects of UV-B radiation, including the wavelength dependence, upon (a) agricultural crops, forests and other terrestrial ecosystems and (b) the aquatic food web and fisheries, as well as possible inhibition of oxygen production by marine phytoplankton;

(iii) The mechanisms by which UV-B radiation acts on biological materials, species and ecosystems, including: the relationship between dose, dose rate, and response; photorepair, adaptation, and protection;

(iv) Studies of biological action spectra and the spectral response using polychromatic radiation in order to include possible interactions of the various wavelength regions;

(v) The influence of UV-B radiation on: the sensitivities and activities of biological species important to the biospheric balance; primary processes such as photosynthesis and biosynthesis;

(vi) The influence of UV-B radiation on the photodegradation of pollutants, agricultural chemicals and other materials;
(c) Research on effects on climate

(i) Theoretical and observational studies of the radiative effects of ozone and other trace species and the impact on climate parameters, such as land and ocean surface temperatures, precipitation patterns, the exchange between the troposphere and stratosphere;

(ii) The investigation of the effects of such climate impacts on various aspects of human activity;

(d) Systematic observations on:

(i) The status of the ozone layer (i.e. the spatial and temporal variability of the total column content and vertical distribution) by making the Global Ozone Observing System, based on the integration of satellite and ground-based systems, fully operational;

(ii) The tropospheric and stratospheric concentrations of source gases for the HOX, NOx, C10x and carbon families;

(iii) The temperature from the ground to the mesosphere, utilizing both ground-based and satellite systems;

(iv) Wavelength-resolved solar flux reaching, and thermal radiation leaving, the Earth’s atmosphere, utilizing satellite measurements;

(v) Wavelength-resolved solar flux reaching the Earth’s surface in the ultra-violet range having biological effects (UV-B);

(vi) Aerosol properties and distribution from the ground to the mesosphere, utilizing ground-based, airborne and satellite systems;

(vii) Climatically important variables by the maintenance of programmes of high-quality meteorological surface measurements;

(viii) Trace species, temperatures, solar flux and aerosols utilizing improved methods for analysing global data.

3. The Parties to the Convention shall co-operate, taking into account the particular needs of the developing countries, in promoting the appropriate scientific and technical training required to participate in the research and systematic observations outlined in this annex. Particular emphasis should be given to the intercalibration of observational instrumentation and methods with a view to generating comparable or standardized scientific data sets.

4. The following chemical substances of natural and anthropogenic origin, not listed in order of priority, are thought to have the potential to modify the chemical and physical properties of the ozone layer.

(a) Carbon substances

(i) Carbon monoxide (CO). Carbon monoxide has significant natural and anthropogenic sources, and is thought to play a major direct role in tropospheric photochemistry, and an indirect role in stratospheric photochemistry.

(ii) Carbon dioxide (CO2). Carbon dioxide has significant natural and anthropogenic sources, and affects stratospheric ozone by influencing the thermal structure of the atmosphere.

(iii) Methane (CH4). Methane has both natural and anthropogenic sources, and affects both tropospheric and stratospheric ozone.

(iv) Non-methane hydrocarbon species. Non-methane hydrocarbon species, which consist of a large number of chemical substances, have both natural and anthropogenic sources, and play a direct role in tropospheric photochemistry and an indirect role in stratospheric photochemistry.

(b) Nitrogen substances

(i) Nitrous oxide (N2O). The dominant sources of N2O are natural, but anthropogenic contributions are becoming increasingly important. Nitrous oxide is the primary source of stratospheric NOx, which play a vital role in controlling the abundance of stratospheric ozone.

(ii) Nitrogen oxides (NOx). Ground-level sources of NOx play a major direct role only in tropospheric photochemical processes and an indirect role in stratospheric photochemistry, whereas injection of NOx close to the tropopause may lead directly to a change in upper tropospheric and stratospheric ozone.

(c) Chlorine substances

(i) Fully halogenated alkanes, e.g. CC14, CFC13 (CFC-11), CF2Cl2 (CFC-12), C2F5Cl3 (CFC-113), C2F4Cl2 (CFC-114). Fully halogenated alkanes are anthropogenic and act as a source of C10x, which plays a vital role in ozone photochemistry, especially in the 30-50 km altitude region.

(ii) Partially halogenated alkanes, e.g. CH3Cl, C2H5Cl (CFC-22), CH3CCl3 (CHFC12 (CFC-21)). The sources of CH3Cl are natural, whereas the other partially halogenated alkanes mentioned above are anthropogenic in origin. These gases also act as a source of stratospheric C10x.

(d) Bromine substances

Fully halogenated alkanes, e.g. CF3Br. These gases are anthropogenic and act as a source of BROx, which behaves in a manner similar to C10x.

(e) Hydrogen substances

(i) Hydrogen (H2). Hydrogen, the source of which is natural and anthropogenic, plays a minor role in stratospheric photochemistry.

(ii) Water (H2O). Water, the source of which is natural, plays a vital role in both tropospheric and stratospheric photochemistry. Local sources of water vapour in the stratosphere include the oxidation of methane and, to a lesser extent, of hydrogen.
ANNEX II

INFORMATION EXCHANGE

1. The Parties to the Convention recognize that the collection and sharing of information is an important means of implementing the objectives of this Convention and of assuring that any actions that may be taken are appropriate and equitable. Therefore, Parties shall exchange scientific, technical, socio-economic, business, commercial and legal information.

2. The Parties to the Convention, in deciding what information is to be collected and exchanged, should take into account the usefulness of the information and the costs of obtaining it. The Parties further recognize that cooperation under this annex has to be consistent with national laws, regulations and practices regarding patents, trade secrets, and protection of confidential and proprietary information.

3. **Scientific information**
   This includes information on:
   
   (a) Planned and ongoing research, both governmental and private, to facilitate the coordination of research programmes so as to make the most effective use of available national and international resources;
   
   (b) The emission data needed for research;
   
   (c) Scientific results published in peer-reviewed literature on the understanding of the physics and chemistry of the Earth's atmosphere and of its susceptibility to change, in particular on the state of the ozone layer and effects on human health, environment and climate which would result from changes on all time-scales in either the total column content or the vertical distribution of ozone;
   
   (d) The assessment of research results and the recommendations for future research.

4. **Technical information**
   This includes information on:
   
   (a) The availability and cost of chemical substitutes and of alternative technologies to reduce the emissions of ozone-modifying substances and related planned and ongoing research;
   
   (b) The limitations and any risks involved in using chemical or other substitutes and alternative technologies.

5. **Socio-economic and commercial information on the substances referred to in annex I**
   This includes information on:
   
   (a) Production and production capacity;
   
   (b) Use and use patterns;
   
   (c) Imports/exports;
   
   (d) The costs, risks and benefits of human activities which may indirectly modify the ozone layer and of the impacts of regulatory actions taken or being considered to control these activities.

6. **Legal information**
   This includes information on:
   
   (a) National laws, administrative measures and legal research relevant to the protection of the ozone layer;
   
   (b) International agreements, including bilateral agreements, relevant to the protection of the ozone layer;
   
   (c) Methods and terms of licensing and availability of patents relevant to the protection of the ozone layer.

*For the signatures, see p. 386 of this volume.*
Montreal Protocol on Substances that Deplete the Ozone Layer, 1987
Treaty Series

Treaties and international agreements registered or filed and recorded with the Secretariat of the United Nations

No. 26369

MULTILATERAL

Montreal Protocol on Substances that Deplete the Ozone Layer (with annex). Concluded at Montreal on 16 September 1987

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish.
Registered ex officio on 1 January 1989.

Recueil des Traités

Traités et accords internationaux enregistrés ou classés et inscrits au répertoire au Secrétariat de l'Organisation des Nations Unies

MULTILATÉRAL

Protocole de Montréal relatif à des substances qui appauvrissent la couche d'ozone (avec annexe). Conclu à Montréal le 16 septembre 1987

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.
Enregistré d'office le 1er janvier 1989.
MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

The Parties to this Protocol,

Being Parties to the Vienna Convention for the Protection of the Ozone Layer,

Mindful of their obligation under that Convention to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,

Recognizing that world-wide emissions of certain substances can significantly deplete and otherwise modify the ozone layer in a manner that is likely to result in adverse effects on human health and the environment,

Conscious of the potential climatic effects of emissions of these substances,

1. Came into force on 1 January 1989, the date provided for by the Agreement, since by that date at least 11 instruments of ratification, acceptance, approval or accession had been deposited by States or regional economic integration organizations representing at least two thirds of 1986 estimated global consumption of the controlled substances, and the provisions of article 17 (1) of the Vienna Convention for the Protection of the Ozone Layer had been fulfilled, in accordance with article 16 (1):

<table>
<thead>
<tr>
<th>State or organization</th>
<th>Date of deposit of the instrument of ratification, acceptance (A) or approval (AA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Byelorussian Soviet Socialist Republic</td>
<td>31 October 1988 A</td>
</tr>
<tr>
<td>Canada</td>
<td>30 June 1988</td>
</tr>
<tr>
<td>Denmark</td>
<td>16 December 1988</td>
</tr>
<tr>
<td>(With a declaration of application to the Faroe Islands and Greenland)</td>
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</tr>
<tr>
<td>Egypt</td>
<td>2 August 1988</td>
</tr>
<tr>
<td>Finland</td>
<td>23 December 1988 A</td>
</tr>
<tr>
<td>France</td>
<td>28 December 1988 A</td>
</tr>
<tr>
<td>(With a declaration of application to the French Southern and Antarctic Lands)</td>
<td></td>
</tr>
<tr>
<td>Germany, Federal Republic of</td>
<td>16 December 1988</td>
</tr>
<tr>
<td>(With a declaration of application to Berlin (West))</td>
<td></td>
</tr>
<tr>
<td>Ireland</td>
<td>16 December 1988</td>
</tr>
<tr>
<td>Italy</td>
<td>16 December 1988</td>
</tr>
<tr>
<td>Japan</td>
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</tr>
<tr>
<td>Malta</td>
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</tr>
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<td>Mexico</td>
<td>31 March 1988 A</td>
</tr>
<tr>
<td>Netherlands</td>
<td>16 December 1988 A</td>
</tr>
<tr>
<td>(For the Kingdom in Europe, the Netherlands Antilles and Aruba)</td>
<td></td>
</tr>
<tr>
<td>New Zealand</td>
<td>21 July 1988</td>
</tr>
<tr>
<td>Norway</td>
<td>24 June 1988</td>
</tr>
<tr>
<td>(With a declaration of non-application to the Cook Islands and Niue)</td>
<td></td>
</tr>
<tr>
<td>United States of America</td>
<td>21 April 1988</td>
</tr>
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</table>

For the purposes of this Protocol:
2. “Parties” means, unless the text otherwise indicates, Parties to this Protocol.
3. “Secretariat” means the secretariat of the Convention.
4. “Controlled substance” means a substance listed in Annex A to this Protocol, whether existing alone or in a mixture. It excludes, however, any such substance or mixture which is in a manufactured product other than a container used for the transportation or storage of the substance listed.
5. “Production” means the amount of controlled substances produced minus the amount destroyed by technologies to be approved by the Parties.

(Continued from page 29)

Subsequently, for the following States and Regional Economic Integration Organization which had not become Parties to the Vienna Convention on the date of deposit of their instrument of ratification, acceptance, approval or accession to the Protocol or accession thereto, the latter entered into force on the nineteenth day after the date on which the State or organization had deposited the said instrument, or on the date on which the Convention entered into force for that Party, whichever was the later, in accordance with article 17 (4) of the Vienna Convention:

<table>
<thead>
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<th>State or organization</th>
<th>Date of deposit of the instrument of ratification, approval (AA) or accession (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Luxembourg</td>
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</tr>
<tr>
<td>(With effect from 15 January 1989.)</td>
<td></td>
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<td>Portugal</td>
<td>17 October 1988</td>
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<tr>
<td>(With effect from 15 January 1989.)</td>
<td></td>
</tr>
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<td>Nigeria</td>
<td>31 October 1988 a</td>
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<tr>
<td>(With effect from 29 January 1989.)</td>
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<tr>
<td>Kenya</td>
<td>9 November 1988</td>
</tr>
<tr>
<td>(With effect from 7 February 1989.)</td>
<td></td>
</tr>
<tr>
<td>European Economic Community</td>
<td>16 December 1988 AA</td>
</tr>
<tr>
<td>(With effect from 16 March 1989.)</td>
<td></td>
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<td>Greece</td>
<td>29 December 1988</td>
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<tr>
<td>(With effect from 29 March 1989.)</td>
<td></td>
</tr>
<tr>
<td>Belgium</td>
<td>30 December 1988</td>
</tr>
<tr>
<td>(With effect from 30 March 1989.)</td>
<td></td>
</tr>
</tbody>
</table>

6. “Consumption” means production plus imports minus exports of controlled substances.

7. “Calculated levels” of production, imports, exports and consumption means levels determined in accordance with Article 3.

8. “Industrial rationalization” means the transfer of all or a portion of the calculated level of production of one Party to another, for the purpose of achieving economic efficiencies or responding to anticipated shortfalls in supply as a result of plant closures.

Article 2. CONTROL MEASURES

1. Each Party shall ensure that for the twelve-month period commencing on the first day of the seventh month following the date of the entry into force of this Protocol, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed its calculated level of consumption in 1986. By the end of the same period, each Party producing one or more of these substances shall ensure that its calculated level of production of the substances does not exceed its calculated level of production in 1986, except that such level may have increased by no more than ten per cent based on the 1986 level. Such increase shall be permitted only so as to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties.

2. Each Party shall ensure that for the twelve-month period commencing on the first day of the thirty-seventh month following the date of the entry into force of this Protocol, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances listed in Group II of Annex A does not exceed its calculated level of consumption in 1986. Each Party producing one or more of these substances shall ensure that its calculated level of production of the substances does not exceed its calculated level of production in 1986, except that such level may have increased by no more than ten per cent based on the 1986 level. Such increase shall be permitted only so as to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties. The mechanisms for implementing these measures shall be decided by the Parties at their first meeting following the first scientific review.

3. Each Party shall ensure that for the period 1 July 1993 to 30 June 1994 and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed, annually, eighty per cent of its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, eighty per cent of its calculated level of production in 1986. However, in order to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production in 1986.

4. Each Party shall ensure that for the period 1 July 1998 to 30 June 1999, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed, annually, fifty per cent of its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the substances does not exceed, annually, fifty per cent of its calculated level of production in 1986. However, in order to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production in 1986. This paragraph will apply unless the Parties decide otherwise at a meeting by a two-thirds majority of Parties present and voting, representing at least two thirds of the total calculated level of consumption of these substances of the Parties. This decision shall be considered and made in the light of the assessments referred to in Article 6.

5. Any Party whose calculated level of production in 1986 of the controlled substances in Group I of Annex A was less than twenty-five kilotonnes may, for the purposes of industrial rationalization, transfer to or receive from any other Party, production in excess of the limits set out in paragraphs 1, 3 and 4 provided that the total combined calculated levels of production of the Parties concerned does not exceed the production limits set out in this Article. Any transfer of such production shall be notified to the secretariat, no later than the time of the transfer.

6. Any Party not operating under Article 5, that has facilities for the production of controlled substances under construction, or contracted for, prior to 16 September 1987, and provided for in national legislation prior to 1 January 1988, shall have the production from such facilities to its 1986 production of such substances for the purposes of determining its calculated level of production for 1986, provided that such facilities are completed by 31 December 1990 and that such production does not raise that Party’s annual calculated level of consumption of the controlled substances above 0.5 kilograms per capita.

7. Any transfer of production pursuant to paragraph 5 or any addition of production pursuant to paragraph 6 shall be notified to the secretariat, no later than the time of the transfer or addition.

8. (a) Any Parties which are Member States of a regional economic integration organization as defined in Article 1(6) of the Convention may agree that they shall jointly fulfil their obligations respecting consumption under this Article provided that their total combined calculated level of consumption does not exceed the levels required by this Article.

(b) The Parties to any such agreement shall inform the secretariat of the terms of the agreement before the date of the reduction in consumption with which the agreement is concerned.

(c) Such agreement will become operative only if all Member States of the regional economic integration organization and the organization concerned are Parties to the Protocol and have notified the secretariat of their manner of implementation.

9. (a) Based on the assessments made pursuant to Article 6, the Parties may decide whether:

(i) Adjustments to the ozone depleting potentials specified in Annex A should be made and, if so, what the adjustments should be; and

(ii) Further adjustments and reductions of production or consumption of the controlled substances from 1986 levels should be undertaken and, if so, what
the scope, amount and timing of any such adjustments and reductions should be.

(b) Proposals for such adjustments shall be communicated to the Parties by the secretariat at least six months before the meeting of the Parties at which they are proposed for adoption.

(c) In taking such decisions, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, such decisions shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting representing at least fifty per cent of the total consumption of the controlled substances of the Parties.

(d) The decisions, which shall be binding on all Parties, shall forthwith be communicated to the Parties by the Depositary. Unless otherwise provided in the decisions, they shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depositary.

10. (a) Based on the assessments made pursuant to Article 6 of this Protocol and in accordance with the procedure set out in Article 9 of the Convention, the Parties may decide:

(i) Whether any substances, and if so which, should be added to or removed from any annex to this Protocol; and

(ii) The mechanism, scope and timing of the control measures that should apply to those substances.

(b) Any such decision shall become effective, provided that it has been accepted by a two-thirds majority vote of the Parties present and voting.

11. Notwithstanding the provisions contained in this Article, Parties may take more stringent measures than those required by this Article.

Article 3. Calculation of Control Levels

For the purposes of Articles 2 and 5, each Party shall, for each Group of substances in Annex A, determine its calculated levels of:

(a) Production by:

(i) Multiplying its annual production of each controlled substance by the ozone depleting potential specified in respect of it in Annex A; and

(ii) Adding together, for each such Group, the resulting figures;

(b) Imports and exports, respectively, by following, mutatis mutandis, the procedure set out in subparagraph (a); and

(c) Consumption by adding together its calculated levels of production and imports and subtracting its calculated level of exports as determined in accordance with subparagraphs (a) and (b). However, beginning on 1 January 1993, any export of controlled substances to non-Parties shall not be subtracted in calculating the consumption level of the exporting Party.

Article 4. Control of Trade with Non-Parties

1. Within one year of the entry into force of this Protocol, each Party shall ban the import of controlled substances from any State not party to this Protocol.

2. Beginning on 1 January 1993, no Party operating under paragraph 1 of Article 5 may export any controlled substance to any State not party to this Protocol.

3. Within three years of the date of the entry into force of this Protocol, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

4. Within five years of the entry into force of this Protocol, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to it in accordance with those procedures shall ban or restrict, within one year of the annex having become effective, the import of those products from any State not party to this Protocol.

5. Each Party shall discourage the export, to any State not party to this Protocol, of technology for producing and for utilizing controlled substances.

6. Each Party shall refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for the export to States not party to this Protocol of products, equipment, plants or technology that would facilitate the production of controlled substances.

7. Paragraphs 5 and 6 shall not apply to products, equipment, plants or technology that improve the containment, recovery, recycling or destruction of controlled substances, promote the development of alternative substances, or otherwise contribute to the reduction of emissions of controlled substances.

8. Notwithstanding the provisions of this Article, imports referred to in paragraphs 1, 3 and 4 may be permitted from any State not party to this Protocol if that State is determined, by a meeting of the Parties, to be in full compliance with Article 2 and this Article, and has submitted data to that effect as specified in Article 7.

Article 5. Special Situation of Developing Countries

1. Any Party that is a developing country and whose annual calculated level of consumption of the controlled substances is less than 0.3 kilograms per capita on the date of the entry into force of the Protocol for it, or any time thereafter within ten years of the date of entry into force of the Protocol shall, in order to meet its basic domestic needs, be entitled to delay its compliance with the control measures set out in paragraphs 1 to 4 of Article 2 by ten years after that specified in those paragraphs. However, such Party shall not exceed an annual calculated level of consumption of 0.3 kilograms per capita. Any such Party shall be entitled to use either the average of its annual calculated level of consumption for the period 1995 to 1997 inclusive or a calculated level of consumption of 0.3 kilograms per capita, whichever is the lower, as the basis for its compliance with the control measures.
2. The Parties undertake to facilitate access to environmentally safe alternative substances and technology for Parties that are developing countries and assist them to make expeditious use of such alternatives.

3. The Parties undertake to facilitate bilaterally or multilaterally the provision of subsidies, aid, credits, guarantees or insurance programmes to Parties that are developing countries for the use of alternative technology and for substitute products.

Article 6. Assessment and Review of Control Measures

Beginning in 1990, and at least every four years thereafter, the Parties shall assess the control measures provided for in Article 2 on the basis of available scientific, environmental, technical and economic information. At least one year before each assessment, the Parties shall convene appropriate panels of experts qualified in the fields mentioned and determine the composition and terms of reference of any such panels. Within one year of being convened, the panels will report their conclusions, through the secretariat, to the Parties.

Article 7. Reporting of Data

1. Each Party shall provide to the secretariat, within three months of becoming a Party, statistical data on its production, imports and exports of each of the controlled substances for the year 1986, or the best possible estimates of such data where actual data are not available.

2. Each Party shall provide statistical data to the secretariat on its annual production (with separate data on amounts destroyed by technologies to be approved by the Parties), imports, and exports to Parties and non-Parties, respectively, of such substances for the year during which it becomes a Party and for each year thereafter. It shall forward the data no later than nine months after the end of the year to which the data relate.

Article 8. Non-Compliance

The Parties, at their first meeting, shall consider and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Protocol and for treatment of Parties found to be in non-compliance.

Article 9. Research, Development, Public Awareness and Exchange of Information

1. The Parties shall co-operate, consistent with their national laws, regulations and practices and taking into account in particular the needs of developing countries, in promoting, directly or through competent international bodies, research, development and exchange of information on:

(a) Best technologies for improving the containment, recovery, recycling or destruction of controlled substances or otherwise reducing their emissions;

(b) Possible alternatives to controlled substances, to products containing such substances, and to products manufactured with them; and

(c) Costs and benefits of relevant control strategies.

2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental effects of the emissions of controlled substances and other substances that deplete the ozone layer.

3. Within two years of the entry into force of this Protocol and every two years thereafter, each Party shall submit to the secretariat a summary of the activities it has conducted pursuant to this Article.

Article 10. Technical Assistance

1. The Parties shall, in the context of the provisions of Article 4 of the Convention, and taking into account in particular the needs of developing countries, co-operate in promoting technical assistance to facilitate participation in and implementation of this Protocol.

2. Any Party or Signatory to this Protocol may submit a request to the secretariat for technical assistance for the purposes of implementing or participating in the Protocol.

3. The Parties, at their first meeting, shall begin deliberations on the means of fulfilling the obligations set out in Article 9, and paragraphs 1 and 2 of this Article, including the preparation of workplans. Such workplans shall pay special attention to the needs and circumstances of the developing countries. States and regional economic integration organizations not party to the Protocol should be encouraged to participate in activities specified in such workplans.

Article 11. Meetings of the Parties

1. The Parties shall hold meetings at regular intervals. The secretariat shall convene the first meeting of the Parties not later than one year after the date of the entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention, if a meeting of the latter is scheduled within that period.

2. Subsequent ordinary meetings of the Parties shall be held, unless the Parties otherwise decide, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party, provided that, within six months of such a request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

3. The Parties, at their first meeting, shall:

(a) Adopt by consensus rules of procedure for their meetings;

(b) Adopt by consensus the financial rules referred to in paragraph 2 of Article 13;

(c) Establish the panels and determine the terms of reference referred to in Article 6;

(d) Consider and approve the procedures and institutional mechanisms specified in Article 8; and

(e) Begin preparation of workplans pursuant to paragraph 3 of Article 10.

4. The functions of the meetings of the Parties shall be to:

(a) Review the implementation of this Protocol;

(b) Decide on any adjustments or reductions referred to in paragraph 9 of Article 2;
(c) Decide on any addition to, insertion in or removal from any annex of substances and on related control measures in accordance with paragraph 10 of Article 2;

(d) Establish, where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and paragraph 3 of Article 9;

(e) Review requests for technical assistance submitted pursuant to paragraph 2 of Article 10;

(f) Review reports prepared by the secretariat pursuant to subparagraph (c) of Article 12;

(g) Assess, in accordance with Article 6, the control measures provided for in Article 2;

(h) Consider and adopt, as required, proposals for amendment of this Protocol or any annex and for any new annex;

(i) Consider and adopt the budget for implementing this Protocol; and

(j) Consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to the protection of the ozone layer which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

Article 12. Secretariat

For the purposes of this Protocol, the secretariat shall:

(a) Arrange for and service meetings of the Parties as provided for in Article 11;

(b) Receive and make available, upon request by a Party, data provided pursuant to Article 7;

(c) Prepare and distribute regularly to the Parties reports based on information received pursuant to Articles 7 and 9;

(d) Notify the Parties of any request for technical assistance received pursuant to Article 10 so as to facilitate the provision of such assistance;

(e) Encourage non-Parties to attend the meetings of the Parties as observers and to act in accordance with the provisions of this Protocol;

(f) Provide, as appropriate, the information and requests referred to in subparagraphs (c) and (d) to such non-Party observers; and

(g) Perform such other functions for the achievement of the purposes of this Protocol as may be assigned to it by the Parties.

Article 13. Financial provisions

1. The funds required for the operation of this Protocol, including those for the functioning of the secretariat related to this Protocol, shall be charged exclusively against contributions from the Parties.

2. The Parties, at their first meeting, shall adopt by consensus financial rules for the operation of this Protocol.

Article 14. Relationship of this Protocol to the Convention

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

Article 15. Signature


Article 16. Entry into force

1. This Protocol shall enter into force on 1 January 1989, provided that at least eleven instruments of ratification, acceptance, approval of the Protocol or accession thereto have been deposited by States or regional economic integration organizations representing at least two thirds of 1986 estimated global consumption of the controlled substances, and the provisions of paragraph 1 of Article 17 of the Convention have been fulfilled. In the event that these conditions have not been fulfilled by that date, the Protocol shall enter into force on the ninetieth day following the date on which the conditions have been fulfilled.

2. For the purposes of paragraph 1, any such instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

3. After the entry into force of this Protocol, any State or regional economic integration organization shall become a Party to it on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 17. Parties joining after entry into force

Subject to Article 5, any State or regional economic integration organization which becomes a Party to this Protocol after the date of its entry into force, shall fulfill forthwith the sum of the obligations under Article 2, as well as under Article 4, that apply at that date to the States and regional economic integration organizations that became Parties on the date the Protocol entered into force.

Article 18. Reservations

No reservations may be made to this Protocol.

Article 19. Withdrawal

For the purposes of this Protocol, the provisions of Article 19 of the Convention relating to withdrawal shall apply, except with respect to Parties referred to in paragraph 1 of Article 5. Any such Party may withdraw from this Protocol by
giving written notification to the Depositary at any time after four years of assuming the obligations specified in paragraphs 1 to 4 of Article 2. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 20. Authentic Texts

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

In witness whereof the undersigned, being duly authorized to that effect, have signed this Protocol.

Done at Montreal this sixteenth day of September, one thousand nine hundred and eighty-seven.

[For the signatures, see p. 76 of this volume.]
Basel Convention on the control of transboundary movements of hazardous wastes and their disposal, 1989
No. 28911

MULTILATERAL


Authentic texts: Arabic, Chinese, English, French, Russian and Spanish.
Registered ex officio on 5 May 1992.

MULTILATÉRAL

Convention de Bâle sur le coutrôle des mouvements trans-frontières de déchets dangereux et de leur élimination (avec annexes). Conclue à Bâle le 22 mars 1989

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.
Enregistré d’office le 5 mai 1992.
BASEL CONVENTION\(^1\) ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

PREAMBLE

The Parties to this Convention,

A. Aware of the risk of damage to human health and the environment caused by hazardous wastes and other wastes and the transboundary movement thereof,

B. Mindful of the growing threat to human health and the environment posed by the increased generation and complexity, and transboundary movement of hazardous wastes and other wastes,

C. Mindful also that the most effective way of protecting human health and the environment from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential,

D. Convinced that States should take necessary measures to ensure that the management of hazardous wastes and other wastes including their transboundary movement and disposal is consistent with the protection of human health and the environment whatever the place of their disposal,

E. Knowing that States should ensure that the generator should carry out duties with regard to the transport and disposal of hazardous wastes and other wastes in a manner that is consistent with the protection of the environment, whatever the place of disposal,

F. Fully recognizing that any State has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory.

G. Recognizing also the increasing desire for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially developing countries,

H. Convinced that hazardous wastes and other wastes should, as far as is compatible with environmentally sound and efficient management, be disposed of in the State where they were generated,

I. Aware also that transboundary movements of such wastes from the State of their generation to any other State should be permitted only when conducted under conditions which do not endanger human health and the environment, and under conditions in conformity with the provisions of this Convention,

J. Considering that enhanced control of transboundary movement of hazardous wastes and other wastes will act as an incentive for their environmentally sound management and for the reduction of the volume of such transboundary movement,

K. Convinced that States should take measures for the proper exchange of information on and control of the transboundary movements of hazardous wastes and other wastes from and to those States,

L. Noting that a number of international and regional agreements have addressed the issue of protection and preservation of the environment with regard to the transit of dangerous goods,


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\(^1\) Came into force on 5 May 1992, i.e., the ninetieth day after the date of deposit of the twelfth instrument of ratification, acceptance, formal confirmation, approval or accession, in accordance with article 25 (1):

<table>
<thead>
<tr>
<th>Participant</th>
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<th>Date of deposit of the instrument of ratification, acceptance (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>27 June 1991</td>
<td>Mexico(^5)</td>
</tr>
<tr>
<td>Australia</td>
<td>5 February 1992</td>
<td>Nigeria</td>
</tr>
<tr>
<td>China</td>
<td>17 December 1991</td>
<td>Norway(^6)</td>
</tr>
<tr>
<td>Czechoslovakia</td>
<td>24 July 1991</td>
<td>Panama</td>
</tr>
<tr>
<td>El Salvador</td>
<td>13 December 1991</td>
<td>Romania(^7)</td>
</tr>
<tr>
<td>Finland</td>
<td>19 November 1991</td>
<td>Saudi Arabia</td>
</tr>
<tr>
<td>France</td>
<td>7 January 1991 AA</td>
<td>Sweden</td>
</tr>
<tr>
<td>Hungary</td>
<td>21 May 1990 AA</td>
<td>Switzerland</td>
</tr>
<tr>
<td>Jordan</td>
<td>22 June 1989 AA</td>
<td>Syrian Arab Republic</td>
</tr>
<tr>
<td>Liechtenstein</td>
<td>27 January 1992</td>
<td>Uruguay</td>
</tr>
</tbody>
</table>

Subsequently, the Convention came into force for the following States on the ninetieth day after the date of deposit of their instruments of ratification, acceptance, formal confirmation, approval or accession, in accordance with article 25 (2):

<table>
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<th>Participant</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>20 March 1992</td>
</tr>
<tr>
<td>Latvia</td>
<td>14 April 1992</td>
</tr>
<tr>
<td>Maldives</td>
<td>28 April 1992</td>
</tr>
</tbody>
</table>


\(^5\) UNEP/RC.14/17, annex II.

\(^6\) See p. 335 of this volume for the texts of the declarations made upon ratification or accession.

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Mindful of the spirit, principles, aims and functions of the World Charter for Nature adopted by the General Assembly of the United Nations at its thirty-seventh session (1982) as the rule of ethics in respect of the protection of the human environment and the conservation of natural resources,

Affirming that States are responsible for the fulfilment of their international obligations concerning the protection of human health and protection and preservation of the environment, and are liable in accordance with international law,

Recognizing that in the case of a material breach of the provisions of this Convention or any protocol thereto the relevant international law of treaties shall apply,

Aware of the need to continue the development and implementation of environmentally sound low-waste technologies, recycling options, good house-keeping and management systems with a view to reducing to a minimum the generation of hazardous wastes and other wastes,

Aware also of the growing international concern about the need for stringent control of transboundary movement of hazardous wastes and other wastes, and of the need as far as possible to reduce such movement to a minimum,

Concerned about the problem of illegal transboundary traffic in hazardous wastes and other wastes,

Taking into account also the limited capabilities of the developing countries to manage hazardous wastes and other wastes,

Recognizing the need to promote the transfer of technology for the sound management of hazardous wastes and other wastes produced locally, particularly to the developing countries in accordance with the spirit of the Cairo Guidelines and decision 14/16 of the Governing Council of UNEP on Promotion of the transfer of environmental protection technology,

Recognizing also that hazardous wastes and other wastes should be transported in accordance with relevant international conventions and recommendations,

Convinced also that the transboundary movement of hazardous wastes and other wastes should be permitted only when the transport and the ultimate disposal of such wastes is environmentally sound, and

Determined to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes,

HAVE AGREED AS FOLLOWS:

Article 1

Scope of the Convention

1. The following wastes that are subject to transboundary movement shall be "hazardous wastes" for the purposes of this Convention:

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and

(b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.

2. Wastes that belong to any category contained in Annex II that are subject to transboundary movement shall be "other wastes" for the purposes of this Convention.

3. Wastes which, as a result of being radioactive, are subject to other international control systems, including international instruments, applying specifically to radioactive materials, are excluded from the scope of this Convention.

4. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, are excluded from the scope of this Convention.

Article 2

Definitions

For the purposes of this Convention:

1. "Wastes" are substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;

2. "Management" means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites;

3. "Transboundary movement" means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;

4. "Disposal" means any operation specified in Annex IV to this Convention;

5. "Approved site or facility" means a site or facility for the disposal of hazardous wastes or other wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;

6. "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think...
21. "Illegal traffic" means any transboundary movement of hazardous wastes or other wastes as specified in Article 9.

Article 3
National Definitions of Hazardous Wastes

1. Each Party shall, within six months of becoming a Party to this Convention, inform the Secretariat of the Convention of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.

2. Each Party shall subsequently inform the Secretariat of any significant changes to the information it has provided pursuant to paragraph 1.

3. The Secretariat shall forthwith inform all Parties of the information it has received pursuant to paragraphs 1 and 2.

4. Parties shall be responsible for making the information transmitted to them by the Secretariat under paragraph 3 available to their exporters.

Article 4
General Obligations

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.

(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.

2. Each Party shall take the appropriate measures to:

(a) Ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;

(b) Ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located, to the extent possible, within it, whatever the place of their disposal;

(c) Ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such
management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment;

(d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;

(e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting.

(f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V A, to state clearly the effects of the proposed movement on human health and the environment;

(g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;

(h) Co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic:

3. The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal.

4. Each Party shall take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention.

5. A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.

6. The Parties agree not to allow the export of hazardous wastes or other wastes for disposal within the area south of 60° South latitude, whether or not such wastes are subject to transboundary movement.

7. Furthermore, each Party shall:

(a) Prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations;

(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

(c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

8. Each Party shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting.

9. Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes only be allowed if:

(a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner;

or

(b) The wastes in question are required as a raw material for recycling or recovery industries in the State of import; or

(c) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention.

10. The obligation under this Convention of States in which hazardous wastes and other wastes are generated to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import or transit.

11. Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order better to protect human health and the environment.

12. Nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

13. Parties shall undertake to review periodically the possibilities for the reduction of the amount and/or the pollution potential of hazardous wastes and other wastes which are exported to other States, in particular to developing countries.
Article 5

Designation of Competent Authorities and Focal Point

To facilitate the implementation of this Convention, the Parties shall:

1. Designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit.

2. Inform the Secretariat, within three months of the date of the entry into force of this Convention for them, which agencies they have designated as their focal point and their competent authorities.

3. Inform the Secretariat, within one month of the date of decision, of any changes regarding the designation made by them under paragraph 2 above.

Article 6

Transboundary Movement between Parties

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in Annex I, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.

2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.

3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that:

   (a) The notifier has received the written consent of the State of import; and

   (b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.

4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for the transboundary movement of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 11. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

5. In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only:

   (a) By the State of export, the requirements of paragraph 9 of this Article that apply to the importer or disposer and the State of import shall apply mutatis mutandis to the exporter and State of export, respectively;

   (b) By the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and State of import, respectively; or

   (c) By any State of transit which is a Party, the provisions of paragraph 4 shall apply to such State.

6. The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export, via the same customs office of entry of the State of import, and in the case of transit, via the same customs office of entry and exit of the State or States of transit.

7. The States concerned may make their written consent to the use of the general notification referred to in paragraph 6 subject to the supply of certain information, such as the exact quantities or periodic lists of hazardous wastes or other wastes to be shipped.

8. The general notification and written consent referred to in paragraphs 6 and 7 may cover multiple shipments of hazardous wastes or other wastes during a maximum period of 12 months.

9. The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

10. The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties.
11. Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party.

**Article 7**

**Transboundary Movement from a Party through States which are not Parties**

Paragraph (1) of Article 6 of the Convention shall apply mutatis mutandis to transboundary movement of hazardous wastes or other wastes from a Party through a State or States which are not Parties.

**Article 8**

**Duty to Re-import**

When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within 90 days from the time that the Importing State informed the State of export and the Secretariat, or such other period of time as the States concerned agree. To this end, the State of export and any Party of transit shall not oppose, hinder or prevent the return of those wastes to the State of export.

**Article 9**

**Illegal Traffic**

1. For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:

   (a) without notification pursuant to the provisions of this Convention to all States concerned; or

   (b) without the consent pursuant to the provisions of this Convention of a State concerned; or

   (c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or

   (d) that does not conform in a material way with the documents; or

(e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law,

shall be deemed to be illegal traffic.

2. In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:

   (a) taken back by the exporter or the generator or, if necessary, by itself into the State of export, or, if impracticable,

   (b) are otherwise disposed of in accordance with the provisions of this Convention.

within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the Parties concerned shall co-operate, as necessary, in the disposal of the wastes in an environmentally sound manner.

4. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through co-operation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.

5. Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic. The Parties shall co-operate with a view to achieving the objects of this Article.

**Article 10**

**International Co-operation**

1. The Parties shall co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes.

2. To this end, the Parties shall:

   (a) Upon request, make available information, whether on a bilateral or multilateral basis, with a view to promoting the environmentally sound management of hazardous wastes and other wastes, including harmonization of
technical standards and practices for the adequate management of hazardous wastes and other wastes;

(b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment;

(c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound low-waste technologies and the improvement of existing technologies with a view to eliminating, as far as practicable, the generation of hazardous wastes and other wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new or improved technologies;

(d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes and other wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field;

(e) Co-operate in developing appropriate technical guidelines and/or codes of practice.

3. The Parties shall employ appropriate means to co-operate in order to assist developing countries in the implementation of subparagraphs a, b, c and d of paragraph 2 of Article 4.

4. Taking into account the needs of developing countries, co-operation between Parties and the competent international organizations is encouraged to promote, inter alia, public awareness, the development of sound management of hazardous wastes and other wastes and the adoption of new low-waste technologies.

**Article 11**

**Bilateral, Multilateral and Regional Agreements**

1. Notwithstanding the provisions of Article 4 paragraph 5, Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes or other wastes with Parties or non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries.

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 and those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention.

**Article 12**

**Consultations on Liability**

The Parties shall co-operate with a view to adopting, as soon as practicable, a protocol setting out appropriate rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes.

**Article 13**

**Transmission of Information**

1. The Parties shall, whenever it comes to their knowledge, ensure that, in the case of an accident occurring during the transboundary movement of hazardous wastes or other wastes or their disposal, which are likely to present risks to human health and the environment in other States, those States are immediately informed.

2. The Parties shall inform each other, through the Secretariat, of:

   (a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5;

   (b) Changes in their national definition of hazardous wastes, pursuant to Article 3;

   and, as soon as possible,

   (c) Decisions made by them not to consent totally or partially to the import of hazardous wastes or other wastes for disposal within the area under their national jurisdiction;

   (d) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes;

   (e) Any other information required pursuant to paragraph 4 of this Article.

3. The Parties, consistent with national laws and regulations, shall transmit, through the Secretariat, to the Conference of the Parties established under Article 15, before the end of each calendar year, a report on the previous calendar year, containing the following information:

   (a) Competent authorities and focal points that have been designated by them pursuant to Article 5;
(b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including:

1. The amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the response to notification;
2. The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods;
3. Disposals which did not proceed as intended;
4. Efforts to achieve a reduction of the amount of hazardous wastes or other wastes subject to transboundary movement;

(c) Information on the measures adopted by them in implementation of this Convention;

(d) Information on available qualified statistics which have been compiled by them on the effects on human health and the environment of the generation, transportation and disposal of hazardous wastes or other wastes;

(e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;

(f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them;

(g) Information on disposal options operated within the area of their national jurisdiction;

(h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and

(i) Such other matters as the Conference of the Parties shall deem relevant.

4. The Parties, consistent with national laws and regulations, shall ensure that copies of each notification concerning any given transboundary movement of hazardous wastes or other wastes, and the response to it, are sent to the Secretariat when a Party considers that its environment may be affected by that transboundary movement has requested that this should be done."

**Article 14**

**Financial Aspects**

1. The Parties agree that, according to the specific needs of different regions and subregions, regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and other wastes and the minimization of their generation should be established. The Parties shall decide on the establishment of appropriate funding mechanisms of a voluntary nature.

2. The Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimize damage from accidents arising from transboundary movements of hazardous wastes and other wastes or during the disposal of those wastes.

**Article 15**

**Conference of the Parties**

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties under this Convention.

4. The Parties at their first meeting shall consider any additional measures needed to assist them in fulfilling their responsibilities with respect to the protection and the preservation of the marine environment in the context of this Convention.

5. The Conference of the Parties shall keep under continuous review and evaluation the effective implementation of this Convention, and, in addition, shall:

   (a) Promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes and other wastes;

   (b) Consider and adopt, as required, amendments to this Convention and its annexes, taking into consideration, inter alia, available scientific, technical, economic and environmental information;

   (c) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation and in the operation of the agreements and arrangements envisaged in Article 11:

   (d) Consider and adopt protocols as required; and
(e) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention.

6. The United Nations, its specialized agencies, as well as any State not party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to hazardous wastes or other wastes which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

7. The Conference of the Parties shall undertake three years after the entry into force of this Convention, and at least every six years thereafter, an evaluation of its effectiveness and, if deemed necessary, to consider the adoption of a complete or partial ban of transboundary movements of hazardous wastes and other wastes in light of the latest scientific, environmental, technical and economic information.

**Article 16**

**Secretariat**

1. The functions of the Secretariat shall be:

   (a) To arrange for and service meetings provided for in Article 15 and 17;

   (b) To prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11 and 13 as well as upon information derived from meetings of subsidiary bodies established under Article 15 as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;

   (c) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;

   (d) To ensure the necessary coordination with relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

   (e) To communicate with focal points and competent authorities established by the Parties in accordance with Article 5 of this Convention;

   (f) To compile information concerning authorized national sites and facilities of Parties available for the disposal of their hazardous wastes and other wastes and to circulate this information among Parties;

   (g) To receive and convey information from and to Parties on:

      - sources of technical assistance and training;
      - available technical and scientific know-how;

   (h) To provide Parties, upon request, with information on consultants or consulting firms having the necessary technical competence in the field, which can assist them to examine a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes or other wastes with the relevant notification, and/or the fact that the proposed disposal facilities for hazardous wastes or other wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examination would not be at the expense of the Secretariat;

   (i) To assist Parties upon request in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic;

   (j) To co-operate with Parties and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; and

   (k) To perform such other functions relevant to the purposes of this Convention as may be determined by the Conference of the Parties.

2. The secretariat functions will be carried out on an interim basis by UNEP until the completion of the first meeting of the Conference of the Parties held pursuant to Article 15.

3. At its first meeting, the Conference of the Parties shall designate the Secretariat from among those existing competent intergovernmental organizations which have signified their willingness to carry out the secretariat functions under this Convention. At this meeting, the Conference of the Parties shall also evaluate the implementation by the interim Secretariat of the functions assigned to it, in particular under paragraph 1 above, and decide upon the structures appropriate for those functions.

**Article 17**

**Amendment of the Convention**

1. Any Party may propose amendments to this Convention and any Party to a protocol may propose amendments to that protocol. Such amendments shall take due account, *inter alia*, of relevant scientific and technical considerations.
2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the Signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval, formal confirmation or acceptance.

4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that protocol present and voting at the meeting shall suffice for their adoption.

5. Instruments of ratification, approval, formal confirmation or acceptance of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between Parties having accepted them on the ninetieth day after the receipt by the Depositary of their Instrument of ratification, approval, formal confirmation or acceptance by at least three-fourths of the Parties who accepted the amendments to the protocol concerned, except as may otherwise be provided in such protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its Instrument of ratification, approval, formal confirmation or acceptance of the amendments.

6. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 18
Adoption and Amendment of Annexes

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:

   (a) Annexes to this Convention and its protocols shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs 2, 3 and 4;
Parties from the responsibility of continuing to seek to resolve it by the means referred to in paragraph 1.

3. When ratifying, accepting, approving, formally confirming or acceding to this Convention, or at any time thereafter, a State or political and/or economic integration organization may declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

(a) submission of the dispute to the International Court of Justice; and/or

(b) arbitration in accordance with the procedures set out in Annex VI.

Such declaration shall be notified in writing to the Secretariat which shall communicate it to the Parties.

Article 21

Signature

This Convention shall be open for signature by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations, in Basel on 22 March 1989, at the Federal Department of Foreign Affairs of Switzerland in Berne from 23 March 1989 to 30 June 1989, and at United Nations Headquarters in New York from 1 July 1989 to 22 March 1990.

Article 22

Ratification, Acceptance, Formal Confirmation or Approval

1. This Convention shall be subject to ratification, acceptance or approval by States and by Namibia, represented by the United Nations Council for Namibia, and to formal confirmation or approval by political and/or economic integration organizations. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of formal confirmation or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who will inform the Parties of any substantial modification in the extent of their competence.

Article 23

Accession

1. This Convention shall be open for accession by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations from the day after the date on which the Convention is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

3. The provisions of Article 22 paragraph 2, shall apply to political and/or economic integration organizations which accede to this Convention.

Article 24

Right to Vote

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

2. Political and/or economic integration organizations, in matters within their competence, in accordance with Article 22, paragraph 3, and Article 23, paragraph 2, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 25

Entry into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the twentieth instrument of ratification, acceptance, formal confirmation, approval or accession.

2. For each State or political and/or economic integration organization which ratifies, accepts, approves or formally confirms this Convention or accedes thereto after the date of the deposit of the twentieth instrument of ratification, acceptance, approval, formal confirmation or accession, it shall enter into force on the ninetieth day after the date of deposit by such State or political and/or economic integration organization of its instrument of ratification, acceptance, approval, formal confirmation or accession.

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a political and/or economic integration organization shall not be counted as additional to those deposited by member States of such organization.
Article 26

Reservations and Declarations

1. No reservation or exception may be made to this Convention.

2. Paragraph 1 of this Article does not preclude a State or political and/or economic integration organization, when signing, ratifying, accepting, approving, formally confirming or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Convention in their application to that State.

Article 27

Withdrawal

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

2. Withdrawal shall be effective one year from receipt of notification by the Depositary, or on such later date as may be specified in the notification.

Article 28

Depository

The Secretary-General of the United Nations shall be the Depositary of this Convention and of any protocol thereto.

Article 29

Authentic texts

The original Arabic, Chinese, English, French, Russian and Spanish texts of this Convention are equally authentic.

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

Done at ...Basel... on the 22nd day of March 1989

[For the signatures, see p. 278 of this volume.]
Annex II

CATEGORIES OF WASTES REQUIRING SPECIAL CONSIDERATION

Y46 Wastes collected from households
Y47 Residues arising from the incineration of household wastes
Annex III

LIST OF HAZARDOUS CHARACTERISTICS

UV Class* Code Characteristics

1 H1 Explosive
An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable of chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.

3 H3 Flammable liquids
The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.)

4 H4 Flammable solids
Solids, or waste solids, other than those classified as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.

4.1 H4.1 Flammable solids
Substances or wastes liable to spontaneous combustion
Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport or to heating up on contact with air, and being then liable to catch fire.

4.2 H4.2 Substances or wastes liable to spontaneous combustion
Substances or wastes which, in contact with water emit flammable gases.

4.3 H4.3 Substances or wastes which, in contact with water emit flammable gases
Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.


5.1 H5.1 Oxidizing
Substances or wastes which, while in themselves not necessarily combustible, may, generally, by yielding oxygen cause, or contribute to, the combustion of other materials.

5.2 H5.2 Organic Peroxides
Organic substances or wastes which contain the bivalent-\(O-O\)-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.

6.1 H6.1 Poisonous (Acute)
Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.

6.2 H6.2 Infectious substances
Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.

8 H8 Corrosives
Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport, they may also cause other hazards.

9 H10 Liberation of toxic gases in contact with air or water
Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.

9 H11 Toxic (Delayed or Chronic)
Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.

9 H12 Ecotoxic
Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.

9 H13 Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.
Tests

The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterise potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in Annex I. In order to decide if these materials exhibit any of the characteristics listed in this Annex.

Annex IV

DISPOSAL OPERATIONS

A. OPERATIONS WHICH DO NOT LEAD TO THE POSSIBILITY OF RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES

Section A encompasses all such disposal operations which occur in practice.

D1 Deposit into or onto land, (e.g., landfill, etc.)
D2 Land treatment, (e.g., biodegradation of liquid or sludge discards in soils, etc.)
D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)
D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
D6 Release into a water body except seas/oceans
D7 Release into seas/oceans including sea-bed insertion
D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A
D9 Physico chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A, (e.g., evaporation, drying, calcination, neutralisation, precipitation, etc.)
D10 Incineration on land
D11 Incineration at sea
D12 Permanent storage (e.g., emplacement of containers in a mine, etc.)
D13 Blending or mixing prior to submission to any of the operations in Section A
D14 Repackaging prior to submission to any of the operations in Section A
D15 Storage pending any of the operations in Section A
B. OPERATIONS WHICH MAY LEAD TO RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES

Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and which otherwise would have been destined for operations included in Section A.

1. Use as a fuel (other than in direct incineration) or other means to generate energy
2. Solvent reclamation/regeneration
3. Recycling/reclamation of organic substances which are not used as solvents
4. Recycling/reclamation of metals and metal compounds
5. Recycling/reclamation of other inorganic materials
6. Regeneration of acids or bases
7. Recovery of components used for pollution abatement
8. Recovery of components from catalysts
9. Used oil re-refining or other reuses of previously used oil
10. Land treatment resulting in benefit to agriculture or ecological improvement
11. Uses of residual materials obtained from any of the operations numbered 1-10
12. Exchange of wastes for submission to any of the operations numbered 1-11
13. Accumulation of material intended for any operation in Section B

Annex V A

INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export
2. Exporter of the waste
3. Generator(s) of the waste and site of generation
4. Disposer of the waste and actual site of disposal
5. Intended carrier(s) of the waste or their agents, if known
6. Country of export of the waste
   Competent authority
7. Expected countries of transit
   Competent authority
8. Country of import of the waste
   Competent authority
9. General or single notification
10. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit)
11. Means of transport envisaged (road, rail, sea, air, inland waters)
12. Information relating to insurance
13. Designation and physical description of the waste including Y number and UN number and its composition and information on any special handling requirements including emergency provisions in case of accidents
14. Type of packaging envisaged (eg. bulk, drummed, tanker)
15. Estimated quantity in weight/volume
16. Process by which the waste is generated
17. For wastes listed in Annex I, classifications from Annex III: hazardous characteristic, B number, and UN class.
18. Method of disposal as per Annex IV
19. Declaration by the generator and exporter that the information is correct
20. Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there was no reason to believe that the wastes will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import.
21. Information concerning the contract between the exporter and disposer.
Notes

1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted.

2/ Full name and address, telephone, telex or telefax number.

3/ In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.

4/ Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.

5/ The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.

6/ In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.

7/ Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.

Annex V B

INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

1. Exporter of the waste 1/

2. Generator(s) of the waste and site of generation 1/

3. Disposer of the waste and actual site of disposal 1/

4. Carrier(s) of the waste 1/ or his agent(s)

5. Subject of general or single notification

6. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste

7. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated

8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)

9. Information on special handling requirements including emergency provision in case of accidents

10. Type and number of packages

11. Quantity in weight/volume

12. Declaration by the generator or exporter that the information is correct

13. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties.

14. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal.

Notes

The information required on the movement document shall where possible be integrated in one document with that required under transport rules. Where this is not possible the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.
Annex VI

ARBITRATION

Article 1

Unless the agreement referred to in Article 20 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with Articles 2 to 10 below.

Article 2

The claimant party shall notify the Secretariat that the parties have agreed to submit the dispute to arbitration pursuant to paragraph 2 or paragraph 3 of Article 20 and include, in particular, the Articles of the Convention the interpretation or application of which are at issue. The Secretariat shall forward the information thus received to all Parties to the Convention.

Article 3

The arbitral tribunal shall consist of three members. Each of the Parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either party, designate him within a further two months period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months’ period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months’ period.

Article 5

1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention.

2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal both on procedure and on substance, shall be taken by majority vote of its members.

2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the parties, recommend essential interim measures of protection.

3. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

4. The absence or default of a party in the dispute shall not constitute an impediment to the proceedings.

Article 7

The tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

Article 8

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

Article 9

Any Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

Article 10

1. The tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months.

2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.

3. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.
United Nations Framework Convention on Climate Change, 1992
The Parties to this Convention,

Acknowledging that change in the Earth’s climate and its adverse effects are a common concern of humankind,

Concerned that human activities have been substantially increasing the atmospheric concentrations of greenhouse gases, that these increases enhance the natural greenhouse effect, and that this will result on average in an additional warming of the Earth’s surface and atmosphere and may adversely affect natural ecosystems and humankind,

Noting that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs,

Aware of the role and importance in terrestrial and marine ecosystems of sinks and reservoirs of greenhouse gases,

Noting that there are many uncertainties in predictions of climate change, particularly with regard to the timing, magnitude and regional patterns thereof,

Acknowledging that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972,

Recalling also that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Reaffirming the principle of sovereignty of States in international cooperation to address climate change,

Recognizing that States should enact effective environmental legislation, that environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply, and that standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries,

Recalling also the provisions of General Assembly resolution 44/206 of 22 December 1989 on the possible adverse effects of sea-level rise on islands and coastal areas, particularly low-lying coastal areas and the pertinent provisions of General Assembly resolution 44/172 of 19 December 1989 on the implementation of the Plan of Action to Combat Desertification,

Recalling further the Vienna Convention for the Protection of the Ozone Layer, 1985, and the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, as adjusted and amended on 29 June 1990,

Noting the Ministerial Declaration of the Second World Climate Conference adopted on 7 November 1990,

Conscious of the valuable analytical work being conducted by many States on climate change and of the important contributions of the World Meteorological Organization, the United Nations Environment Programme and other organs, organizations and bodies of the United Nations system, as well as other international and intergovernmental bodies, to the exchange of results of scientific research and the coordination of research,

Recognizing that steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas,

Recognizing that various actions to address climate change can be justified economically in their own right and can also help in solving other environmental problems,

Recognizing also the need for developed countries to take immediate action in a flexible manner on the basis of clear priorities, as a first step towards comprehensive response strategies at the global, national and, where agreed, regional levels that take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect,

Recognizing further that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change,

Recognizing the special difficulties of those countries, especially developing countries, whose economies are particularly dependent on fossil fuel production, use and exportation, as a consequence of action taken on limiting greenhouse gas emissions,

Affirming that responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty,

Recognizing that all countries, especially developing countries, need access to resources required to achieve sustainable social and economic development and that, in order for developing countries to progress towards that goal, their energy consumption will need to grow taking into account the possibilities for achieving greater energy efficiency and for controlling greenhouse gas emissions in general, including through the application of new technologies on terms which make such an application economically and socially beneficial,

Determined to protect the climate system for present and future generations,

Have agreed as follows:

Article 1

DEFINITIONS*

For the purposes of this Convention:

1. “Adverse effects of climate change” means changes in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare.

2. “Climate change” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

3. “Climate system” means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions.

4. “Emissions” means the release of greenhouse gases and/or their precursors into the atmosphere over a specified area and period of time.

5. “Greenhouse gases” means those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation.

6. “Regional economic integration organization” means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention or its protocols and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the instruments concerned.

* Titles of articles are included solely to assist the reader.
7. “Reservoir” means a component or components of the climate system where a greenhouse gas or a precursor of a greenhouse gas is stored.

8. “Sink” means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere.

9. “Source” means any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas into the atmosphere.

**Article 2**

**OBJECTIVE**

The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

**Article 3**

**PRINCIPLES**

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

1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.

2. The specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration.

3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties.

4. The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change.

5. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

**Article 4**

**COMMITMENTS**

1. All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall:

   (a) Develop, periodically update, publish and make available to the Conference of the Parties, in accordance with Article 12, national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties;

   (b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, and measures to facilitate adequate adaptation to climate change;

   (c) Promote and cooperate in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors; including the energy, transport, industry, agriculture, forestry and waste management sectors;

   (d) Promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems;

   (e) Cooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods;
(f) Take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change;

(g) Promote and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system and intended to further the understanding and to reduce or eliminate the remaining uncertainties regarding the causes, effects, magnitude and timing of climate change and the economic and social consequences of various response strategies;

(h) Promote and cooperate in the full, open and prompt exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of various response strategies;

(i) Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations; and

(j) Communicate to the Conference of the Parties information related to implementation, in accordance with Article 12.

2. The developed country Parties and other Parties included in Annex I commit themselves specifically as provided for in the following:

(a) Each of these Parties shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention, recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such modification, and taking into account the differences in these Parties' starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective. These Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the achievement of the objective of the Convention and, in particular, that of this subparagraph;

(b) In order to promote progress to this end, each of these Parties shall communicate, within six months of the entry into force of the Convention for it and periodically thereafter, and in accordance with Article 12, detailed information on its policies and measures referred to in subparagraph (a) above, as well as on its resulting projected anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol for the period referred to in subparagraph (a), with the aim of returning individually or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol. This information will be reviewed by the Conference of the Parties, at its first session and periodically thereafter, in accordance with Article 7;

(c) Calculations of emissions by sources and removals by sinks of greenhouse gases for the purposes of subparagraph (b) above should take into account the best available scientific knowledge, including of the effective capacity of sinks and the respective contributions of such gases to climate change. The Conference of the Parties shall consider and agree on methodologies for these calculations at its first session and review them regularly thereafter;

(d) The Conference of the Parties shall, at its first session, review the adequacy of subparagraphs (a) and (b) above. Such review shall be carried out in the light of the best available scientific information and assessment of climate change and its impacts, as well as relevant technical, social and economic information. Based on this review, the Conference of the Parties shall take appropriate action, which may include the adoption of amendments to the commitments in subparagraphs (a) and (b) above. The Conference of the Parties, at its first session, shall also take decisions regarding criteria for joint implementation as indicated in subparagraph (a) above. A second review of subparagraphs (a) and (b) shall take place not later than 31 December 1998, and thereafter at regular intervals determined by the Conference of the Parties, until the objective of the Convention is met;

(e) Each of these Parties shall:

(i) coordinate as appropriate with other such Parties, relevant economic and administrative instruments developed to achieve the objective of the Convention; and

(ii) identify and periodically review its own policies and practices which encourage activities that lead to greater levels of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol than would otherwise occur;

(f) The Conference of the Parties shall review, not later than 31 December 1998, available information with a view to taking decisions regarding such amendments to the lists in Annexes I and II as may be appropriate, with the approval of the Party concerned;

(g) Any Party not included in Annex I may, in its instrument of ratification, acceptance, approval or accession, or at any time thereafter, notify the Depositary that it intends to be bound by subparagraphs (a) and (b) above. The Depositary shall inform the other signatories and Parties of any such notification.

This includes policies and measures adopted by regional economic integration organizations.
3. The developed country Parties and other developed Parties included in Annex II shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties.

4. The developed country Parties and other developed Parties included in Annex II shall also assist the developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to those adverse effects.

5. The developed country Parties and other developed Parties included in Annex II shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly developing country Parties, in order to enhance the ability of those Parties to address climate change, including with regard to the historical level of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol chosen as a reference.

6. In the implementation of their commitments under paragraph 2 above, a certain degree of flexibility shall be allowed by the Conference of the Parties to the Parties included in Annex I undergoing the process of transition to a market economy, in order to enhance the ability of those Parties to address climate change, including with regard to the historical level of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol chosen as a reference.

7. The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.

8. In the implementation of the commitments in this Article, the Parties shall give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures, especially on:

   (a) Small island countries;
   (b) Countries with low-lying coastal areas;
   (c) Countries with arid and semi-arid areas, forested areas and areas liable to forest decay;
   (d) Countries with areas prone to natural disasters;
   (e) Countries with areas liable to drought and desertification;
   (f) Countries with areas of high urban atmospheric pollution;
   (g) Countries with areas with fragile ecosystems, including mountainous ecosystems;
   (h) Countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products; and
   (i) Landlocked and transit countries.

Further, the Conference of the Parties may take actions, as appropriate, with respect to this paragraph.

9. The Parties shall take full account of the specific needs and special situations of the least developed countries in their actions with regard to funding and transfer of technology.

10. The Parties shall, in accordance with Article 10, take into consideration in the implementation of the commitments of the Convention the situation of Parties, particularly developing country Parties, with economies that are vulnerable to the adverse effects of the implementation of measures to respond to climate change. This applies notably to Parties with economies that are highly dependent on income generated from the production, processing and export, and/or consumption of fossil fuels and associated energy-intensive products and/or the use of fossil fuels for which such Parties have serious difficulties in switching to alternatives.

   Article 5

   RESEARCH AND SYSTEMATIC OBSERVATION

In carrying out their commitments under Article 4, paragraph 1 (g), the Parties shall:

   (a) Support and further develop, as appropriate, international and intergovernmental programmes and networks or organizations aimed at defining, conducting, assessing and financing research, data collection and systematic observation, taking into account the need to minimize duplication of effort;
   (b) Support international and intergovernmental efforts to strengthen systematic observation and national scientific and technical research capacities and capabilities, particularly in developing countries, and to promote access to, and the exchange of, data and analyses thereof obtained from areas beyond national jurisdiction; and
   (c) Take into account the particular concerns and needs of developing countries and cooperate in improving their endogenous capacities and capabilities to participate in the efforts referred to in subparagraphs (a) and (b) above.
Article 6
EDUCATION, TRAINING AND PUBLIC AWARENESS

In carrying out their commitments under Article 4, paragraph 1 (i), the Parties shall:

(a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:

(i) the development and implementation of educational and public awareness programmes on climate change and its effects;

(ii) public access to information on climate change and its effects;

(iii) public participation in addressing climate change and its effects and developing adequate responses; and

(iv) training of scientific, technical and managerial personnel;

(b) Cooperate in and promote, at the international level, and, where appropriate, using existing bodies:

(i) the development and exchange of educational and public awareness material on climate change and its effects; and

(ii) the development and implementation of education and training programmes, including the strengthening of national institutions and the exchange or secondment of personnel to train experts in this field, in particular for developing countries.

Article 7
CONFERENCE OF THE PARTIES

1. A Conference of the Parties is hereby established.

2. The Conference of the Parties, as the supreme body of this Convention, shall keep under regular review the implementation of the Convention and any related legal instruments that the Conference of the Parties may adopt, and shall make, within its mandate, the decisions necessary to promote the effective implementation of the Convention. To this end, it shall:

(a) Periodically examine the obligations of the Parties and the institutional arrangements under the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge;

(b) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;

(c) Facilitate, at the request of two or more Parties, the coordination of measures adopted by them to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;

(d) Promote and guide, in accordance with the objective and provisions of the Convention, the development and periodic refinement of comparable methodologies, to be agreed on by the Conference of the Parties, inter alia, for preparing inventories of greenhouse gas emissions by sources and removals by sinks, and for evaluating the effectiveness of measures to limit the emissions and enhance the removals of these gases;

(e) Assess, on the basis of all information made available to it in accordance with the provisions of the Convention, the implementation of the Convention by the Parties, the overall effects of the measures taken pursuant to the Convention, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved;

(f) Consider and adopt regular reports on the implementation of the Convention and ensure their publication;

(g) Make recommendations on any matters necessary for the implementation of the Convention;

(h) Seek to mobilize financial resources in accordance with Article 4, paragraphs 3, 4 and 5, and Article 11;

(i) Establish such subsidiary bodies as are deemed necessary for the implementation of the Convention;

(j) Review reports submitted by its subsidiary bodies and provide guidance to them;

(k) Agree upon and adopt, by consensus, rules of procedure and financial rules for itself and for any subsidiary bodies;

(l) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; and

(m) Exercise such other functions as are required for the achievement of the objective of the Convention as well as all other functions assigned to it under the Convention.
3. The Conference of the Parties shall, at its first session, adopt its own rules of procedure as well as those of the subsidiary bodies established by the Convention, which shall include decision-making procedures for matters not already covered by decision-making procedures stipulated in the Convention. Such procedures may include specified majorities required for the adoption of particular decisions.

4. The first session of the Conference of the Parties shall be convened by the interim secretariat referred to in Article 21 and shall take place not later than one year after the date of entry into force of the Convention. Thereafter, ordinary sessions of the Conference of the Parties shall be held every year unless otherwise decided by the Conference of the Parties.

5. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.

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

**Article 8**

**SECRETARIAT**

1. A secretariat is hereby established.

2. The functions of the secretariat shall be:

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

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

   (c) To facilitate assistance to the Parties, particularly developing country Parties, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;

   (d) To prepare reports on its activities and present them to the Conference of the Parties;

   (e) To ensure the necessary coordination with the secretariats of other relevant international bodies;

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

   (g) To perform the other secretariat functions specified in the Convention and in any of its protocols and such other functions as may be determined by the Conference of the Parties.

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

**Article 9**

**SUBSIDIARY BODY FOR SCIENTIFIC AND TECHNOLOGICAL ADVICE**

1. A subsidiary body for scientific and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely information and advice on scientific and technological matters relating to the Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the guidance of the Conference of the Parties, and drawing upon existing competent international bodies, this body shall:

   (a) Provide assessments of the state of scientific knowledge relating to climate change and its effects;

   (b) Prepare scientific assessments on the effects of measures taken in the implementation of the Convention;

   (c) Identify innovative, efficient and state-of-the-art technologies and know-how and advise on the ways and means of promoting development and/or transferring such technologies;

   (d) Provide advice on scientific programmes, international cooperation in research and development related to climate change, as well as on ways and means of supporting endogenous capacity-building in developing countries; and

   (e) Respond to scientific, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.

3. The functions and terms of reference of this body may be further elaborated by the Conference of the Parties.
Article 10

SUBSIDIARY BODY FOR IMPLEMENTATION

1. A subsidiary body for implementation is hereby established to assist the Conference of the Parties in the assessment and review of the effective implementation of the Convention. This body shall be open to participation by all Parties and comprise government representatives who are experts on matters related to climate change. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the guidance of the Conference of the Parties, this body shall:
   (a) Consider the information communicated in accordance with Article 12, paragraph 1, to assess the overall aggregated effect of the steps taken by the Parties in the light of the latest scientific assessments concerning climate change;
   (b) Consider the information communicated in accordance with Article 12, paragraph 2, in order to assist the Conference of the Parties in carrying out the reviews required by Article 4, paragraph 2 (d); and
   (c) Assist the Conference of the Parties, as appropriate, in the preparation and implementation of its decisions.

Article 11

FINANCIAL MECHANISM

1. A mechanism for the provision of financial resources on a grant or concessional basis, including for the transfer of technology, is hereby defined. It shall function under the guidance of and be accountable to the Conference of the Parties, which shall decide on its policies, programme priorities and eligibility criteria related to this Convention. Its operation shall be entrusted to one or more existing international entities.

2. The financial mechanism shall have an equitable and balanced representation of all Parties within a transparent system of governance.

3. The Conference of the Parties and the entity or entities entrusted with the operation of the financial mechanism shall agree upon arrangements to give effect to the above paragraphs, which shall include the following:
   (a) Modalities to ensure that the funded projects to address climate change are in conformity with the policies, programme priorities and eligibility criteria established by the Conference of the Parties;
   (b) Modalities by which a particular funding decision may be reconsidered in light of these policies, programme priorities and eligibility criteria;
   (c) Provision by the entity or entities of regular reports to the Conference of the Parties on its funding operations, which is consistent with the requirement for accountability set out in paragraph 1 above; and
   (d) Determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention and the conditions under which that amount shall be periodically reviewed.

4. The Conference of the Parties shall make arrangements to implement the above-mentioned provisions at its first session, reviewing and taking into account the interim arrangements referred to in Article 21, paragraph 3, and shall decide whether these interim arrangements shall be maintained. Within four years thereafter, the Conference of the Parties shall review the financial mechanism and take appropriate measures.

5. The developed country Parties may also provide and developing country Parties avail themselves of, financial resources related to the implementation of the Convention through bilateral, regional and other multilateral channels.

Article 12

COMMUNICATION OF INFORMATION RELATED TO IMPLEMENTATION

1. In accordance with Article 4, paragraph 1, each Party shall communicate to the Conference of the Parties, through the secretariat, the following elements of information:
   (a) A national inventory of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, to the extent its capacities permit, using comparable methodologies to be promoted and agreed upon by the Conference of the Parties;
   (b) A general description of steps taken or envisaged by the Party to implement the Convention; and
   (c) Any other information that the Party considers relevant to the achievement of the objective of the Convention and suitable for inclusion in its communication, including, if feasible, material relevant for calculations of global emission trends.

2. Each developed country Party and each other Party included in Annex I shall incorporate in its communication the following elements of information:
   (a) A detailed description of the policies and measures that it has adopted to implement its commitment under Article 4, paragraphs 2 (a) and 2 (b); and
   (b) A specific estimate of the effects that the policies and measures referred to in subparagraph (a) immediately above will have on anthropogenic emissions by its sources and removals by its sinks of greenhouse gases during the period referred to in Article 4, paragraph 2 (a).
Article 13

RESOLUTION OF QUESTIONS REGARDING IMPLEMENTATION

The Conference of the Parties shall, at its first session, consider the establishment of a multilateral consultative process, available to Parties on their request, for the resolution of questions regarding the implementation of the Convention.

Article 14

SETTLEMENT OF DISPUTES

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the Convention, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

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

(a) Submission of the dispute to the International Court of Justice; and/or
(b) Arbitration in accordance with procedures to be adopted by the Conference of the Parties as soon as practicable, in an annex on arbitration.

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

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

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

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

6. A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall be composed of an equal number of members appointed by each party concerned and a chairman chosen jointly by the members appointed by each party. The commission shall render a recommendatory award, which the parties shall consider in good faith.
7. Additional procedures relating to conciliation shall be adopted by the Conference of the Parties, as soon as practicable, in an annex on conciliation.

8. The provisions of this Article shall apply to any related legal instrument which the Conference of the Parties may adopt, unless the instrument provides otherwise.

**Article 15**

**AMENDMENTS TO THE CONVENTION**

1. Any Party may propose amendments to the Convention.

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

3. The Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to the Convention.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

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

**Article 16**

**ADOPTION AND AMENDMENT OF ANNEXES TO THE CONVENTION**

1. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto. Without prejudice to the provisions of Article 14, paragraphs 2 (b) and 7, such annexes shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

2. Annexes to the Convention shall be proposed and adopted in accordance with the procedure set forth in Article 15, paragraphs 2, 3 and 4.

3. An annex that has been adopted in accordance with paragraph 2 above shall enter into force for all Parties to the Convention six months after the date of the communication by the Depositary to such Parties of the adoption of the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex. The annex shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.

4. The proposal, adoption and entry into force of amendments to annexes to the Convention shall be subject to the same procedure as that for the proposal, adoption and entry into force of annexes to the Convention in accordance with paragraphs 2 and 3 above.

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

**Article 17**

**PROTOCOLS**

1. The Conference of the Parties may, at any ordinary session, adopt protocols to the Convention.

2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a session.

3. The requirements for the entry into force of any protocol shall be established by that instrument.

4. Only Parties to the Convention may be Parties to a protocol.

5. Decisions under any protocol shall be taken only by the Parties to the protocol concerned.

**Article 18**

**RIGHT TO VOTE**

1. Each Party to the Convention shall have one vote, except as provided for in paragraph 2 below.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.
Article 19
DEPOSITARY

The Secretary-General of the United Nations shall be the Depositary of the Convention and of protocols adopted in accordance with Article 17.

Article 20
SIGNATURE

This Convention shall be open for signature by States Members of the United Nations or of any of its specialized agencies or that are Parties to the Statute of the International Court of Justice and by regional economic integration organizations at Rio de Janeiro, during the United Nations Conference on Environment and Development, and thereafter at United Nations Headquarters in New York from 20 June 1992 to 19 June 1993.

Article 21
INTERIM ARRANGEMENTS

1. The secretariat functions referred to in Article 8 will be carried out on an interim basis by the secretariat established by the General Assembly of the United Nations in its resolution 45/212 of 21 December 1990, until the completion of the first session of the Conference of the Parties.

2. The head of the interim secretariat referred to in paragraph 1 above will cooperate closely with the Intergovernmental Panel on Climate Change to ensure that the Panel can respond to the need for objective scientific and technical advice. Other relevant scientific bodies could also be consulted.

3. The Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the international entity entrusted with the operation of the financial mechanism referred to in Article 11 on an interim basis. In this connection, the Global Environment Facility should be appropriately restructured and its membership made universal to enable it to fulfil the requirements of Article 11.

Article 22
RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

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

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

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

Article 23
ENTRY INTO FORCE

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

2. For each State or regional economic integration organization that ratifies, accepts or approves the Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

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

Article 24
RESERVATIONS

No reservations may be made to the Convention.

Article 25
WITHDRAWAL

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

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

3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.
Article 26

AUTHENTIC TEXTS

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

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

DONE at New York this ninth day of May one thousand nine hundred and ninety-two.

Annex I

Australia
Austria
Belarus* Belgium
Bulgaria* Canada
Croatia* Czech Republic* Denmark
European Economic Community
Estonia* Finland
France
Germany
Greece
Hungary* Iceland
Ireland
Italy
Japan
Latvia*
Liechtenstein*
Lithuania*
Luxembourg
Monaco*
Netherlands
New Zealand
Norway
Poland*
Portugal
Romania*
Russian Federation*
Slovakia* Slovenia*
Spain
Sweden
Switzerland
Turkey
Ukraine*
United Kingdom of Great Britain and Northern Ireland
United States of America

* Countries that are undergoing the process of transition to a market economy.

* Publisher’s note: Countries added to Annex I by an amendment that entered into force on 13 August 1998, pursuant to decision 4/CP.3 adopted at COP.3.
Annex II

Australia
Austria
Belgium
Canada
Denmark
European Economic Community
Finland
France
Germany
Greece
Iceland
Ireland
Italy
Japan
Luxembourg
Netherlands
New Zealand
Norway
Portugal
Spain
Sweden
Switzerland
United Kingdom of Great Britain and Northern Ireland
United States of America

Publisher’s note: Turkey was deleted from Annex II by an amendment that entered into force 28 June 2002, pursuant to decision 26/CP.7 adopted at COP.7.
Convention on biological diversity, 1992
Treaty Series

Treaty Series

Treaties and international agreements
registered
or filed and recorded
with the Secretariat of the United Nations

VOLUME 1760

Recueil des Traités

Recueil des Traités

Traités et accords internationaux
enregistrés
ou classés et inscrits au répertoire
au Secrétariat de l’Organisation des Nations Unies

No. 30619

MULTILATERAL

Convention on biological diversity (with annexes). Concluded at Rio de Janeiro on 5 June 1992

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish.
Registered ex officio on 29 December 1993.

MULTILATÉRAL

Convention sur la diversité biologique (avec annexes). Conclue à Rio de Janeiro le 5 juin 1992

CONVENTION ON BIOLOGICAL DIVERSITY

Preamble

The Contracting Parties.

Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components.

Conscious also of the importance of biological diversity for evolution and for maintaining life sustaining systems of the biosphere.

Affirming that the conservation of biological diversity is a common concern of humankind.

Reaffirming that States have sovereign rights over their own biological resources.

Reaffirming also that States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner.

Concerned that biological diversity is being significantly reduced by certain human activities.

Aware of the general lack of information and knowledge regarding biological diversity and of the urgent need to develop scientific, technical and institutional capacities to provide the basic understanding upon which to plan and implement appropriate measures.

Noting that it is vital to anticipate, prevent and attack the causes of significant reduction or loss of biological diversity at source.

Noting also that there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat.

Noting further that the fundamental requirement for the conservation of biological diversity is the in-situ conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings.

Date of deposit of the instrument of ratification, accession or acceptance (A)

Antigua and Barbuda ... 9 March 1993
Armenia ... 14 May 1993 A
Australia ... 18 June 1993
Bahamas ... 2 September 1993
Belarus ... 8 September 1993
Burkina Faso ... 2 September 1993
Canada ... 4 December 1992
China ... 5 January 1993
Cook Islands ... 20 April 1993
Ecuador ... 29 January 1993
Fiji ... 25 February 1993
Guinea ... 3 May 1993
Japan ... 26 May 1993 A
Maldive Islands ... 9 November 1992
Marshall Islands ... 8 November 1992
Mauritius ... 4 September 1992
Mexico ... 11 March 1993
Monaco ... 20 November 1992
Mongolia ... 30 September 1993
New Zealand ... 16 September 1993
Norway ... 29 July 1993
Papua New Guinea* ... 16 March 1993
Peru ... 7 June 1993
Saint Kitts and Nevis ... 7 January 1993
Saint Lucia ... 28 July 1993 A
Seychelles ... 22 September 1992
Tunisia ... 15 July 1993
Uganda ... 8 September 1993
Vanuatu ... 25 March 1993
Zambia ... 28 May 1993

(Continued on page 144)

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(Continued from page 143)

Subsequently, the Convention came into force for the following Contracting Parties on the ninetieth day after the date of deposit with the Secretary-General of the United Nations of their instrument of ratification, acceptance, approval or accession, in accordance with article 36 (3):

Date of deposit of the instrument of ratification or approval (AA)

Philippines ... 8 October 1993
Uruguay ... 5 November 1993
Nauru ... 11 November 1993
Jordan ... 12 November 1993
Nepal ... 23 November 1993
Czech Republic ... 3 December 1993 AA
Barbados ... 10 December 1993
Sweden ... 16 December 1993
Denmark ... 21 December 1993
European Community* ... 21 December 1993 AA
Germany ... 21 December 1993
Portugal ... 21 December 1993
Spain ... 21 December 1993

* See p. 306 for the texts of the declarations made upon ratification or approval.

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Have agreed as follows:

Article 1. Objectives

The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

Article 2. Use of Terms

For the purposes of this Convention:

"Biological diversity" means the variability among living organisms from all sources, including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

"Biological resources" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity.

"Biototechnology" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.

"Country of origin of genetic resources" means the country which possesses those genetic resources in in-situ conditions.

"Country providing genetic resources" means the country supplying genetic resources collected from in-situ sources, including populations of both wild and domesticated species, or taken from ex-situ sources, which may or may not have originated in that country.

"Domesticated or cultivated species" means species in which the evolutionary process has been influenced by humans to meet their needs.

"Ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

"Ex-situ conservation" means the conservation of components of biological diversity outside their natural habitats.

"Genetic material" means any material of plant, animal, microbial or other origin containing functional units of heredity.

"Genetic resources" means genetic material of actual or potential value.

"Habitat" means the place or type of site where an organism or population naturally occurs.
In-situ conditions means conditions where genetic resources exist within ecosystems and natural habitats, and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

In-situ conservation means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

Protected area means a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.

Regional economic integration organization means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it.

Sustainable use means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

Technology includes biotechnology.

Article 3. Principle

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Article 4. Jurisdictional Scope

Subject to the rights of other States, and except as otherwise expressly provided in this Convention, the provisions of this Convention apply, in relation to each Contracting Party:

(a) In the case of components of biological diversity, in areas within the limits of its national jurisdiction; and

(b) In the case of processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.

Article 5. Cooperation

Each Contracting Party shall, as far as possible and as appropriate, cooperate with other Contracting Parties, directly or, where appropriate, through competent international organizations, in respect of areas beyond national jurisdiction and on other matters of mutual interest for the conservation and sustainable use of biological diversity.

Article 6. General Measures for Conservation and Sustainable Use

Each Contracting Party shall, in accordance with its particular conditions and capabilities:

(a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, inter alia, the measures set out in this Convention relevant to the Contracting Party concerned; and

(b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

Article 7. Identification and Monitoring

Each Contracting Party shall, as far as possible and as appropriate, in particular for the purposes of Articles 8 to 10:

(a) Identify components of biological diversity important for its conservation and sustainable use having regard to the indicative list of categories set down in Annex I;

(b) Monitor, through sampling and other techniques, the components of biological diversity identified pursuant to subparagraph (a) above, paying particular attention to those requiring urgent conservation measures and those which offer the greatest potential for sustainable use;

(c) Identify processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and monitor their effects through sampling and other techniques; and

(d) Maintain and organize, by any mechanism, data derived from identification and monitoring activities pursuant to subparagraphs (a), (b) and (c) above.

Article 8. In-situ Conservation

Each Contracting Party shall, as far as possible and as appropriate:

(a) Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity;

(b) Develop, where necessary, guidelines for the selection, establishment and management of protected areas or areas where special measures need to be taken to conserve biological diversity;

(c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use:
(d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings:

(e) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas:

(f) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, \textit{inter alia}, through the development and implementation of plans or other management strategies:

(g) Establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health:

(h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species:

(i) Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components:

(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices:

(k) Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations:

(l) Where a significant adverse effect on biological diversity has been determined pursuant to Article 7, regulate or manage the relevant processes and categories of activities; and

(m) Cooperate in providing financial and other support for \textit{in-situ} conservation outlined in subparagraphs (a) to (l) above, particularly to developing countries.

Article 9. \textit{Ex-situ} Conservation

Each Contracting Party shall, as far as possible and as appropriate, and predominantly for the purpose of complementing \textit{in-situ} measures:

(a) Adopt measures for the \textit{ex-situ} conservation of components of biological diversity, preferably in the country of origin of such components:

(b) Establish and maintain facilities for \textit{ex-situ} conservation of and research on plants, animals and micro-organisms, preferably in the country of origin of genetic resources:

(c) Adopt measures for the recovery and rehabilitation of threatened species and for their reintroduction into their natural habitats under appropriate conditions:

(d) Regulate and manage collection of biological resources from natural habitats for \textit{ex-situ} conservation purposes so as not to threaten ecosystems and \textit{in-situ} populations of species, except where special temporary \textit{ex-situ} measures are required under subparagraph (c) above; and

(e) Cooperate in providing financial and other support for \textit{ex-situ} conservation outlined in subparagraphs (a) to (d) above and in the establishment and maintenance of \textit{ex-situ} conservation facilities in developing countries.

Article 10. Sustainable Use of Components of Biological Diversity

Each Contracting Party shall, as far as possible and as appropriate:

(a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making:

(b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity:

(c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements:

(d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and

(e) Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.

Article 11. Incentive Measures

Each Contracting Party shall, as far as possible and as appropriate, adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity.

Article 12. Research and Training

The Contracting Parties, taking into account the special needs of developing countries, shall:

(a) Establish and maintain programmes for scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity and its components and
provide support for such education and training for the specific needs of
developing countries:

(b) Promote and encourage research which contributes to the
conservation and sustainable use of biological diversity, particularly in
developing countries, inter alia, in accordance with decisions of the
Conference of the Parties taken in consequence of recommendations of the
Subsidiary Body on Scientific, Technical and Technological Advice: and

(c) In keeping with the provisions of Articles 16, 18 and 20,
promote and cooperate in the use of scientific advances in biological
diversity research in developing methods for conservation and sustainable
use of biological resources.

Article 13. Public Education and Awareness

The Contracting Parties shall:

(a) Promote and encourage understanding of the importance of, and
the measures required for, the conservation of biological diversity, as
well as its propagation through media, and the inclusion of these topics
in educational programmes; and

(b) Cooperate, as appropriate, with other States and international
organizations in developing educational and public awareness programmes,
with respect to conservation and sustainable use of biological diversity.

Article 14. Impact Assessment and Minimizing Adverse Impacts

1. Each Contracting Party, as far as possible and as appropriate,
shall:

(a) Introduce appropriate procedures requiring environmental impact
assessment of its proposed projects that are likely to have significant
adverse effects on biological diversity with a view to avoiding or
minimizing such effects and, where appropriate, allow for public
participation in such procedures:

(b) Introduce appropriate arrangements to ensure that the
environmental consequences of its programmes and policies that are likely
to have significant adverse impacts on biological diversity are only
taken into account:

(c) Promote, on the basis of reciprocity, notification, exchange of
information and consultation on activities under their jurisdiction or
control which are likely to significantly affect adversely the biological
diversity of other States or areas beyond the limits of national
jurisdiction, by encouraging the conclusion of bilateral, regional or
multilateral arrangements, as appropriate:

(d) In the case of imminent or grave danger or damage, originating
under its jurisdiction or control, to biological diversity within the
area under jurisdiction of other States or in areas beyond the limits of
national jurisdiction, notify immediately the potentially affected States
of such danger or damage, as well as initiate action to prevent or
minimize such danger or damage; and

(e) Promote national arrangements for emergency responses to
activities or events whether caused naturally or otherwise which
present a grave and imminent danger to biological diversity and encourage
international cooperation to supplement such national efforts and, where
appropriate and agreed by the States or regional economic integration
organizations concerned, to establish joint contingency plans.

2. The Conference of the Parties shall examine, on the basis of studies
to be carried out, the issue of liability and redress, including
restoration and compensation, for damage to biological diversity, except
where such liability is a purely internal matter.

Article 15. Access to Genetic Resources

1. Recognizing the sovereign rights of States over their natural
resources, the authority to determine access to genetic resources rests
with the national governments and is subject to national legislation.

2. Each Contracting Party shall endeavour to create conditions to
facilitate access to genetic resources for environmentally sound uses by
other Contracting Parties and not to impose restrictions that run counter
to the objectives of this Convention.

3. For the purpose of this Convention, the genetic resources being
provided by a Contracting Party, as referred to in this Article and
Articles 16 and 19, are only those that are provided by Contracting
Parties that are countries of origin of such resources or by the Parties
that have acquired the genetic resources in accordance with this
Convention.

4. Access, where granted, shall be on mutually agreed terms and subject
to the provisions of this Article.

5. Access to genetic resources shall be subject to prior informed
consent of the Contracting Party providing such resources, unless
otherwise determined by that Party.

6. Each Contracting Party shall endeavour to develop and carry out
scientific research based on genetic resources provided by other
Contracting Parties with the full participation of, and where possible
in, such Contracting Parties.

7. Each Contracting Party shall take legislative, administrative or
policy measures, as appropriate, and in accordance with Articles 16 and
19 and, where necessary, through the financial mechanism established by
Articles 20 and 21 with the aim of sharing in a fair and equitable way
the results of research and development and the benefits arising from the
commercial and other utilization of genetic resources with the
Contracting Party providing such resources. Such sharing shall be upon
mutually agreed terms.

Article 16. Access to and Transfer of Technology

1. Each Contracting Party, recognizing that technology includes
biotechnology, and that both access to and transfer of technology among
Contracting Parties are essential elements for the attainment of the
Article 18. Technical and Scientific Cooperation

1. The Contracting Parties shall promote international technical and scientific cooperation in the field of conservation and sustainable use of biological diversity, where necessary, through the appropriate national and international institutions.

2. Each Contracting Party shall promote technical and scientific cooperation with other Contracting Parties, in particular developing countries, in implementing this Convention, inter alia, through the development and implementation of national policies. In promoting such cooperation, special attention should be given to the development and strengthening of national capabilities, by means of human resources, development and institution building.

3. The Conference of the Parties, at its first meeting, shall determine how to establish a clearing-house mechanism to promote and facilitate technical and scientific cooperation.

4. The Contracting Parties shall, in accordance with national legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of this Convention. For this purpose, the Contracting Parties shall also promote cooperation in the training of personnel and exchange of experts.

5. The Contracting Parties shall, subject to mutual agreement, promote the establishment of joint research programmes and joint ventures for the development of technologies relevant to the objectives of this Convention.

Article 19. Handling of Biotechnology and Distribution of its Benefits

1. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, to provide for the effective participation in biotechnological research activities by those Contracting Parties, especially developing countries, which provide the genetic resources for such research, and where feasible, in such Contracting Parties.

2. Each Contracting Party shall take all practicable measures to promote and advance priority access to information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries.

3. Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 18, paragraph 1. It shall also, where feasible, include repatriation of information.
to in paragraph 3 above, provide any available information about the use and safety regulations required by that Contracting Party in handling such organisms, as well as any available information on the potential adverse impact of the specific organisms concerned to the Contracting Party into which those organisms are to be introduced.

Article 20. Financial Resources

1. Each Contracting Party undertakes to provide, in accordance with its capabilities, financial support and incentives in respect of those national activities which are intended to achieve the objectives of this Convention, in accordance with its national plans, priorities and programmes.

2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs to them of implementing measures which fulfill the obligations of this Convention and to benefit from its provisions and which costs are agreed between a developing country Party and the institutional structure referred to in Article 21, in accordance with policy, strategy, programme priorities and eligibility criteria and an indicative list of incremental costs established by the Conference of the Parties. Other Parties, including countries undergoing the process of transition to a market economy, may voluntarily assume the obligations of the developed country Parties. For the purpose of this Article, the Conference of the Parties shall at its first meeting establish a list of developed country Parties and other Parties which voluntarily assume the obligations of the developed country Parties. The Conference of the Parties shall periodically review and if necessary amend the list. Contributions from other countries and sources on a voluntary basis would also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability and timely flow of funds and the importance of burden-sharing among the contributing Parties included in the list.

3. The developed country Parties may also provide, and developing country Parties avail themselves of, financial resources related to the implementation of this Convention through bilateral, regional and other multilateral channels.

4. The extent to which developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention related to financial resources and transfer of technology and will take fully into account the fact that economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties.

5. The Parties shall take full account of the specific needs and special situation of least developed countries in their actions with regard to funding and transfer of technology.

6. The Contracting Parties shall also take into consideration the special conditions resulting from the dependence on, distribution and location of biological diversity within developing country Parties, in particular small island States.

1. There shall be a mechanism for the provision of financial resources to developing country Parties for purposes of this Convention on a grant or concessional basis the essential elements of which are described in this Article. The mechanism shall function under the authority and guidance of, and be accountable to, the Conference of the Parties for purposes of this Convention. The operations of the mechanism shall be carried out by such institutional structure as may be decided upon by the Conference of the Parties at its first meeting. For purposes of this Convention, the Conference of the Parties shall determine the policy, strategy, programme priorities and eligibility criteria relating to the access to and utilization of such resources. The contributions shall be such as to take into account the need for predictability, adequacy and timely flow of funds referred to in Article 20 in accordance with the amount of resources needed to be decided periodically by the Conference of the Parties and the importance of burden-sharing among the contributing Parties included in the list referred to in Article 20. Voluntary contributions may also be made by the developed country Parties and by other countries and sources. The mechanism shall operate within a democratic and transparent system of governance.

2. Pursuant to the objectives of this Convention, the Conference of the Parties shall at its first meeting determine the policy, strategy and programme priorities, as well as detailed criteria and guidelines for eligibility for access to and utilization of the financial resources including monitoring and evaluation on a regular basis of such utilization. The Conference of the Parties shall also determine on the arrangements to give effect to paragraph 1 above after consultation with the institutional structure entrusted with the operation of the financial mechanism.

3. The Conference of the Parties shall review the effectiveness of the mechanism established under this Article, including the criteria and guidelines referred to in paragraph 2 above, not less than two years after the entry into force of this Convention and thereafter on a regular basis. Based on such review, it shall take appropriate action to improve the effectiveness of the mechanism if necessary.

1. The Contracting Parties shall consider strengthening existing financial institutions to provide financial resources for the conservation and sustainable use of biological diversity.

Article 22. Relationship with Other International Conventions

1. The provisions of this Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity.
2. Contracting Parties shall implement this Convention with respect to the marine environment consistently with the rights and obligations of States under the law of the sea.

Article 23. Conference of the Parties

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules governing the funding of the Secretariat. It shall adopt a budget for the financial period until the next ordinary meeting.

4. The Conference of the Parties shall keep under review the implementation of this Convention and, for that purpose, shall:

(a) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 26 and consider such information as well as reports submitted by any subsidiary body;

(b) Review scientific, technical and technological advice on biological diversity provided in accordance with Article 25;

(c) Consider and adopt, as required, protocols in accordance with Article 28;

(d) Consider and adopt, as required, amendments to this Convention and its annexes;

(e) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;

(f) Consider and adopt, as required, in accordance with Article 30, additional annexes to this Convention;

(g) Establish such subsidiary bodies, particularly to provide scientific and technical advice, as are deemed necessary for the implementation of this Convention;

(h) Contact, through the Secretariat, the executive bodies of conventions dealing with matters covered by this Convention with a view to establishing appropriate forms of cooperation with them; and

(i) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present objects. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 24. Secretariat

1. A secretariat is hereby established. Its functions shall be:

(a) To arrange for and service meetings of the Conference of the Parties provided for in Article 23;

(b) To perform the functions assigned to it by any protocol;

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

(d) To coordinate with other relevant international bodies and, in particular, to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and

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

2. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

Article 25. Subsidiary Body on Scientific, Technical and Technological Advice

1. A subsidiary body for the provision of scientific, technical and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely advice relating to the implementation of this Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the authority of and in accordance with guidelines laid down by the Conference of the Parties, and upon its request, this body shall:
(a) Provide scientific and technical assessments of the status of biological diversity;

(b) Prepare scientific and technical assessments of the effects of types of measures taken in accordance with the provisions of this Convention;

(c) Identify innovative, efficient and state-of-the-art technologies and know-how relating to the conservation and sustainable use of biological diversity and advise on the ways and means of promoting development and/or transferring such technologies;

(d) Provide advice on scientific programmes and international cooperation in research and development related to conservation and sustainable use of biological diversity; and

(e) Respond to scientific, technical, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.

3. The functions, terms of reference, organization and operation of this body may be further elaborated by the Conference of the Parties.

Article 26. Reports

Each Contracting Party shall, at intervals to be determined by the Conference of the Parties, present to the Conference reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention.

Article 27. Settlement of Disputes

1. In the event of a dispute between Contracting Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.

2. If the parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.

3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:

(a) Arbitration in accordance with the procedure laid down in Part I of Annex II;

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

4. If the parties to the dispute have not, in accordance with paragraph 3 above, accepted the name or any procedure, the dispute shall be submitted to conciliation in accordance with Part 2 of Annex II unless the parties otherwise agree.

5. The provisions of this Article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.

Article 28. Adoption of Protocols

1. The Contracting Parties shall cooperate in the formulation and adoption of protocols to this Convention.

2. Protocols shall be adopted at a meeting of the Conference of the Parties.

3. The text of any proposed protocol shall be communicated to the Contracting Parties by the Secretariat at least six months before such a meeting.

Article 29. Amendment of the Convention or Protocols

1. Amendments to this Convention may be proposed by any Contracting Party. Amendments to any protocol may be proposed by any Party to that protocol.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the Protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties to the instrument in question by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention or to any protocol by consensus. If all efforts at consensus have been exhausted and no agreement reached, the amendment shall as a last resort be adopted by a two-thirds majority vote of the Parties to the instrument in question present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, acceptance or approval.

4. Ratification, acceptance or approval of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 above shall enter into force among Parties having accepted them on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by at least two thirds of the Contracting Parties to this Convention or of the Parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.
5. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Article 30. Adoption and Amendment of Annexes

1. The annexes to this Convention or to any protocol shall form an integral part of the Convention or of such protocol, as the case may be, and unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to procedural, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to any protocol:

(a) Annexes to this Convention or to any protocol shall be proposed and adopted according to the procedure laid down in Article 29:

(b) Any Party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is Party shall so notify the Depositary, in writing, within one year from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous declaration of objection and the annexes shall thereupon enter into force for that Party subject to subparagraph (c) below:

(c) On the expiry of one year from the date of the communication of the adoption by the Depositary, the annex shall enter into force for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provisions of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to any protocol.

4. If an additional annex or an amendment to an annex is related to an amendment to this Convention or to any protocol, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention or to the protocol concerned enters into force.

Article 31. Right to Vote

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention or to any protocol shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Article 32. Relationship between this Convention and Its Protocols

1. A State or a regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.

2. Decisions under any protocol shall be taken only by the Parties to the protocol concerned, any Contracting Party that has not ratified, accepted or approved a protocol may participate as an observer in any meeting of the parties to that protocol.

Article 33. Signature


Article 34. Ratification, Acceptance or Approval

1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Contracting Party to this Convention or any protocol without any of its member States being a Contracting Party shall be bound by all the obligations under the Convention or the protocol. As the case may be, in the case of such organizations, one or more of whose member States is a Contracting Party to this Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention or protocol as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.

3. In their instruments of ratification, acceptance or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or relevant protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.

Article 35. Accession

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant
Article 36. Entry Into Force

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

2. Any protocol shall enter into force on the ninetieth day after the date of deposit of the number of instruments of ratification, acceptance, approval or accession, specified in that protocol.

3. For each Contracting Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit by such Contracting Party of its instrument of ratification, acceptance, approval or accession.

4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a Contracting Party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that Contracting Party deposits its instrument of ratification, acceptance, approval or accession, or on the date on which this Convention enters into force for that Contracting Party, whichever shall be the later.

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

Article 37. Reservations

No reservations may be made to this Convention.

Article 38. Withdrawals

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

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

3. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is party.
Annex I

IDENTIFICATION AND MONITORING

1. Ecosystems and habitats: containing high diversity, large numbers of endemic or threatened species, or wilderness; required by migratory species; of social, economic, cultural or scientific importance; or, which are representative, unique or associated with key evolutionary or other biological processes;

2. Species and communities which are: threatened; wild relatives of domesticated or cultivated species; of medicinal, agricultural or other economic value; or social, scientific or cultural importance; or importance for research into the conservation and sustainable use of biological diversity, such as indicator species; and

3. Described genomes and genes of social, scientific or economic importance.

Annex II

Part I

ARBITRATION

Article 1

The claimant party shall notify the secretariat that the parties are referring a dispute to arbitration pursuant to Article 27. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. If the parties do not agree on the subject matter of the dispute before the President of the tribunal is designated, the arbitral tribunal shall determine the subject matter. The secretariat shall forward the information thus received to all Contracting Parties to this Convention or to the protocol concerned.

Article 2

1. In disputes between two parties, the arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the President of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

2. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement.

3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Article 3

1. If the President of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a party, designate the President within a further two-month period.

2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General who shall make the designation within a further two-month period.

Article 4

The arbitral tribunal shall render its decisions in accordance with the provisions of this Convention, any protocols concerned, and international law.
Article 5

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of procedure.

Article 6

The arbitral tribunal may, at the request of one of the parties, recommend essential interim measures of protection.

Article 7

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, information and facilities; and

(b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

Article 8

The parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

Article 9

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the costs of the tribunal shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its costs, and shall furnish a final statement thereof to the parties.

Article 10

Any Contracting Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

Article 11

The tribunal may hear and determine counterclaims arising directly out of the subject-matter of the dispute.

Article 12

Decisions both on procedure and substance of the arbitral tribunal shall be taken by a majority vote of its members.

Article 13

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

Article 14

The tribunal shall render its final decision within five months of the date on which it is fully constituted unless it finds it necessary to extend the time-limit for a period which should not exceed five more months.

Article 15

The final decision of the arbitral tribunal shall be confined to the subject-matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the tribunal may attach a separate or dissenting opinion to the final decision.

Article 16

The award shall be binding on the parties to the dispute. It shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

Article 17

Any controversy which may arise between the parties to the dispute on the subject-matter of the dispute, may be referred to the arbitral tribunal which rendered it.

Part 2

CONCILIATION

Article 1

A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall, unless the parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

Article 2

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint their members separately.
Article 3

If any appointments by the parties are not made within two months of the date of the request to create a conciliation commission, the Secretary-General of the United Nations shall, if asked to do so by the party that made the request, make those appointments within a further two-month period.

Article 4

If a President of the conciliation commission has not been chosen within two months of the last of the members of the commission being appointed, the Secretary-General of the United Nations shall, if asked to do so by a party, designate a President within a further two-month period.

Article 5

The conciliation commission shall take its decisions by majority vote of its members. It shall, unless the parties to the dispute otherwise agree, determine its own procedure. It shall render a proposal for resolution of the dispute, which the parties shall consider in good faith.

Article 6

A disagreement as to whether the conciliation commission has competence shall be decided by the commission.
Rio Declaration on Environment and Development, 1992
Annex I
RIO DECLARATION ON ENVIRONMENT AND DEVELOPMENT

The United Nations Conference on Environment and Development,

Having met at Rio de Janeiro from 3 to 14 June 1992,

Reaffirming the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972, a/ and seeking to build upon it,

With the goal of establishing a new and equitable global partnership through the creation of new levels of cooperation among States, key sectors of societies and people,

Working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system,

Recognising the integral and interdependent nature of the Earth, our home,

Proclaims that:

Principle 1

Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature.

Principle 2

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

Principle 3

The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 4

In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Principle 5

All States and all people shall cooperate in the essential task of eradicating poverty as an indispensable requirement for sustainable development, in order to decrease the disparities in standards of living and better meet the needs of the majority of the people of the world.

Principle 6

The special situation and needs of developing countries, particularly the least developed and those most environmentally vulnerable, shall be given special priority. International actions in the field of environment and development should also address the interests and needs of all countries.

Principle 7

States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth’s ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

Principle 8

To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

Principle 9

States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.

Principle 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

Principle 11

States shall enact effective environmental legislation. Environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply. Standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries.

Principle 12

States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.

Principle 13

States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

Principle 14

States should effectively cooperate to discourage or prevent the relocation and transfer to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

Principle 15

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 16

National authorities should endeavour to promote the internalisation of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

Principle 17

Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

Principle 18

States shall immediately notify other States of any natural disasters or other emergencies that are likely to produce sudden harmful effects on the environment of those States. Every effort shall be made by the international community to help States so afflicted.

Principle 19

States shall provide prior and timely notification and relevant information to potentially affected States on activities that may have a significant adverse transboundary environmental effect and shall consult with those States at an early stage and in good faith.
Principle 20

Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development.

Principle 21

The creativity, ideals and courage of the youth of the world should be mobilized to forge a global partnership in order to achieve sustainable development and ensure a better future for all.

Principle 22

Indigenous people and their communities and other local communities have a vital role in environmental management and development because of their knowledge and traditional practices. States should recognize and duly support their identity, culture and interests and enable their effective participation in the achievement of sustainable development.

Principle 23

The environment and natural resources of people under oppression, domination and occupation shall be protected.

Principle 24

Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.

Principle 25

Peace, development and environmental protection are interdependent and indivisible.

Principle 26

States shall resolve all their environmental disputes peacefully and by appropriate means in accordance with the Charter of the United Nations.
Marrakesh Agreement Establishing the World Trade Organization (Preamble), 1994
Marrakesh Agreement Establishing the World Trade Organization

Preamble

The Parties to this Agreement,

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

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

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

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

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

Agree as follows:
KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK
CONVENTION ON CLIMATE CHANGE

The Parties to this Protocol,

Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as "the Convention",

In pursuit of the ultimate objective of the Convention as stated in its Article 2,

Recalling the provisions of the Convention,

Being guided by Article 3 of the Convention,

Pursuant to the Berlin Mandate adopted by decision 1/CP.1 of the Conference of the Parties to the Convention at its first session,

Have agreed as follows:

Article 1

For the purposes of this Protocol, the definitions contained in Article 1 of the Convention shall apply. In addition:

1. “Conference of the Parties” means the Conference of the Parties to the Convention.


5. “Parties present and voting” means Parties present and casting an affirmative or negative vote.

6. “Party” means, unless the context otherwise indicates, a Party to this Protocol.

7. “Party included in Annex I” means a Party included in Annex I to the Convention, as may be amended, or a Party which has made a notification under Article 4, paragraph 2 (g), of the Convention.

Article 2

1. Each Party included in Annex I, in achieving its quantified emission limitation and reduction commitments under Article 3, in order to promote sustainable development, shall:
(a) Implement and/or further elaborate policies and measures in accordance with its national circumstances, such as:

(i) Enhancement of energy efficiency in relevant sectors of the national economy;

(ii) Protection and enhancement of sinks and reservoirs of greenhouse gases not controlled by the Montreal Protocol, taking into account its commitments under relevant international environmental agreements; promotion of sustainable forest management practices, afforestation and reforestation;

(iii) Promotion of sustainable forms of agriculture in light of climate change considerations;

(iv) Research on, and promotion, development and increased use of, new and renewable forms of energy, of carbon dioxide sequestration technologies and of advanced and innovative environmentally sound technologies;

(v) Progressive reduction or phasing out of market imperfections, fiscal incentives, tax and duty exemptions and subsidies in all greenhouse gas emitting sectors that run counter to the objective of the Convention and application of market instruments;

(vi) Encouragement of appropriate reforms in relevant sectors aimed at promoting policies and measures which limit or reduce emissions of greenhouse gases not controlled by the Montreal Protocol;

(vii) Measures to limit and/or reduce emissions of greenhouse gases not controlled by the Montreal Protocol in the transport sector;

(viii) Limitation and/or reduction of methane emissions through recovery and use in waste management, as well as in the production, transport and distribution of energy;

(b) Cooperate with other such Parties to enhance the individual and combined effectiveness of their policies and measures adopted under this Article, pursuant to Article 4, paragraph 2 (e) (i), of the Convention. To this end, these Parties shall take steps to share their experience and exchange information on such policies and measures, including developing ways of improving their comparability, transparency and effectiveness. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session or as soon as practicable thereafter, consider ways to facilitate such cooperation, taking into account all relevant information.

2. The Parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively.

3. The Parties included in Annex I shall strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in Article 4, paragraphs 8 and 9, of the Convention, taking into account Article 3 of the Convention. The Conference of the Parties serving as the meeting of the Parties to this Protocol may take further action, as appropriate, to promote the implementation of the provisions of this paragraph.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol, if it decides that it would be beneficial to coordinate any of the policies and measures in paragraph 1 (a) above, taking into account different national circumstances and potential effects, shall consider ways and means to elaborate the coordination of such policies and measures.

Article 3

1. The Parties included in Annex I shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments in Annex B and in accordance with the provisions of this Article, with a view to reducing their overall emissions of such gases by at least 5 per cent below 1990 levels in the commitment period 2008 to 2012.

2. Each Party included in Annex I shall, by 2005, have made demonstrable progress in achieving its commitments under this Protocol.

3. The net changes in greenhouse gas emissions by sources and removals by sinks resulting from direct human-induced land-use change and forestry activities, limited to afforestation, reforestation and deforestation since 1990, measured as verifiable changes in carbon stocks in each commitment period, shall be used to meet the commitments under this Article of each Party included in Annex I. The greenhouse gas emissions by sources and removals by sinks associated with those activities shall be reported in a transparent and verifiable manner and reviewed in accordance with Articles 7 and 8.

4. Prior to the first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol, each Party included in Annex I shall provide, for consideration by the Subsidiary Body for Scientific and Technological Advice, data to establish its level of carbon stocks in 1990 and to enable an estimate to be made of its changes in carbon stocks in subsequent years. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session or as soon as practicable thereafter, decide upon modalities, rules and guidelines as to how, and which, additional human-induced activities related to changes in greenhouse gas emissions by sources and removals by sinks in the agricultural soils and the land-use change and forestry categories shall be added to, or subtracted from, the assigned amounts for Parties included in Annex I, taking into account uncertainties, transparency in reporting, verifiability, the methodological work of the Intergovernmental Panel on Climate Change, the advice provided by the Subsidiary Body for Scientific and Technological Advice in accordance with Article 5 and the decisions of the Conference of the Parties. Such a decision shall apply in the second and subsequent commitment periods. A Party may choose to apply such a decision on these additional human-induced activities for its first commitment period, provided that these activities have taken place since 1990.
5. The Parties included in Annex I undergoing the process of transition to a market economy whose base year or period was established pursuant to decision 9/CP.2 of the Conference of the Parties at its second session shall use that base year or period for the implementation of their commitments under this Article. Any other Party included in Annex I undergoing the process of transition to a market economy which has not yet submitted its first national communication under Article 12 of the Convention may also notify the Conference of the Parties serving as the meeting of the Parties to this Protocol that it intends to use an historical base year or period other than 1990 for the implementation of its commitments under this Article. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall decide on the acceptance of such notification.

6. Taking into account Article 4, paragraph 6, of the Convention, in the implementation of their commitments under this Protocol other than those under this Article, a certain degree of flexibility shall be allowed by the Conference of the Parties serving as the meeting of the Parties to this Protocol to the Parties included in Annex I undergoing the process of transition to a market economy.

7. In the first quantified emission limitation and reduction commitment period, from 2008 to 2012, the assigned amount for each Party included in Annex I shall be equal to the percentage inscribed for it in Annex B of its aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A in 1990, or the base year or period determined in accordance with paragraph 5 above, multiplied by five. Those Parties included in Annex I for whom land-use change and forestry constituted a net source of greenhouse gas emissions in 1990 shall include in their 1990 emissions base year or period the aggregate anthropogenic carbon dioxide equivalent emissions by sources minus removals by sinks in 1990 from land-use change for the purposes of calculating their assigned amount.

8. Any Party included in Annex I may use 1995 as its base year for hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride, for the purposes of the calculation referred to in paragraph 7 above.

9. Commitments for subsequent periods for Parties included in Annex I shall be established in amendments to Annex B to this Protocol, which shall be adopted in accordance with the provisions of Article 21, paragraph 7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate the consideration of such commitments at least seven years before the end of the first commitment period referred to in paragraph 1 above.

10. Any emission reduction units, or any part of an assigned amount, which a Party acquires from another Party in accordance with the provisions of Article 6 or of Article 17 shall be added to the assigned amount for the acquiring Party.

11. Any emission reduction units, or any part of an assigned amount, which a Party transfers to another Party in accordance with the provisions of Article 6 or of Article 17 shall be subtracted from the assigned amount for the transferring Party.

12. Any certified emission reductions which a Party acquires from another Party in accordance with the provisions of Article 12 shall be added to the assigned amount for the acquiring Party.

13. If the emissions of a Party included in Annex I in a commitment period are less than its assigned amount under this Article, this difference shall, on request of that Party, be added to the assigned amount for that Party for subsequent commitment periods.

14. Each Party included in Annex I shall strive to implement the commitments mentioned in paragraph 1 above in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties, particularly those identified in Article 4, paragraphs 8 and 9, of the Convention. In line with relevant decisions of the Conference of the Parties on the implementation of those paragraphs, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, consider what actions are necessary to minimize the adverse effects of climate change and/or the impacts of response measures on Parties referred to in those paragraphs. Among the issues to be considered shall be the establishment of funding, insurance and transfer of technology.

Article 4

1. Any Parties included in Annex I that have reached an agreement to fulfil their commitments under Article 3 jointly, shall be deemed to have met those commitments provided that their total combined anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B and in accordance with the provisions of Article 3. The respective emission level allocated to each of the Parties to the agreement shall be set out in that agreement.

2. The Parties to any such agreement shall notify the secretariat of the terms of the agreement on the date of deposit of their instruments of ratification, acceptance or approval of this Protocol, or accession thereto. The secretariat shall in turn inform the Parties and signatories to the Convention of the terms of the agreement.

3. Any such agreement shall remain in operation for the duration of the commitment period specified in Article 3, paragraph 7.

4. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization, any alteration in the composition of the organization after adoption of this Protocol shall not affect existing commitments under this Protocol. Any alteration in the composition of the organization shall only apply for the purposes of those commitments under Article 3 that are adopted subsequent to that alteration.

5. In the event of failure by the Parties to such an agreement to achieve their total combined level of emission reductions, each Party to that agreement shall be responsible for its own level of emissions set out in the agreement.

6. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization which is itself a Party to this Protocol, each member State of that regional economic integration organization individually, and together with the regional economic integration organization acting in accordance with Article 24, shall, in the event of failure to achieve the total combined level of emission reductions, be responsible for its level of emissions as notified in accordance with this Article.
Article 5

1. Each Party included in Annex I shall have in place, no later than one year prior to the start of the first commitment period, a national system for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. Guidelines for such national systems, which shall incorporate the methodologies specified in paragraph 2 below, shall be decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.

2. Methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session. Based on the work of, inter alia, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall regularly review and, as appropriate, revise such methodologies and adjustments, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to methodologies or adjustments shall be used only for the purposes of ascertaining compliance with commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

3. The global warming potentials used to calculate the carbon dioxide equivalence of anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex A shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session. Based on the work of, inter alia, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall regularly review and, as appropriate, revise the global warming potential of each such greenhouse gas, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to a global warming potential shall apply only to commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

Article 6

1. For the purpose of meeting its commitments under Article 3, any Party included in Annex I may transfer to, or acquire from, any other such Party emission reduction units resulting from projects aimed at reducing anthropogenic emissions by sources or enhancing anthropogenic removals by sinks of greenhouse gases in any sector of the economy, provided that:

   (a) Any such project has the approval of the Parties involved;

   (b) Any such project provides a reduction in emissions by sources, or an enhancement of removals by sinks, that is additional to any that would otherwise occur;

   (c) It does not acquire any emission reduction units if it is not in compliance with its obligations under Articles 5 and 7; and

   (d) The acquisition of emission reduction units shall be supplemental to domestic actions for the purposes of meeting commitments under Article 3.

2. The Conference of the Parties serving as the meeting of the Parties to this Protocol may, at its first session or as soon as practicable thereafter, further elaborate guidelines for the implementation of this Article, including for verification and reporting.

3. A Party included in Annex I may authorize legal entities to participate, under its responsibility, in actions leading to the generation, transfer or acquisition under this Article of emission reduction units.

4. If a question of implementation by a Party included in Annex I of the requirements referred to in this Article is identified in accordance with the relevant provisions of Article 8, transfers and acquisitions of emission reduction units may continue to be made after the question has been identified, provided that any such units may not be used by a Party to meet its commitments under Article 3 until any issue of compliance is resolved.

Article 7

1. Each Party included in Annex I shall incorporate in its annual inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, submitted in accordance with the relevant decisions of the Conference of the Parties, the necessary supplementary information for the purposes of ensuring compliance with Article 3, to be determined in accordance with paragraph 4 below.

2. Each Party included in Annex I shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information necessary to demonstrate compliance with its commitments under this Protocol, to be determined in accordance with paragraph 4 below.

3. Each Party included in Annex I shall submit the information required under paragraph 1 above annually, beginning with the first inventory due under the Convention for the first year of the commitment period after this Protocol has entered into force for that Party. Each such Party shall submit the information required under paragraph 2 above as part of the first national communication due under the Convention after this Protocol has entered into force for it and after the adoption of guidelines as provided for in paragraph 4 below. The frequency of subsequent submission of information required under this Article shall be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, taking into account any timetable for the submission of national communications decided upon by the Conference of the Parties.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review periodically thereafter, guidelines for the preparation of the information required under this Article, taking into account guidelines for the preparation of
Article 8

1. The information submitted under Article 7 by each Party included in Annex I shall be reviewed by expert review teams pursuant to the relevant decisions of the Conference of the Parties and in accordance with guidelines adopted for this purpose by the Conference of the Parties serving as the meeting of the Parties to this Protocol under paragraph 4 below. The information submitted under Article 7, paragraph 1, by each Party included in Annex I shall be reviewed as part of the annual compilation and accounting of emissions inventories and assigned amounts. Additionally, the information submitted under Article 7, paragraph 2, by each Party included in Annex I shall be reviewed as part of the review of communications.

2. Expert review teams shall be coordinated by the secretariat and shall be composed of experts selected from those nominated by Parties to the Convention and, as appropriate, by intergovernmental organizations, in accordance with guidance provided for this purpose by the Conference of the Parties.

3. The review process shall provide a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of this Protocol. The expert review teams shall prepare a report to the Conference of the Parties serving as the meeting of the Parties to this Protocol, assessing the implementation of the commitments of the Party and identifying any potential problems in, and factors influencing, the fulfillment of commitments. Such reports shall be circulated by the secretariat to all Parties to the Convention. The secretariat shall list those questions of implementation indicated in such reports for further consideration by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review periodically thereafter, guidelines for the review of implementation of this Protocol by expert review teams taking into account the relevant decisions of the Conference of the Parties.

5. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, with the assistance of the Subsidiary Body for Implementation and, as appropriate, the Subsidiary Body for Scientific and Technological Advice, consider:

   (a) The information submitted by Parties under Article 7 and the reports of the expert reviews thereon conducted under this Article; and

   (b) Those questions of implementation listed by the secretariat under paragraph 3 above, as well as any questions raised by Parties.

6. Pursuant to its consideration of the information referred to in paragraph 5 above, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take decisions on any matter required for the implementation of this Protocol.

Article 9

1. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically review this Protocol in the light of the best available scientific information and assessments on climate change and its impacts, as well as relevant technical, social and economic information. Such reviews shall be coordinated with pertinent reviews under the Convention, in particular those required by Article 4, paragraph 2 (d), and Article 7, paragraph 2 (a), of the Convention. Based on these reviews, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take appropriate action.

2. The first review shall take place at the second session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Further reviews shall take place at regular intervals and in a timely manner.

Article 10

All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, without introducing any new commitments for Parties not included in Annex I, but reaffirming existing commitments under Article 4, paragraph 1, of the Convention, and continuing to advance the implementation of these commitments in order to achieve sustainable development, taking into account Article 4, paragraphs 3, 5 and 7, of the Convention, shall:

(a) Formulate, where relevant and to the extent possible, cost-effective national and, where appropriate, regional programmes to improve the quality of local emission factors, activity data and/or models which reflect the socio-economic conditions of each Party for the preparation and periodic updating of national inventories of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties, and consistent with the guidelines for the preparation of national communications adopted by the Conference of the Parties;

(b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change and measures to facilitate adequate adaptation to climate change:

(i) Such programmes would, inter alia, concern the energy, transport and industry sectors as well as agriculture, forestry and waste management. Furthermore, adaptation technologies and methods for improving spatial planning would improve adaptation to climate change; and

(ii) Parties included in Annex I shall submit information on action under this Protocol, including national programmes, in accordance with Article 7; and other Parties shall seek to include in their national communications, as appropriate, information on programmes which contain measures that the Party believes contribute to addressing climate change and its adverse impacts, including the abatement of increases in greenhouse gas emissions, and enhancement of and removals by sinks, capacity building and adaptation measures;
(c) Cooperate in the promotion of effective modalities for the development, application and diffusion of, and take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies, know-how, practices and processes pertinent to climate change, in particular to developing countries, including the formulation of policies and programmes for the effective transfer of environmentally sound technologies that are publicly owned or in the public domain and the creation of an enabling environment for the private sector, to promote and enhance the transfer of, and access to, environmentally sound technologies;

(d) Cooperate in scientific and technical research and promote the maintenance and the development of systematic observation systems and development of data archives to reduce uncertainties related to the climate system, the adverse impacts of climate change and the economic and social consequences of various response strategies, and promote the development and strengthening of endogenous capacities and capabilities to participate in international and intergovernmental efforts, programmes and networks on research and systematic observation, taking into account Article 5 of the Convention;

(e) Cooperate in and promote at the international level, and, where appropriate, using existing bodies, the development and implementation of education and training programmes, including the strengthening of national capacity building, in particular human and institutional capacities and the exchange or secondment of personnel to train experts in this field, in particular for developing countries, and facilitate at the national level public awareness of, and public access to information on, climate change. Suitable modalities should be developed to implement these activities through the relevant bodies of the Convention, taking into account Article 6 of the Convention;

(f) Include in their national communications information on programmes and activities undertaken pursuant to this Article in accordance with relevant decisions of the Conference of the Parties; and

(g) Give full consideration, in implementing the commitments under this Article, to Article 4, paragraph 8, of the Convention.

Article 11

1. In the implementation of Article 10, Parties shall take into account the provisions of Article 4, paragraphs 4, 5, 7, 8 and 9, of the Convention.

2. In the context of the implementation of Article 4, paragraph 1, of the Convention, in accordance with the provisions of Article 4, paragraph 3, and Article 11 of the Convention, and through the entity or entities entrusted with the operation of the financial mechanism of the Convention, the developed country Parties and other developed Parties included in Annex II to the Convention shall:

   (a) Provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in advancing the implementation of existing commitments under Article 4, paragraph 1 (a), of the Convention that are covered in Article 10, subparagraph (a); and

   (b) Also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of advancing the implementation of existing commitments under Article 4, paragraph 1, of the Convention that are covered by Article 10 and that are agreed between a developing country Party and the international entity or entities referred to in Article 11 of the Convention, in accordance with that Article.

The implementation of these existing commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among developed country Parties. The guidance to the entity or entities entrusted with the operation of the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply mutatis mutandis to the provisions of this paragraph.

3. The developed country Parties and other developed Parties in Annex II to the Convention may also provide, and developing country Parties avail themselves of, financial resources for the implementation of Article 10, through bilateral, regional and other multilateral channels.

Article 12

1. A clean development mechanism is hereby defined.

2. The purpose of the clean development mechanism shall be to assist Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Parties included in Annex I in achieving compliance with their quantified emission limitation and reduction commitments under Article 3.

3. Under the clean development mechanism:

   (a) Parties not included in Annex I will benefit from project activities resulting in certified emission reductions; and

   (b) Parties included in Annex I may use the certified emission reductions accruing from such project activities to contribute to compliance with part of their quantified emission limitation and reduction commitments under Article 3, as determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

4. The clean development mechanism shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Protocol and be supervised by an executive board of the clean development mechanism.

5. Emission reductions resulting from each project activity shall be certified by operational entities to be designated by the Conference of the Parties serving as the meeting of the Parties to this Protocol, on the basis of:

   (a) Voluntary participation approved by each Party involved;
(b) Real, measurable, and long-term benefits related to the mitigation of climate change; and

c) Reductions in emissions that are additional to any that would occur in the absence of the certified project activity.

6. The clean development mechanism shall assist in arranging funding of certified project activities as necessary.

7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, elaborate modalities and procedures with the objective of ensuring transparency, efficiency and accountability through independent auditing and verification of project activities.

8. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall ensure that a share of the proceeds from certified project activities is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

9. Participation under the clean development mechanism, including in activities mentioned in paragraph 3 (a) above and in the acquisition of certified emission reductions, may involve private and/or public entities, and is to be subject to whatever guidance may be provided by the executive board of the clean development mechanism.

10. Certified emission reductions obtained during the period from the year 2000 up to the beginning of the first commitment period can be used to assist in achieving compliance in the first commitment period.

Article 13

1. The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to this Protocol.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol.

3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be replaced by an additional member to be elected by and from amongst the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:

(a) Assess, on the basis of all information made available to it in accordance with the provisions of this Protocol, the implementation of this Protocol by the Parties, the overall effects of the measures taken pursuant to this Protocol, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved;

(b) Periodically examine the obligations of the Parties under this Protocol, giving due consideration to any reviews required by Article 4, paragraph 2 (d), and Article 7, paragraph 2, of the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge, and in this respect consider and adopt regular reports on the implementation of this Protocol;

(c) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under this Protocol;

(d) Facilitate, at the request of two or more Parties, the coordination of measures adopted by them to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under this Protocol;

(e) Promote and guide, in accordance with the objective of the Convention and the provisions of this Protocol, and taking fully into account the relevant decisions by the Conference of the Parties, the development and periodic refinement of comparable methodologies for the effective implementation of this Protocol, to be agreed on by the Conference of the Parties serving as the meeting of the Parties to this Protocol;

(f) Make recommendations on any matters necessary for the implementation of this Protocol;

(g) Seek to mobilize additional financial resources in accordance with Article 11, paragraph 2;

(h) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;

(i) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies;

(j) Exercise such other functions as may be required for the implementation of this Protocol, and consider any assignment resulting from a decision by the Conference of the Parties.

5. The rules of procedure of the Conference of the Parties and financial procedures applied under the Convention shall be applied mutatis mutandis under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.
6. The first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the secretariat in conjunction with the first session of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol. Subsequent ordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held every year and in conjunction with ordinary sessions of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

7. Extraordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to this Protocol, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented at sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by this Protocol and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties serving as the meeting of the Parties to this Protocol as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.

Article 14

1. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this Protocol.

2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention on arrangements made for the functioning of the secretariat, shall apply mutatis mutandis to this Protocol. The secretariat shall, in addition, exercise the functions assigned to it under this Protocol.

Article 15

1. The Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation established by Articles 9 and 10 of the Convention shall serve as, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Protocol. The provisions relating to the functioning of these two bodies under the Convention shall apply mutatis mutandis to this Protocol. Sessions of the meetings of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Protocol shall be held in conjunction with the meetings of, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of the Convention.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any session of the subsidiary bodies. When the subsidiary bodies serve as the subsidiary bodies of this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol.

3. When the subsidiary bodies established by Articles 9 and 10 of the Convention exercise their functions with regard to matters concerning this Protocol, any member of the Bureaux of those subsidiary bodies representing a Party to the Convention but, at that time, not a party to this Protocol, shall be replaced by an additional member to be elected by and from amongst the Parties to this Protocol.

Article 16

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, as soon as practicable, consider the application to this Protocol of, and modify as appropriate, the multilateral consultative process referred to in Article 13 of the Convention, in the light of any relevant decisions that may be taken by the Conference of the Parties. Any multilateral consultative process that may be applied to this Protocol shall operate without prejudice to the procedures and mechanisms established in accordance with Article 18.

Article 17

The Conference of the Parties shall define the relevant principles, modalities, rules and guidelines, in particular for verification, reporting and accountability for emissions trading. The Parties included in Annex B may participate in emissions trading for the purposes of fulfilling their commitments under Article 3. Any such trading shall be supplemental to domestic actions for the purpose of meeting quantified emission limitation and reduction commitments under that Article.

Article 18

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance with the provisions of this Protocol, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance. Any procedures and mechanisms under this Article entailing binding consequences shall be adopted by means of an amendment to this Protocol.

Article 19

The provisions of Article 14 of the Convention on settlement of disputes shall apply mutatis mutandis to this Protocol.

Article 20

1. Any Party may propose amendments to this Protocol.

2. Amendments to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed amendment to this Protocol shall be communicated to the Parties by the secretariat at least
six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendments to the Parties and signatories to the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three-fourths of the Parties to this Protocol.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

Article 21

1. Annexes to this Protocol shall form an integral part thereof and, unless otherwise expressly provided, a reference to this Protocol constitutes at the same time a reference to any annexes thereto. Any annexes adopted after the entry into force of this Protocol shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

2. Any Party may make proposals for an annex to this Protocol and may propose amendments to annexes to this Protocol.

3. Annexes to this Protocol and amendments to annexes to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed annex or amendment to an annex shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed annex or amendment to an annex to the Parties and signatories to the Convention and, for information, to the Depositary.

4. The Parties shall make every effort to reach agreement on any proposed annex or amendment to an annex by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the annex or amendment to an annex shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted annex or amendment to an annex shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

5. An annex, or amendment to an annex other than Annex A or B, that has been adopted in accordance with paragraphs 3 and 4 above shall enter into force for all Parties to this Protocol six months after the date of the communication by the Depositary to such Parties of the adoption of the annex or adoption of the amendment to the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex or amendment to the annex. The annex or amendment to an annex shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.

6. If the adoption of an annex or an amendment to an annex involves an amendment to this Protocol, that annex or amendment to an annex shall not enter into force until such time as the amendment to this Protocol enters into force.

7. Amendments to Annexes A and B to this Protocol shall be adopted and enter into force in accordance with the procedure set out in Article 21, provided that any amendment to Annex B shall be adopted only with the written consent of the Party concerned.

Article 22

1. Each Party shall have one vote, except as provided for in paragraph 2 below.

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

Article 23

The Secretary-General of the United Nations shall be the Depositary of this Protocol.

Article 24

1. This Protocol shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations which are Parties to the Convention. It shall be open for signature at United Nations Headquarters in New York from 16 March 1998 to 15 March 1999. This Protocol shall be open for accession from the day after the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

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

3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Protocol. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.
Article 25

1. This Protocol shall enter into force on the ninetieth day after the date on which not less than 55 Parties to the Convention, incorporating Parties included in Annex I which accounted in total for at least 55 per cent of the total carbon dioxide emissions for 1990 of the Parties included in Annex I, have deposited their instruments of ratification, acceptance, approval or accession.

2. For the purposes of this Article, “the total carbon dioxide emissions for 1990 of the Parties included in Annex I” means the amount communicated on or before the date of adoption of this Protocol by the Parties included in Annex I in their first national communications submitted in accordance with Article 12 of the Convention.

3. For each State or regional economic integration organization that ratifies, accepts or approves this Protocol or accedes thereto after the conditions set out in paragraph 1 above for entry into force have been fulfilled, this Protocol shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of the organization.

Article 26

No reservations may be made to this Protocol.

Article 27

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

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

3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from this Protocol.

Article 28

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

DONE at Kyoto this eleventh day of December one thousand nine hundred and ninety-seven.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have affixed their signatures to this Protocol on the dates indicated.

Annex A

Greenhouse gases
- Carbon dioxide (CO2)
- Methane (CH4)
- Nitrous oxide (N2O)
- Hydrofluorocarbons (HFCs)
- Perfluorocarbons (PFCs)
- Sulphur hexafluoride (SF6)

Sectors/source categories

Energy
- Fuel combustion
  - Energy industries
  - Manufacturing industries and construction
  - Transport
  - Other sectors
  - Other
- Fugitive emissions from fuels
  - Solid fuels
  - Oil and natural gas
  - Other

Industrial processes
- Mineral products
- Chemical industry
- Metal production
- Other production
- Production of halocarbons and sulphur hexafluoride
- Consumption of halocarbons and sulphur hexafluoride
- Other

Solvent and other product use

Agriculture
- Enteric fermentation
- Manure management
- Rice cultivation
- Agricultural soils
- Prescribed burning of savannas
- Field burning of agricultural residues
- Other

Waste
- Solid waste disposal on land
- Wastewater handling
- Waste incineration
- Other
### Annex B

<table>
<thead>
<tr>
<th>Party</th>
<th>Quantified emission limitation or reduction commitment (percentage of base year or period)</th>
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</tbody>
</table>

* Countries that are undergoing the process of transition to a market economy.
Treaty Series

Treaties and international agreements registered or filed and recorded with the Secretariat of the United Nations

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Traités et accords internationaux enregistrés ou classés et inscrits au répertoire au Secrétariat de l’Organisation des Nations Unies

No. 37770

Multilateral


Entry into force: 30 October 2001, in accordance with article 20 (I) and definitively on 30 October 2001, in accordance with article 20 (I) (see following page)

Authentic texts: English, French and Russian

Registration with the Secretariat of the United Nations: ex officio, 30 October 2001

Multilateral


Entrée en vigueur : 30 octobre 2001, conformément au paragraphe 1 de l’article 20 et définitivement le 30 octobre 2001, conformément au paragraphe 1 de l’article 20 (voir la page suivante)

Textes authentiques : anglais, français et russe

CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS

Desiring to promote environmental education to further the understanding of the environment and sustainable development and to encourage widespread public awareness of, and participation in, decisions affecting the environment and sustainable development,

Noting, in this context, the importance of making use of the media and of electronic or other, future forms of communication,

Recognizing the importance of fully integrating environmental considerations in governmental decision-making and the consequent need for public authorities to be in possession of accurate, comprehensive and up-to-date environmental information,

Acknowledging that public authorities hold environmental information in the public interest,

Concerned that effective judicial mechanisms should be accessible to the public, including organizations, so that its legitimate interests are protected and the law is enforced,

Noting the importance of adequate product information being provided to consumers to enable them to make informed environmental choices,

Recognizing the concern of the public about the deliberate release of genetically modified organisms into the environment and the need for increased transparency and greater public participation in decision-making in this field,

Convinced that the implementation of this Convention will contribute to strengthening democracy in the region of the United Nations Economic Commission for Europe (ECE),

Conscious of the role played in this respect by ECE and recalling, inter alia, the ECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decision-making endorsed in the Ministerial Declaration adopted at the Third Ministerial Conference "Environment for Europe" in Sofia, Bulgaria, on 25 October 1995,

Bearing in mind the relevant provisions in the Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo, Finland, on 25 February 1991, and the Convention on the Transboundary Effects of Industrial Accidents and the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, both done at Helsinki on 17 March 1992, and other regional conventions,

Conscious that the adoption of this Convention will have contributed to the further strengthening of the "Environment for Europe" process and to the results of the Fourth Ministerial Conference in Aarhus, Denmark, in June 1998,

Have agreed as follows:

Article 1. Objective

In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.
Article 2. Definitions

For the purposes of this Convention,

1. "Party" means, unless the text otherwise indicates, a Contracting Party to this Convention;

2. "Public authority" means:
   (a) Government at national, regional and other level;
   (b) Natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment;
   (c) Any other natural or legal persons having public responsibilities or functions, or providing public services, in relation to the environment, under the control of a body or person falling within subparagraphs (a) or (b) above;
   (d) The institutions of any regional economic integration organization referred to in article 17 which is a Party to this Convention.

This definition does not include bodies or institutions acting in a judicial or legislative capacity;

3. "Environmental information" means any information in written, visual, aural, electronic or any other material form on:
   (a) The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
   (b) Factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;
   (c) The state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above;

4. "The public" means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups;

5. "The public concerned" means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.


1. Each Party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access-to-justice provisions in this Convention, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of this Convention.

2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters.

3. Each Party shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.

4. Each Party shall provide for appropriate recognition of and support to associations, organizations or groups promoting environmental protection and ensure that its national legal system is consistent with this obligation.

5. The provisions of this Convention shall not affect the right of a Party to maintain or introduce measures providing for broader access to information, more extensive public participation in decision-making and wider access to justice in environmental matters than required by this Convention.

6. This Convention shall not require any derogation from existing rights of access to information, public participation in decision-making and access to justice in environmental matters.

7. Each Party shall promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.

8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.

9. Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

Article 4. Access to Environmental Information

1. Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph (b) below, copies of the actual documentation containing or comprising such information:

   (a) Without an interest having to be stated;

   (b) In the form requested unless:

   (i) It is reasonable for the public authority to make it available in another form, in which case reasons shall be given for making it available in that form; or
6. Each Party shall ensure that, if information exempted from disclosure under paragraphs 3 (c) and 4 above can be separated out without prejudice to the confidentiality of the information exempted, public authorities make available the remainder of the environmental information that has been requested.

7. A refusal of a request shall be in writing if the request was in writing or the applicant so requests. A refusal shall state the reasons for the refusal and give information on access to the review procedure provided for in accordance with Article 9. The refusal shall be made as soon as possible and at the latest within one month, unless the complexity of the information justifies an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

8. Each Party may allow its public authorities to make a charge for supplying information, but such charge shall not exceed a reasonable amount. Public authorities intending to make such a charge for supplying information shall make available to applicants a schedule of charges which may be levied, indicating the circumstances in which they may be levied or waived and when the supply of information is conditional on the advance payment of such a charge.

Article 5. Collection and Dissemination of Environmental Information

1. Each Party shall ensure that:
   (a) Public authorities possess and update environmental information which is relevant to their functions;
   (b) Mandatory systems are established so that there is an adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment;
   (c) In the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected.

2. Each Party shall ensure that, within the framework of national legislation, the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible, inter alia, by:
   (a) Providing sufficient information to the public about the type and scope of environmental information held by the relevant public authorities, the basic terms and conditions under which such information is made available and accessible, and the process by which it can be obtained;
   (b) Establishing and maintaining practical arrangements, such as:
      (i) Publicly accessible lists, registers or files;
      (ii) Requiring officials to support the public in seeking access to information under this Convention; and
      (iii) The identification of points of contact; and
(c) Providing access to the information contained in lists, registers or files as referred to in subparagraph (b) (i) above free of charge.

3. Each Party shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks. Information accessible in this form should include:

(a) Reports on the state of the environment, as referred to in paragraph 4 below;
(b) Texts of legislation on or relating to the environment;
(c) As appropriate, policies, plans and programmes on or relating to the environment, and environmental agreements; and
(d) Other information, to the extent that the availability of such information in this form would facilitate the implementation of national law implementing this Convention, provided that such information is already available in electronic form.

4. Each Party shall, at regular intervals not exceeding three or four years, publish and disseminate a national report on the state of the environment, including information on the quality of the environment and information on pressures on the environment.

5. Each Party shall take measures within the framework of its legislation for the purpose of disseminating, inter alia:

(a) Legislation and policy documents such as documents on strategies, policies, programmes and action plans relating to the environment, and progress reports on their implementation, prepared at various levels of government;
(b) International treaties, conventions and agreements on environmental issues; and
(c) Other significant international documents on environmental issues, as appropriate.

6. Each Party shall encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products, where appropriate within the framework of voluntary labelling or eco-auditing schemes or by other means.

7. Each Party shall:

(a) Publish the facts and analyses of facts which it considers relevant and important in framing major environmental policy proposals;
(b) Publish, or otherwise make accessible, available explanatory material on its dealings with the public in matters falling within the scope of this Convention; and
(c) Provide in an appropriate form information on the performance of public functions or the provision of public services relating to the environment by government at all levels.

8. Each Party shall develop mechanisms with a view to ensuring that sufficient product information is made available to the public in a manner which enables consumers to make informed environmental choices.

9. Each Party shall take steps to establish progressively, taking into account international processes where appropriate, a coherent, nationwide system of pollution inventories or registers on a structured, computerized and publicly accessible database compiled through standardized reporting. Such a system may include inputs, releases and transfers of a specified range of substances and products, including water, energy and resource use, from a specified range of activities to environmental media and to on-site and off-site treatment and disposal sites.

10. Nothing in this article may prejudice the right of Parties to refuse to disclose certain environmental information in accordance with article 4, paragraphs 3 and 4.

Article 6. Public Participation in Decisions on Specific Activities

1. Each Party:

(a) Shall apply the provisions of this article with respect to decisions on whether to permit proposed activities listed in annex I;
(b) Shall, in accordance with its national law, also apply the provisions of this article to decisions on proposed activities not listed in annex I which may have a significant effect on the environment. To this end, Parties shall determine whether such a proposed activity is subject to these provisions; and
(c) May decide, on a case-by-case basis if so provided under national law, not to apply the provisions of this article to proposed activities serving national defence purposes, if that Party deems that such application would have an adverse effect on these purposes.

2. The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:

(a) The proposed activity and the application on which a decision will be taken;
(b) The nature of possible decisions or the draft decision;
(c) The public authority responsible for making the decision;
(d) The envisaged procedure, including, as and when this information can be provided:

(i) The commencement of the procedure;
(ii) The opportunities for the public to participate;
(iii) The time and venue of any envisaged public hearing;
(iv) An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;
(v) An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or questions; and
(vi) An indication of what environmental information relevant to the proposed activity is available; and
(c) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.
3. The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.

4. Each Party shall provide for early public participation, when all options are open and effective public participation can take place.

5. Each Party should, where appropriate, encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit.

6. Each Party shall require the competent public authorities to give the public concerned access for examination, upon request where so required under national law, free of charge and as soon as it becomes available, to all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure, without prejudice to the right of Parties to refuse to disclose certain information in accordance with article 4, paragraphs 3 and 4. The relevant information shall include at least, and without prejudice to the provisions of article 4:

(a) A description of the site and the physical and technical characteristics of the proposed activity, including an estimate of the expected residues and emissions;

(b) A description of the significant effects of the proposed activity on the environment;

(c) A description of the measures envisaged to prevent and/or reduce the effects, including emissions;

(d) A non-technical summary of the above;

(e) An outline of the main alternatives studied by the applicant; and

(f) In accordance with national legislation, the main reports and advice issued to the public authority at the time when the public concerned shall be informed in accordance with paragraph 2 above.

7. Procedures for public participation shall allow the public to submit, in writing or, as appropriate, at a public hearing or enquiry with the applicant, any comments, information, analyses or opinions that it considers relevant to the proposed activity.

8. Each Party shall ensure that in the decision due account is taken of the outcome of the public participation.

9. Each Party shall ensure that, when the decision has been taken by the public authority, the public is promptly informed of the decision in accordance with the appropriate procedures. Each Party shall make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based.

10. Each Party shall ensure that, when a public authority reconsider or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 of this article are applied mutatis mutandis, and where appropriate.

11. Each Party shall, within the framework of its national law, apply, to the extent feasible and appropriate, provisions of this article to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Article 7. Public Participation concerning Plans, Programmes and Policies relating to the Environment

Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention. To the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.

Article 8. Public Participation during the Preparation of Executive Regulations and/or Generally Applicable Legally Binding Normative Instruments

Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To this end, the following steps should be taken:

(a) Time-frames sufficient for effective participation should be fixed;

(b) Draft rules should be published or otherwise made publicly available; and

(c) The public should be given the opportunity to comment, directly or through representative consultative bodies.

The result of the public participation shall be taken into account as far as possible.

Article 9. Access to Justice

1. Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law.

In the circumstances where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law.

Final decisions under this paragraph I shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this paragraph.

2. Each Party shall, within the framework of its national legislation, ensure that members of the public concerned

(a) Having a sufficient interest or, alternatively,
(b) Maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition,

have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organization meeting the requirements referred to in article 2, paragraph 5, shall be deemed sufficient for the purpose of subparagraph (a) above. Such organizations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

3. In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

4. In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. Decisions under this article shall be given or recorded in writing. Decisions of courts, and whenever possible of other bodies, shall be publicly accessible.

5. In order to further the effectiveness of the provisions of this article, each Party shall ensure that information is provided to the public on access to administrative and judicial review procedures and shall consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.

Article 10. Meeting of the Parties

1. The first meeting of the Parties shall be convened no later than one year after the date of the entry into force of this Convention. Thereafter, an ordinary meeting of the Parties shall be held at least once every two years, unless otherwise decided by the Parties, or at the written request of any Party, provided that, within six months of the request being communicated to all Parties by the Executive Secretary of the Economic Commission for Europe, the said request is supported by at least one third of the Parties.

2. At their meetings, the Parties shall keep under continuous review the implementation of this Convention on the basis of regular reporting by the Parties, and, with this purpose in mind, shall:

(a) Review the policies for and legal and methodological approaches to access to information, public participation in decision-making and access to justice in environmental matters, with a view to further improving them;

(b) Exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements having relevance to the purposes of this Convention and to which one or more of the Parties are a party;

(c) Seek, where appropriate, the services of relevant ECE bodies and other competent international bodies and specific committees in all aspects pertinent to the achievement of the purposes of this Convention;

(d) Establish any subsidiary bodies as they deem necessary;

(e) Prepare, where appropriate, protocols to this Convention;

(f) Consider and adopt proposals for amendments to this Convention in accordance with the provisions of article 14;

(g) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention;

(h) At their first meeting, consider and by consensus adopt rules of procedure for their meetings and the meetings of subsidiary bodies;

(i) At their first meeting, review their experience in implementing the provisions of article 5, paragraph 9, and consider what steps are necessary to develop further the system referred to in that paragraph, taking into account international processes and developments, including the elaboration of an appropriate instrument concerning pollution release and transfer registers or inventories which could be annexed to this Convention.

3. The Meeting of the Parties may, as necessary, consider establishing financial arrangements on a consensus basis.

4. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State or regional economic integration organization entitled under article 17 to sign this Convention but which is not a Party to this Convention, and any intergovernmental organization qualified in the fields to which this Convention relates, shall be entitled to participate as observers in the meetings of the Parties.

5. Any non-governmental organization, qualified in the fields to which this Convention relates, which has informed the Executive Secretary of the Economic Commission for Europe of its wish to be represented at a meeting of the Parties shall be entitled to participate as an observer unless at least one third of the Parties present in the meeting raise objections.

6. For the purposes of paragraphs 4 and 5 above, the rules of procedure referred to in paragraph 2 (h) above shall provide for practical arrangements for the admittance procedure and other relevant terms.

Article 11. Right to Vote

1. Except as provided for in paragraph 2 below, each Party to this Convention shall have one vote.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

**Article 12. Secretariat**

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

(a) The convening and preparing of meetings of the Parties;
(b) The transmission to the Parties of reports and other information received in accordance with the provisions of this Convention; and
(c) Such other functions as may be determined by the Parties.

**Article 13. Annexes**

The annexes to this Convention shall constitute an integral part thereof.

**Article 14. Amendments to the Convention**

1. Any Party may propose amendments to this Convention.

2. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate it to all Parties at least ninety days before the meeting of the Parties at which it is proposed for adoption.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

4. Amendments to this Convention adopted in accordance with paragraph 3 above shall be communicated by the Depositary to all Parties for ratification, approval or acceptance.

Amendments to this Convention other than those to an annex shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three fourths of these Parties. Thereafter they shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.

5. Any Party that is unable to approve an amendment to an annex to this Convention shall so notify the Depositary in writing within twelve months from the date of the communication of the adoption. The Depositary shall without delay notify all Parties of any such notification received.

A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendments to such an annex shall become effective for that Party.

6. On the expiry of twelve months from the date of its communication by the Depositary as provided for in paragraph 4 above an amendment to an annex shall become effective for those Parties which have not submitted a notification to the Depositary in accordance with the provisions of paragraph 5 above, provided that not more than one third of the Parties have submitted such a notification.

7. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

**Article 15. Review of Compliance**

The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of considering communications from members of the public on matters related to this Convention.

**Article 16. Settlement of Disputes**

1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.

2. When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 above, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
   (a) Submission of the dispute to the International Court of Justice;
   (b) Arbitration in accordance with the procedure set out in annex II.

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 above, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

**Article 17. Signature**

This Convention shall be open for signature at Aarhus (Denmark) on 25 June 1998, and thereafter at United Nations Headquarters in New York until 21 December 1998, by States members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraphs 8 and 11 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence over matters
governed by this Convention, including the competence to enter into treaties in respect of these matters.

Article 18. Depositary

The Secretary-General of the United Nations shall act as the Depositary of this Convention.

Article 19. Ratification, Acceptance, Approval and Accession

1. This Convention shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations.
2. This Convention shall be open for accession as from 22 December 1998 by the States and regional economic integration organizations referred to in article 17.
3. Any other State, not referred to in paragraph 2 above, that is a Member of the United Nations may accede to the Convention upon approval by the Meeting of the Parties.
4. Any organization referred to in article 17 which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. If one or more of such an organization's member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under this Convention concurrently.
5. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 17 shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depositary of any substantial modification to the extent of their competence.

Article 20. Entry into Force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.
2. For the purposes of paragraph 1 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of such an organization.
3. For each State or organization referred to in article 17 which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

Article 21. Withdrawal

At any time after three years from the date on which this Convention has come into force with respect to a Party, that Party may withdraw from the Convention by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary.

Article 22. Authentic Texts

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

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

Done at Aarhus (Denmark), this twenty-fifth day of June, one thousand nine hundred and ninety-eight.
ANNEX I. LIST OF ACTIVITIES REFERRED TO IN ARTICLE 6, PARAGRAPH 1 (A)

1. Energy sector:
   Mineral oil and gas refineries;
   Installations for gasification and liquefaction;
   Thermal power stations and other combustion installations with a heat input of 50 megawatts (MW) or more;
   Coke ovens;
   Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors 1/ (except research installations ‘for the production and conversion of fissionable and fertile materials whose maximum power does not exceed 1 kW continuous thermal load);
   Installations for the reprocessing of irradiated nuclear fuel;
   Installations designed:
   For the production or enrichment of nuclear fuel;
   For the processing of irradiated nuclear fuel or high-level radioactive waste;
   For the final disposal of irradiated nuclear fuel;
   Solely for the final disposal of radioactive waste;
   Solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

2. Production and processing of metals:
   Metal ore (including sulphide ore) roasting or sintering installations;
   Installations for the production of pig-iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tons per hour;
   Installations for the processing of ferrous metals:
   (i) Hot-rolling mills with a capacity exceeding 20 tons of crude steel per hour;
   (ii) Smitheries with hammers the energy of which exceeds 50 kilojoules per hammer, where the calorific power used exceeds 20 MW;
   (iii) Application of protective fused metal coats with an input exceeding 2 tons of crude steel per hour;
   Ferrous metal foundries with a production capacity exceeding 20 tons per day; Installations:
   (i) For the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes;
   (ii) For the smelting, including the alloying, of non-ferrous metals, including recovered products (refining, foundry casting, etc.), with a melting capacity exceeding 4 tons per day for lead and cadmium or 20 tons per day for all other metals;
   Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process where the volume of the treatment vats exceeds 30 m³.

3. Mineral industry:
   Installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tons per day or lime in rotary kilns with a production capacity exceeding 50 tons per day or in other furnaces with a production capacity exceeding 50 tons per day;
   Installations for the production of asbestos and the manufacture of asbestos-based products;
   Installations for the manufacture of glass including glass fibre with a melting capacity exceeding 20 tons per day;
   Installations for melting mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tons per day;
   Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tons per day, and/or with a kiln capacity exceeding 4 m³ and with a setting density per kiln exceeding 300 kg/m³.

4. Chemical industry: Production within the meaning of the categories of activities contained in this paragraph means the production on an industrial scale by chemical processing of substances or groups of substances listed in subparagraphs (a) to (g):
   (a) Chemical installations for the production of basic organic chemicals, such as:
      (i) Simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);
      (ii) Oxygen-containing hydrocarbons such as alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, epoxy resins;
      (iii) Sulphurous hydrocarbons;
      (iv) Nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates;
      (v) Phosphorus-containing hydrocarbons;
      (vi) Halogen hydrocarbons;
      (vii) Organometallic compounds;
      (viii) Basic plastic materials (polymers, synthetic fibres and cellulose-based fibres);
      (ix) Synthetic rubbers;
      (x) Dyes and pigments;
      (xi) Surface-active agents and surfactants;
   (b) Chemical installations for the production of basic inorganic chemicals, such as:
      (i) Gases, such as ammonia, chlorine or hydrogen chloride, fluoride or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carboxyl chloride;
      (ii) Acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acids;
      (iii) Bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide;
10. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

11. (a) Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;

(b) In all other cases, works for the transfer of water resources between river basins where the multiannual average flow of the basin of abstraction exceeds 2,000 million cubic metres/year and where the amount of water transferred exceeds 5 percent of this flow.

In both cases transfers of piped drinking water are excluded.

12. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tons/day in the case of petroleum and 500,000 cubic metres/day in the case of gas.

13. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

14. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 mm and a length of more than 40 km.

15. Installations for the intensive rearing of poultry or pigs with more than:

(a) 40,000 places for poultry;

(b) 2,000 places for production pigs (over 30 kg); or

(c) 750 places for sows.

16. Quarries and opencast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.

17. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.

18. Installations for the storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tons or more.

19. Other activities:

Plants for the pretreatment (operations such as washing, bleaching, mercerization) or dyeing of fibres or textiles where the treatment capacity exceeds 10 tons per day;

Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tons of finished products per day:

(a) Slaughterhouses with a carcass production capacity greater than 50 tons per day;

(b) Treatment and processing intended for the production of food products from:

(i) Animal raw materials (other than milk) with a finished product production capacity greater than 75 tons per day;

(ii) Vegetable raw materials with a finished product production capacity greater than 300 tons per day (average value on a quarterly basis);
(c) Treatment and processing of milk, the quantity of milk received being greater than 200 tons per day (average value on an annual basis);

Installations for the disposal or recycling of animal carcasses and animal waste with a treatment capacity exceeding 10 tons per day;

Installations for the surface treatment of substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, with a consumption capacity of more than 150 kg per hour or more than 200 tons per year;

Installations for the production of carbon (hard-burnt coal) or electrographite by means of incineration or graphitization.

20. Any activity not covered by paragraphs 1-19 above where public participation is provided for under an environmental impact assessment procedure in accordance with national legislation.

21. The provision of article 6, paragraph 1 (a) of this Convention, does not apply to any of the above projects undertaken exclusively or mainly for research, development and testing of new methods or products for less than two years unless they would be likely to cause a significant adverse effect on environment or health.

22. Any change to or extension of activities, where such a change or extension in itself meets the criteria/thresholds set out in this annex, shall be subject to article 6, paragraph 1 (a) of this Convention. Any other change or extension of activities shall be subject to article 6, paragraph 1 (b) of this Convention.

Notes

1/ Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

2/ For the purposes of this Convention, "airport" means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (Annex 14).

3/ For the purposes of this Convention, "express road" means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

ANNEX II. ARBITRATION

1. In the event of a dispute being submitted for arbitration pursuant to article 16, paragraph 2, of this Convention, a party or parties shall notify the secretariat of the subject matter of arbitration and indicate, in particular, the articles of this Convention whose interpretation or application is at issue. The secretariat shall forward the information received to all Parties to this Convention.

2. The arbitral tribunal shall consist of three members. Both the claimant party or parties and the other party or parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the president of the arbitral tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

4. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may so inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the president shall so inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period. 5. The arbitral tribunal shall render its decision in accordance with international law and the provisions of this Convention.

6. Any arbitral tribunal constituted under the provisions set out in this annex shall draw up its own rules of procedure.

7. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority vote of its members.

8. The tribunal may take all appropriate measures to establish the facts.

9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

(a) Provide it with all relevant documents, facilities and information;

(b) Enable it, where necessary, to call witnesses or experts and receive their evidence.

10. The parties and the arbitrators shall protect the confidentiality of any information that they receive in confidence during the proceedings of the arbitral tribunal.

11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.
12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings.

13. The arbitral tribunal may hear and determine counter-claims arising directly out of the subject matter of the dispute.

14. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

15. Any Party to this Convention which has an interest of a legal nature in the subject matter of the dispute, and which may be affected by a decision in the case, may intervene in the proceedings with the consent of the tribunal.

16. The arbitral tribunal shall render its award within five months of the date on which it is established, unless it finds it necessary to extend the time limit for a period which should not exceed five months.

17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to this Convention.

18. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.
No. 39973

Multilateral


Entry into force: 24 February 2004 in accordance with article 26 which reads as follows: "1. The Convention shall enter into force on the ninetieth day after the date of deposit of the fifth hundredth instrument of ratification, acceptance, approval or accession. 2. For each State or regional economic integration organization that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fifth hundredth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by each State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession. 3. For the purpose of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization." (see following page)

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish

Registration with the Secretariat of the United Nations: ex officio, 24 February 2004

Multilateral

Convention de Rotterdam sur la procédure de consentement préalable en connaissance de cause applicable dans le cas de certains produits chimiques et pesticides dangereux qui font l'objet du commerce international (avec annexes). Rotterdam, 10 septembre 1998

Entrée en vigueur : 24 février 2004 conformément à l'article 26 qui en va de soi : "1. La Convention entrera en vigueur le quatre-vingt-dixième jour suivant la date du dépôt du deuxième instrument de ratification, d'acceptation, d'approbation ou d'adhésion. 2. À l'égard de chaque État ou organisation régionale d'intégration économique qui ratifie, accepte ou approuve la Convention, ou y adhère, après le dépôt du deuxième instrument de ratification, d'acceptation, d'approbation ou d'adhésion, la Convention entrera en vigueur le quatre-vingt-dixième jour suivant la date du dépôt, par ledit État ou ladite organisation, de son instrument de ratification, d'acceptation, d'approbation ou d'adhésion. 3. Aux fins des paragraphes 1 et 2, tout instrument déposé par une organisation régionale d'intégration économique n'est pas considéré comme venant s'ajouter aux instruments déjà déposés par le États membres de ladite organisation." (voir la page suivante)

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol

Determined to protect human health, including the health of consumers and workers, and the environment against potentially harmful impacts from certain hazardous chemicals and pesticides in international trade,

HAVE AGREED AS FOLLOWS.

Article 1. Objective

The objective of this Convention is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.

Article 2. Definitions

For the purposes of this Convention

(a) "Chemical" means a substance whether by itself or in a mixture or preparation and whether manufactured or obtained from nature, but does not include any living organism. It consists of the following categories pesticide (including severely hazardous pesticide formulations) and industrial;

(b) "Banned chemical" means a chemical all uses of which within one or more categories have been prohibited by final regulatory action, in order to protect human health or the environment. It includes a chemical that has been refused approval for first-time use or has been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process and where there is clear evidence that such action has been taken in order to protect human health or the environment;

(c) "Severely restricted chemical" means a chemical virtually all use of which within one or more categories has been prohibited by final regulatory action in order to protect human health or the environment, but for which certain specific uses remain allowed. It includes a chemical that has, for virtually all use, been refused for approval or been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment;

(d) "Severely hazardous pesticide formulation" means a chemical formulated for pesticidal use that produces severe health or environmental effects observable within a short period of time after single or multiple exposure, under conditions of use;

(e) "Final regulatory action" means an action taken by a Party, that does not require subsequent regulatory action by that Party, the purpose of which is to ban or severely restrict a chemical;

(f) "Export" and "Import" mean, in their respective connotations, the movement of a chemical from one Party to another Party, but exclude mere transit operations;
(g) "Party" means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;

(h) "Regional economic integration organization" means an organization constituted by sovereign states of a given region to which its member States have transferred competence in respect of matters governed by this convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;

(i) "Chemical Review Committee" means the subsidiary body referred to in paragraph 6 of Article 18.

Article 3. Scope of the Convention

1. This Convention applies to:
(a) Banned or severely restricted chemicals; and
(b) Severely hazardous pesticide formulations.

2. This Convention does not apply to:
(a) Narcotic drugs and psychotropics substances;
(b) Radioactive materials;
(c) Wastes;
(d) Chemical weapons;
(e) Pharmaceuticals, including human and veterinary drugs;
(f) Chemicals used as food additives;
(g) Food;
(h) Chemicals in quantities not likely to affect human health or the environment provided they are imported:
(i) For the purpose of research or analysis; or
(ii) By an individual for his or her own personal use in quantities reasonable for such use.

Article 4. Designated national authorities

1. Each Party shall designate one or more national authorities that shall be authorized to act on its behalf in the performance of the administrative functions required by this Convention.

2. Each Party shall seek to ensure that such authority or authorities have sufficient resources to perform their tasks effectively.

3. Each Party shall, no later than the date of the entry into force of this Convention, notify the name and address of such authority or authorities to the Secretariat. It shall forthwith notify the Secretariat of any changes in the name and address of such authority or authorities.

4. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 3.

Article 5. Procedures for banned or severely restricted chemicals

1. Each Party that has adopted a final regulatory action shall notify the Secretariat in writing of such action. Such notification shall be made as soon as possible, and in any event no later than ninety days after the date on which the final regulatory action has taken effect, and shall contain the information required by Annex I, where available.

2. Each Party shall, at the date of entry into force of this Convention for it, notify the Secretariat in writing of its final regulatory actions in effect at that time, except that each Party that has submitted notifications of final regulatory actions under the Amended London Guidelines or the International Code of Conduct need not resubmit those notifications.

3. The Secretariat shall, as soon as possible, and in any event no later than six months after receipt of a notification under paragraphs 1 and 2, verify whether the notification contains the information required by Annex I. If the notification contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the information received. If the notification does not contain the information required, it shall inform the notifying Party accordingly.

4. The Secretariat shall every six months communicate to the Parties a synopsis of the information received pursuant to paragraphs 1 and 2, including information regarding those notifications which do not contain all the information required by Annex I.

5. When the Secretariat has received at least one notification from each of two Prior Informed Consent regions regarding a particular chemical that it has verified meet the requirements of Annex I, it shall forward them to the Chemical Review Committee. The composition of the Prior Informed Consent regions shall be defined in a decision to be adopted by consensus at the first meeting of the Conference of the Parties.

6. The Chemical Review Committee shall review the information provided in such notifications and, in accordance with the criteria set out in Annex II, recommend to the Conference of the Parties whether the chemical in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III.

Article 6. Procedures for severely hazardous pesticide formulations

1. Any Party that is a developing country or a country with an economy in transition and that is experiencing problems caused by a severely hazardous pesticide formulation under conditions of use in its territory, may propose to the Secretariat the listing of the severely hazardous pesticide formulation in Annex III. In developing a proposal, the Party may draw upon technical expertise from any relevant source. The proposal shall contain the information required by part I of Annex IV.

2. The Secretariat shall, as soon as possible, and in any event no later than six months after receipt of a proposal under paragraph 1, verify whether the proposal contains the information required by part I of Annex IV. If the proposal contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the information received.
If the proposal does not contain the information required, it shall inform the proposing Party accordingly.

3. The Secretariat shall collect the additional information set out in part 2 of Annex IV regarding the proposal forwarded under paragraph 2.

4. When the requirements of paragraphs 2 and 3 above have been fulfilled with regard to a particular severely hazardous pesticide formulation, the Secretariat shall forward the proposal and the related information to the Chemical Review Committee.

5. The Chemical Review Committee shall review the information provided in the proposal and the additional information collected as, in accordance with the criteria set out in part 3 of Annex IV, recommend to the Conference of the Parties whether the severely hazardous pesticide formulation in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III.

Article 7. Listing of chemicals in Annex III

1. For each chemical that the Chemical Review Committee has decided to recommend for listing in Annex III, it shall prepare a draft decision guidance document. The decision guidance document should, at a minimum, be based on the information specified in Annex I, or, as the case may be, Annex IV, and include information on uses of the chemical in a category other than the category for which the final regulatory action applies.

2. The recommendation referred to in paragraph 1 together with the draft decision guidance document shall be forwarded to the Conference of the Parties. The Conference of the Parties shall decide whether the chemical should be made subject to the Prior Informed Consent procedure and, accordingly, list the chemical in Annex III and approve the draft decision guidance document.

3. When a decision to list a chemical in Annex III has been taken and the related decision guidance document has been approved by the Conference of the Parties, the Secretariat shall forthwith communicate this information to all Parties.

Article 8. Chemicals in the voluntary Prior Informed Consent procedure

For any chemical, other than a chemical listed in Annex III, that has been included in the voluntary Prior Informed Consent procedure before the date of the first meeting of the Conference of the Parties, the Conference of the Parties shall decide at that meeting to list the chemical in Annex III, provided that it is satisfied that all the requirements for listing in that Annex have been fulfilled.

Article 9. Removal of chemicals from Annex III

1. If a Party submits to the Secretariat information that was not available at the time of the decision to list a chemical in Annex III and that information indicates that its listing may no longer be justified in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, the Secretariat shall forward the information to the Chemical Review Committee.

2. The Chemical Review Committee shall review the information it receives under paragraph 1.

For each chemical that the Chemical Review Committee decides, in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, to recommend for removal from Annex III, it shall prepare a revised draft decision guidance document.

3. A recommendation referred to in paragraph 2 shall be forwarded to the Conference of the Parties and be accompanied by a revised draft decision guidance document. The Conference of the Parties shall decide whether the chemical should be removed from Annex III and whether to approve the revised draft decision guidance document.

4. When a decision to remove a chemical from Annex III has been taken and the revised decision guidance document has been approved by the Conference of the Parties, the Secretariat shall forthwith communicate this information to all Parties.

Article 10. Obligations in relation to imports of chemicals listed in Annex III

1. Each Party shall implement appropriate legislative or administrative measures to ensure timely decisions with respect to the import of chemicals listed in Annex III.

2. Each Party shall transmit to the Secretariat, as soon as possible, and in any event no later than nine months after the date of dispatch of the decision guidance document referred to in paragraph 3 of Article 7, a response concerning the future import of the chemical concerned. If a Party modifies this response, it shall forthwith submit the revised response to the Secretariat.

3. The Secretariat shall, at the expiration of the time period in paragraph 2, forthwith address to a Party that has not provided such a response, a written request to do so. Should the Party be unable to provide a response, the Secretariat shall, where appropriate, help it to provide a response within the time period specified in the last sentence of paragraph 2 of Article 11.

4. A response under paragraph 2 shall consist of either:

(a) A final decision, pursuant to legislative or administrative measures:

(i) To consent to import;

(ii) Not to consent to import; or

(iii) To consent to import only subject to specified conditions; or

(b) An interim response, which may include:

(i) An interim decision consenting to import with or without specified conditions, or not consenting to import during the interim period;

(ii) A statement that a final decision is under active consideration;

(iii) A request to the Secretariat, or to the Party that notified the final regulatory action, for further information;

(iv) A request to the Secretariat for assistance in evaluating the chemical.

5. A response under subparagraphs (a) or (b) of paragraph 4 shall relate to the category or categories specified for the chemical in Annex III.
6. A final decision should be accompanied by a description of any legislative or administrative measures upon which it is based.

7. Each Party shall, no later than the date of entry into force of this Convention for it, transmit to the Secretariat responses with respect to each chemical listed in Annex III. A Party that has provided such responses under the Amended London Guidelines or the International Code of Conduct need not resubmit those responses.

8. Each Party shall make its responses under this Article available to those concerned within its jurisdiction, in accordance with its legislative or administrative measures.

9. A Party that, pursuant to paragraphs 2 and 4 above and paragraph 2 of Article 11, takes a decision not to consent to import of a chemical or to consent to its import only under specified conditions shall, if it has not already done so, simultaneously prohibit or make subject to the same conditions:

(a) Import of the chemical from any source; and
(b) Domestic production of the chemical for domestic use.

10. Every six months the Secretariat shall inform all Parties of the responses it has received. Such information shall include a description of the legislative or administrative measures on which the decisions have been based, where available. The Secretariat shall, in addition, inform the Parties of any cases of failure to transmit a response.

Article 11. Obligations in relation to exports of chemicals listed in Annex III

1. Each exporting Party shall

(a) Implement appropriate legislative or administrative measures to communicate the responses forwarded by the Secretariat in accordance with paragraph 10 of Article 10 to those concerned within its jurisdiction;
(b) Take appropriate, legislative or administrative measures to ensure that exporters within its jurisdiction comply with decisions in each response no later than six months after the date on which the Secretariat first informs the Parties of such response in accordance with paragraph 10 of Article 10;
(c) Advise and assist importing Parties, upon request and as appropriate:
(i) To obtain further information to help them to take action in accordance with paragraph 4 of Article 10 and paragraph 2 (c) below; and
(ii) To strengthen their capacities and capabilities to manage chemicals safely during their life-cycle.

2. Each Party shall ensure that a chemical listed in Annex III is not exported from its territory to any importing Party that, in exceptional circumstances, has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, unless:

(a) It is a chemical that, at the time of import, is registered as a chemical in the importing Party; or

(b) It is a chemical for which evidence exists that it has previously been used in, or imported into, the importing Party and in relation to which no regulatory action to prohibit its use has been taken; or
(c) explicit consent to the import has been sought and received by the exporter through a designated national authority of the importing Party. The importing Party shall respond to such a request within sixty days and shall promptly notify the Secretariat of its decision.

The obligations of exporting Parties under this paragraph shall apply with effect from the expiration of a period of six months from the date on which the Secretariat first informs the Parties, in accordance with paragraph 10 of Article 10, that a Party has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, and shall apply for one year.

Article 12. Export notification

1. Where a chemical that is banned or severely restricted by a Party is exported from its territory, that Party shall provide an export notification to the importing Party. The export notification shall include the information set out in Annex V.

2. The export notification shall be provided for that chemical prior to the first export following adoption of the corresponding final regulatory action. Thereafter, the export notification shall be provided before the first export in any calendar year. The requirement to notify before export may be waived by the designated national authority of the importing Party.

3. An exporting Party shall provide an updated export notification after it has adopted a final regulatory action that results in a major change concerning the ban or severe restriction of that chemical.

4. The importing Party shall acknowledge receipt of the first export notification received after the adoption of the final regulatory action. If the exporting Party does not receive the acknowledgement within thirty days of the dispatch of the export notification, it shall submit a second notification. The exporting Party shall make reasonable efforts to ensure that the importing Party receives the second notification.

5. The obligations of a Party set out in paragraph 1 shall cease when:

(a) The chemical has been listed in Annex III;
(b) The importing Party has provided a response for the chemical to the Secretariat in accordance with paragraph 2 of Article 10; and
(c) The Secretariat has distributed the response to the Parties in accordance with paragraph 10 of Article 10.

Article 13. Information to accompany exported chemicals

1. The Conference of the Parties shall encourage the world Customs Organization to assign specific Harmonized System customs codes to the individual chemicals or groups of chemicals listed in Annex III, as appropriate.
Each Party shall require that, whenever a code has been assigned to such a chemical, the shipping document for that chemical bears the code when exported.

2. Without prejudice to any requirements of the importing Party, each Party shall require that both chemicals listed in Annex III and chemicals banned or severely restricted in its territory are, when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.

3. Without prejudice to any requirements of the importing Party, each Party may require that chemicals subject to environmental or health labelling requirements in its territory are, when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.

4. With respect to the chemicals referred to in paragraph 2 that are to be used for occupational purposes, each exporting Party shall require that a safety data sheet that follows an internationally recognized format, setting out the most up-to-date information available, is sent to each importer.

5. The information on the label and on the safety data sheet should, as far as practicable, be given in one or more of the official languages of the importing Party.

Article 14. Information exchange

1. Each Party shall, as appropriate and in accordance with the objective of this Convention, facilitate.

(a) The exchange of scientific, technical, economic and legal information concerning the chemicals within the scope of this Convention, including toxicological, ecotoxicological and safety information;

(b) The provision of publicly available information on domestic regulatory actions relevant to the objectives of this Convention; and

(c) The provision of information to other Parties, directly or through the Secretariat, on domestic regulatory actions that substantially restrict one or more uses of the chemical, as appropriate.

2. Parties that exchange information pursuant to this Convention shall protect any confidential information as mutually agreed.

3. The following information shall not be regarded as confidential for the purposes of this Convention

(a) The information referred to in Annexes I and IV, submitted pursuant to Articles 5 and 6 respectively;

(b) The information contained in the safety data sheet referred to in paragraph 4 of Article 13;

(c) The expiry date of the chemical;

(d) Information on precautionary measures, including hazard classification, the nature of the risk and the relevant safety advice; and

(e) The summary results of the toxicological and ecotoxicological tests.

4. The production date of the chemical shall generally not be considered confidential for the purposes of this Convention.

5. Any Party requiring information on transit movements through its territory of chemicals listed in Annex III may report its need to the Secretariat, which shall inform all Parties accordingly.

Article 15. Implementation of the Convention

1. Each Party shall take such measures as may be necessary to establish and strengthen its national infrastructures and institutions for the effective implementation of this Convention. These measures may include, as required, the adoption or amendment of national legislative or administrative measures and may also include:

(a) The establishment of national registers and databases including safety information for chemicals;

(b) The encouragement of initiatives by industry to promote chemical safety; and

(c) The promotion of voluntary agreements, taking into consideration the provisions of Article 16

2. Each Party shall ensure, to the extent practicable, that the public has appropriate access to information on chemical handling and accident management and on alternatives that are safer for human health or the environment than the chemicals listed in Annex III.

3. The Parties agree to cooperate, directly or, where appropriate, through competent international organizations, in the implementation of this Convention at the subregional, regional and global levels.

4. Nothing in this Convention shall be interpreted as restricting the right of the Parties to take action that is more stringently protective of human health and the environment than that called for in this Convention, provided that such action is consistent with the provisions of this Convention and is in accordance with international law.

Article 16. Technical assistance

The Parties shall, taking into account in particular the needs of developing countries and countries with economies in transition, cooperate in promoting technical assistance for the development of the infrastructure and the capacity necessary to manage chemicals to enable implementation of this Convention. Parties with more advanced programmes for regulating chemicals should provide technical assistance, including training, to other Parties in developing their infrastructure and capacity to manage chemicals throughout their life-cycle.
Article 17. Non-Compliance

The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for treatment of Parties found to be in non-compliance.

Article 18. Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP and the Director-General of FAO, acting jointly, no later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference.

3. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party provided that it is supported by at least one third of the Parties.

4. The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.

5. The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall:

   (a) Establish, further to the requirements of paragraph 6 below, such subsidiary bodies as it considers necessary for the implementation of the Convention;

   (b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and

   (c) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention.

6. The Conference of the Parties shall, at its first meeting, establish a subsidiary body, to be called the Chemical Review Committee, for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:

   (a) The members of the Chemical Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of a limited number of government-designated experts in chemicals management. The members of the Committee shall be appointed on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties;

   (b) The Conference of the Parties shall decide on the terms of reference, organization and operation of the Committee;

   (c) The Committee shall make every effort to make its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendations shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.

7. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article 19. Secretariat

1. A Secretariat is hereby established.

2. The functions of the Secretariat shall be:

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

   (b) To facilitate assistance to the Parties, particularly developing Parties and Parties with economies in transition, on request, in the implementation of this Convention;

   (c) To ensure the necessary coordination with the secretariats of other relevant international bodies;

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

   (e) To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.

3. The secretariat functions for this Convention shall be performed jointly by the Executive Director of UNEP and the Director-General of FAO, subject to such arrangements as shall be agreed between them and approved by the Conference of the Parties.

4. The Conference of the Parties may decide, by a three-fourths majority of the Parties present and voting, to entrust the secretariat functions to one or more other competent international organizations, should it find that the Secretariat is not functioning as intended.

Article 20. Settlement of disputes

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

2. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
(a) Arbitration in accordance with procedures to be adopted by the Conference of the Parties in an annex as soon as practicable; and

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

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

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

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

6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the Conference of the Parties no later than the second meeting of the Conference.

**Article 21. Amendments to the Convention**

1. Amendments to this Convention may be proposed by any Party.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate the proposed amendment to the signatories to this Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

4. The amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.

5. Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of its instruments of ratification, acceptance or approval by at least three-fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment.

**Article 22. Adoption and amendment of annexes**

1. Annexes to this Convention shall form an integral part thereof, and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annex thereto.

2. Annexes shall be restricted to procedural, scientific, technical or administrative matters.

3. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

(a) Additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1, 2 and 3 of Article 21;

(b) Any Party that is unable to accept an additional annex shall so notify the Depositary, in writing, within one year from the date of communication of the adoption of the additional annex by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance in respect of an additional annex and the annex shall thereupon enter into force for that Party subject to subparagraph (c) below; and

(c) On the expiry of one year from the date of the communication by the Depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification in accordance with the provisions of subparagraph (b) above.

4. Except in the case of Annex III, the proposal, adoption and entry into force of amendments to annexes to this Convention shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to the Convention.

5. The following procedure shall apply to the proposal, adoption and entry into force of amendments to Annex III:

(a) Amendments to Annex III shall be proposed and adopted according to the procedure laid down in Articles 5 to 9 and paragraph 2 of Article 21;

(b) The Conference of the Parties shall take its decisions on adoption by consensus;

(c) A decision to amend Annex III shall forthwith be communicated to the Parties by the Depositary. The amendment shall enter into force for all Parties on a date to be specified in the decision.

6. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enters into force.

**Article 23. Voting**

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 below.

2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member
States that are parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

3. For the purposes of this Convention, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

**Article 24. Signature**

This Convention shall be open for signature at Rotterdam by all States and regional economic integration organizations on the 11th day of September 1998, and at United Nations Headquarters in New York from 12 September 1998 to 10 September 1999.

**Article 25. Ratification, acceptance, approval or accession**

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

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

3. In its instrument of ratification, acceptance, approval or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Convention. Any such organization shall also inform the Depositary, who shall in turn inform the Parties, of any relevant modification in the extent of its competence.

**Article 26. Entry into force**

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

2. For each State or regional economic integration organization that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the fortieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

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

**Article 27. Reservations**

No reservations may be made to this Convention.

**Article 28. withdrawal**

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

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

**Article 29. Depositary**

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

**Article 30. Authentic texts**

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

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

Done at Rotterdam on this tenth day of September, one thousand nine hundred and ninety-eight.

[For the signatories, see p. 509 of this volume]
ANNEX I

INFORMATION REQUIREMENTS FOR NOTIFICATIONS MADE TO ARTICLE 5

Notifications shall include:
1. Properties, identification and uses
   (a) Common name,
   (b) Chemical name according to an internationally recognized nomenclature (for example, International Union of Pure and Applied Chemistry (IUPAC)), where such nomenclature exists;
   (c) Trade names and names of preparations;
   (d) Code numbers - Chemicals Abstract Service (CAS) number, Harmonized System customs code and other numbers;
   (e) Information on hazard classification, where the chemical is subject to classification requirements;
   (f) Use or uses of the chemical;
   (g) Physico-chemical, toxicological and ecotoxicological properties
2. Final regulatory action
   (a) Information specific to the final regulatory action:
      (i) Summary of the final regulatory action;
      (ii) Reference to the regulatory action;
      (iii) Date of entry into force of the final regulatory action;
   (iv) Indication of whether the final regulatory action was taken on the basis of a risk or hazard evaluation and, if so, information on such evaluation, covering a reference to the relevant documentation;
   (v) Reasons for the final regulatory action relevant to human health, including the health of consumers and workers, or the environment;
      (vi) Summary of the hazards and risks presented by the chemical to human health, including the health of consumers and workers, or the environment and the expected effect of the final regulatory action;
   (b) Category or categories where the final regulatory action has been taken, and for each category.
      (i) Use or uses prohibited by the final regulatory action;
      (ii) Use or uses that remain allowed;
      (iii) Estimation, where available, of quantities of the chemical produced, imported, exported and used;
   (c) An indication, to the extent possible, of the likely relevance of regulatory action to other States and regions;
   (d) other relevant information that may cover:

(i) Assessment of socio-economic effects of the final regulatory action,
(ii) Information on alternatives and their relative risks, where available, such as:
   - Integrated pest management strategies;
   - Industrial practices and processes, including cleaner technology.
ANNEX II

CRITERIA FOR LISTING BANNED OR SEVERELY RESTRICTED CHEMICALS IN ANNEX III

In reviewing the notifications forwarded by the Secretariat pursuant to paragraph 5 of Article 5, the Chemical Review Committee shall:

(a) Confirm that the final regulatory action has been taken in order to protect human health or the environment;

(b) Establish that the final regulatory action has been taken as a consequence of a risk evaluation. This evaluation shall be based on a review of scientific data in the context of the conditions prevailing in the Party in question. For this purpose, the documentation provided shall demonstrate that:

(i) Data have been generated according to scientifically recognized methods,

(ii) Data reviews have been performed and documented according to generally recognized scientific principles and procedures;

(iii) The final regulatory action was based on a risk evaluation involving prevailing conditions within the Party taking the action;

(c) Consider whether the final regulatory action provides a sufficiently broad basis to merit listing of the chemical in Annex III, by taking into account:

(i) Whether the final regulatory action led, or would be expected to lead, to a significant decrease in the quantity of the chemical used or the number of its uses;

(ii) Whether the final regulatory action led to an actual reduction of risk or would be expected to result in a significant reduction of risk for human health or the environment of the Party that submitted the notification;

(iii) Whether the considerations that led to the final regulatory action being taken are applicable only in a limited geographical area or in other limited circumstances;

(iv) Whether there is evidence of ongoing international trade in the chemical;

(d) Take into account that intentional misuse is not in itself an adequate reason to list a chemical in Annex III.

ANNEX III

CHEMICALS SUBJECT TO THE PRIOR INFORMED CONSENT PROCEDURE

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Relevant CAS number(s)</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,4,5-T</td>
<td>93-76-5</td>
<td>Pesticide</td>
</tr>
<tr>
<td>Aldrin</td>
<td>309-00-2</td>
<td>Pesticide</td>
</tr>
<tr>
<td>Captafol</td>
<td>2425-06-1</td>
<td>Pesticide</td>
</tr>
<tr>
<td>Chlordane</td>
<td>57-74-9</td>
<td>Pesticide</td>
</tr>
<tr>
<td>Chlordimeform</td>
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<td>DDT</td>
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<tr>
<td>Dieldrin</td>
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<tr>
<td>Dinoseb and dinoseb salts</td>
<td>88-85-7</td>
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<tr>
<td>1,2-dibromoethane (EDB)</td>
<td>106-93-4</td>
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<tr>
<td>Fluoroacetamide</td>
<td>640-19-7</td>
<td>Pesticide</td>
</tr>
<tr>
<td>HCH (mixed isomers)</td>
<td>608-73-1</td>
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</tr>
<tr>
<td>Heptachlor</td>
<td>76-44-8</td>
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</tr>
<tr>
<td>Hexachlorobenzene</td>
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<tr>
<td>Lindane</td>
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<td>Pesticide</td>
</tr>
<tr>
<td>Mercury compounds, including inorganic</td>
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<td>Pesticide</td>
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<td>mercury compounds, alkyl mercury compounds</td>
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<td>and alkylxalkyl and aryl mercury compounds</td>
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<td>Pentachlorophenol</td>
<td>87-86-5</td>
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<td>Monocrotophos (Soluble liquid formulations of</td>
<td>6923-22-4</td>
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<td>the substance that exceed 600 g</td>
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<td>pesticide formulation</td>
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<td>active ingredient/l)</td>
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<td>Methamidophos 10265-92-6 (Soluble liquid</td>
<td>10265-92-6</td>
<td>Severe hazardously</td>
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<tr>
<td>formulation of the substance that</td>
<td></td>
<td>pesticide formulation</td>
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<tr>
<td>exceed 600 g active ingredient/l)</td>
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</tbody>
</table>
Phosphamidon (Soluble liquid formulations of the substance that exceed isomers) 1,000 g active ingredient/1

<table>
<thead>
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<th>13171-21-6</th>
<th>Severeley hazardous pesticide formulation</th>
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<tbody>
<tr>
<td>(mixture, (E) &amp; (Z) isomers)</td>
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</tr>
<tr>
<td>23783-98-4 ((Z) - isomer)</td>
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</tr>
<tr>
<td>29799-94 ((E) - isomer)</td>
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</tbody>
</table>

Methyl-parathion (emulsifiable concentrates (EC) with 19.5%, 40%, 50%, 60% active ingredient and dusts containing 1.5%, 2% and 3% active ingredient)

| 298-00-0 | Severeley hazardous pesticide formulation |

Parathion (all formulations - aerosols, dustable powder (DP), emulsifiable concentrate (EC), granules (GR) and wettable powders (WP) - of this substance are included, except capsule suspensions (CS))

| 56-38-2 | Severeley hazardous pesticide formulation |

Crocidolite

| 12001-28-4 | Industrial |

Polybrominated biphenyls (PBB)

| 36355-01-8(hexa-) | Industrial |
| 27858-07-7(octa-) |
| 13654-09-6 (deca-) |

Polychlorinated biphenyls (PCB)

| 1336-36-3 | Industrial |

Polychlorinated terphenyls (PCT)

| 61788-33-8 | Industrial |

Tris (2,3-dibromopropyl) phosphate

| 126-72-7 | Industrial |

ANNEX IV

INFORMATION AND CRITERIA FOR LISTING SEVERELY HAZARDOUS PESTICIDE FORMULATIONS IN ANNEX II

Part 1. Documentation required from a proposing Party

Proposals submitted pursuant to paragraph 1 of Article 6 shall include adequate documentation containing the following information:

(a) Name of the hazardous pesticide formulation;

(b) Name of the active ingredient or ingredients in the formulation;

(c) Relative amount of each active ingredient in the formulation;

(d) Type of formulation;

(e) Trade names and names of the producers, if available;

(f) Common and recognized patterns of use of the formulation within the proposing Party;

(g) A clear description of incidents related to the problem, including the adverse effects and the way in which the formulation was used;

(h) Any regulatory, administrative or other measure taken, or intended to be taken, by the proposing Party in response to such incidents.

Part 2. Information to be collected by the Secretariat

Pursuant to paragraph 3 of Article 6, the Secretariat shall collect relevant information relating to the formulation, including:

(a) The physico-chemical, toxicological and ecotoxicological properties of the formulation;

(b) The existence of handling or applicator restrictions in other States;

(c) Information on incidents related to the formulation in other States;

(d) Information submitted by other Parties, international organizations, non-governmental organizations or other relevant sources, whether national or international:

(e) Risk and/or hazard evaluations, where available.

(f) Indications, if available, of the extent of use of the formulation, such as the number of registrations or production or sales quantity.

(g) Other formulations of the pesticide in question, and incidents, if any, relating to these formulations;

(h) Alternative pest-control practices;

(i) Other information which the Chemical Review Committee may identify as relevant.

Part 3. Criteria for listing severely hazardous pesticide formulations in Annex III

In reviewing the proposals forwarded by the Secretariat pursuant to paragraph 5 of Article 6, the Chemical Review Committee shall take into account:
(a) The reliability of the evidence indicating that use of the formulation, in accordance with common or recognized practices within the proposing Party, resulted in the reported incidents;

(b) The relevance of such incidents to other States with similar climate, conditions and patterns of use of the formulation;

(c) The existence of handling or applicator restrictions involving technology or techniques that may not be reasonably or widely applied in States lacking the necessary infrastructure;

(d) The significance of reported effects in relation to the quantity of the formulation used;

(e) That intentional misuse is not in itself an adequate reason to list a formulation in Annex III.

ANNEX V

INFORMATION REQUIREMENTS FOR EXPORT NOTIFICATION

1. Export notifications shall contain the following information:

(a) Name and address of the relevant designated national authorities of the exporting Party and the importing Party;

(b) Expected date of export to the importing Party;

(c) Name of the banned or severely restricted chemical and a summary of the information specified in Annex I that is to be provided to the secretariat in accordance with Article 5. Where more than one such chemical is included in a mixture or preparation, such information shall be provided for each chemical;

(d) A statement indicating, if known, the foreseen category of the chemical and its foreseen use within that category in the importing Party;

(e) Information on precautionary measures to reduce exposure to, and emission of, the chemical;

(f) In the case of a mixture or a preparation, the concentration of the banned or severely restricted chemical or chemicals in question;

(g) Name and address of the importer;

(h) Any additional information that is readily available to the relevant designated national authority of the exporting Party that would be of assistance to the designated national authority of the importing Party.

2. In addition to the information referred to in paragraph 1, the exporting Party shall provide such further information specified in Annex I as may be requested by the importing Party.
Cartagena Protocol on Biosafety to the Convention on Biological Diversity, 2000
No. 30619. Multilateral
CONVENTION ON BIOLOGICAL DIVERSITY. RIO DE JANEIRO, 5 JUNE 1992

CARTAGENA PROTOCOL ON BIOSAFETY TO THE CONVENTION ON BIOLOGICAL DIVERSITY. MONTREAL, 29 JANUARY 2000

Entry into force: 11 September 2003, in accordance with article 37 (2) (see following page)

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish

Registration with the Secretariat of the United Nations: ex officio, 11 September 2003

No. 30619. Multilatéral
CONVENTION SUR LA DIVERSITÉ BIOLOGIQUE. RIO DE JANEIRO, 5 JUIN 1992

PROTOCOLE DE CARTAGENA SUR LA PRÉVENTION DES RISQUES BIOTECHNOLOGIQUES RELATIF À LA CONVENTION SUR LA DIVERSITÉ BIOLOGIQUE. MONTRÉAL, 29 JANVIER 2000

Entrée en vigueur: 11 septembre 2003, conformément au paragraphe 2 de l’article 37 (voir la page suivante)

Textes authentiques: arabe, chinois, anglais, français, russe et espagnol


CARTAGENA PROTOCOL ON BIOSAFETY TO THE CONVENTION ON BIOLOGICAL DIVERSITY

The Parties to this Protocol,

Being Parties to the Convention on Biological Diversity, hereinafter referred to as "the Convention",

Recalling Article 19, paragraphs 3 and 4, and Articles 8(g) and 17 of the Convention,

Recalling also decision II/5 of 17 November 1995 of the Conference of the Parties to the Convention to develop a Protocol on biosafety, specifically focusing on transboundary movement of any living modified organism resulting from modern biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity, setting out for consideration, in particular, appropriate procedures for advance informed agreement,

Reaffirming the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development,

Aware of the rapid expansion of modern biotechnology and the growing public concern over its potential adverse effects on biological diversity, taking also into account risks to human health,

Recognizing that modern biotechnology has great potential for human well-being if developed and used with adequate safety measures for the environment and human health,

Recognizing also the crucial importance to humankind of centres of origin and centres of genetic diversity,

Taking into account the limited capabilities of many countries, particularly developing countries, to cope with the nature and scale of known and potential risks associated with living modified organisms,

Recognizing that trade and environment agreements should be mutually supportive with a view to achieving sustainable development,

Emphasizing that this Protocol shall not be interpreted as implying a change in the rights and obligations of a Party under any existing international agreements,

Understanding that the above recital is not intended to subordinate this Protocol to other international agreements,

Have agreed as follows:

Article 1. Objective

In accordance with the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Protocol is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on transboundary movements.

Article 2. General provisions

1. Each Party shall take necessary and appropriate legal, administrative and other measures to implement its obligations under this Protocol.

2. The Parties shall ensure that the development, handling, transport, use, transfer and release of any living modified organisms are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health.

3. Nothing in this Protocol shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

4. Nothing in this Protocol shall be interpreted as restricting the right of a Party to take action that is more protective of the conservation and sustainable use of biological diversity than that called for in this Protocol, provided that such action is consistent with the objective and the provisions of this Protocol and is in accordance with that Party's other obligations under international law.

5. The Parties are encouraged to take into account, as appropriate, available expertise, instruments and work undertaken in international forums with competence in the area of risks to human health.

Article 3. Use of terms

For the purposes of this Protocol:

(a) "Conference of the Parties" means the Conference of the Parties to the Convention;

(b) "Contained use" means any operation, undertaken within a facility, installation or other physical structure, which involves living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment;

(c) "Export" means intentional transboundary movement from one Party to another Party;

(d) "Exporter" means any legal or natural person, under the jurisdiction of the Party of export, who arranges for a living modified organism to be exported;

(e) "Import" means intentional transboundary movement into one Party from another Party;

(f) "Importer" means any legal or natural person, under the jurisdiction of the Party of import, who arranges for a living modified organism to be imported;

(g) "Living modified organism" means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;
(h) "Living organism" means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids;

(i) "Modern biotechnology" means the application of:
   a. In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or
   b. Fusion of cells beyond the taxonomic family,
      that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection;

(j) "Regional economic integration organization" means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Protocol and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it;

(k) "Transboundary movement" means the movement of a living modified organism from one Party to another Party, save that for the purposes of Articles 17 and 24 transboundary movement extends to movement between Parties and non-Parties.

Article 4. Scope

This Protocol shall apply to the transboundary movement, transit, handling and use of all living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

Article 5. Pharmaceuticals

Notwithstanding Article 4 and without prejudice to any right of a Party to subject all living modified organisms to risk assessment prior to the making of decisions on import, this Protocol shall not apply to the transboundary movement of living modified organisms which are pharmaceuticals for humans that are addressed by other relevant international agreements or organisations.

Article 6. Transit and contained use

1. Notwithstanding Article 4 and without prejudice to any right of a Party of transit to regulate the transport of living modified organisms through its territory and make available to the Biosafety Clearing-House, any decision of that Party, subject to Article 2, paragraph 3, regarding the transit through its territory of a specific living modified organism, the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to living modified organisms in transit.

2. Notwithstanding Article 4 and without prejudice to any right of a Party to subject all living modified organisms to risk assessment prior to decisions on import and to set standards for contained use within its jurisdiction, the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to the transboundary movement of living modified organisms destined for contained use undertaken in accordance with the standards of the Party of import.

Article 7. Application of the advance informed agreement procedure

1. Subject to Articles 5 and 6, the advance informed agreement procedure in Articles 8 to 10 and 12 shall apply prior to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment of the Party of import.

2. "Intentional introduction into the environment" in paragraph 1 above, does not refer to living modified organisms intended for direct use as food or feed, or for processing.

3. Article 11 shall apply prior to the first transboundary movement of living modified organisms intended for direct use as food or feed, or for processing.

4. The advance informed agreement procedure shall not apply to the intentional transboundary movement of living modified organisms identified in a decision of the Conference of the Parties serving as the meeting of the Parties to this Protocol as being not likely to have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

Article 8. Notification

1. The Party of export shall notify, or require the exporter to ensure notification to, in writing, the competent national authority of the Party of import prior to the intentional transboundary movement of a living modified organism that falls within the scope of Article 7, paragraph 1.

   The notification shall contain, at a minimum, the information specified in Annex I.

2. The Party of export shall ensure that there is a legal requirement for the accuracy of information provided by the exporter.

Article 9. Acknowledgement of receipt of notification

1. The Party of import shall acknowledge receipt of the notification, in writing, to the notifier within ninety days of its receipt.

2. The acknowledgement shall state:
   (a) The date of receipt of the notification;
   (b) Whether the notification, prima facie, contains the information referred to in Article 8;
   (c) Whether to proceed according to the domestic regulatory framework of the Party of import or according to the procedure specified in Article 10.

3. The domestic regulatory framework referred to in paragraph 2 (c) above, shall be consistent with this Protocol.

4. A failure by the Party of import to acknowledge receipt of a notification shall not imply its consent to an intentional transboundary movement.
1. Decisions taken by the Party of import shall be in accordance with Article 15, inform the notifier, and be in accordance with the screening procedure under Article 1 of the Decision on the import of living modified organisms of Annex I to the Directive on Organization for Economic Co-operation and Development (OECD), pursuanc of the Decisions adopted under Annex II to the Protocol, and the Decisions taken under Article 15, shall not apply to decisions regarding field trials.

2. The Party shall approve the use of the genetic material in question under Annex I to the Directive on the import of living modified organisms of Annex I to the Directive on the Conservation and Sustainable Use of Biological Diversity in the Party of import, and in order to avoid or minimize such potential adverse effects, the decision shall be taken within a predictable timeframe, not exceeding two hundred and seventy days.

3. Failure of a Party to communicate its decision according to paragraph 6 above, shall not prevent the import of the living modified organism intended for direct use as food or feed, or for processing, unless otherwise specified by the Party.

4. A Party may take a decision on the import of living modified organisms of Annex I to the Directive on the Conservation and Sustainable Use of Biological Diversity in the Party of import, and in order to avoid or minimize such potential adverse effects, the decision shall be taken within a predictable timeframe, not exceeding two hundred and seventy days.

5. A Party may request additional information from the applicant and may require the approval of the Notified Authority of the Party of import, in accordance with the provisions of the Directive on the Conservation and Sustainable Use of Biological Diversity in the Party of import, and in order to avoid or minimize such potential adverse effects, the decision shall be taken within a predictable timeframe, not exceeding two hundred and seventy days.

6. A Party may take a decision on the import of living modified organisms of Annex I to the Directive on the Conservation and Sustainable Use of Biological Diversity in the Party of import, and in order to avoid or minimize such potential adverse effects, the decision shall be taken within a predictable timeframe, not exceeding two hundred and seventy days.
tentional transboundary movement. In such case, the Party shall, within thirty days, inform any notifier that has previously notified movements of the living modified organism referred to in such decision, as well as the Biosafety Clearing-House, and shall set out the reasons for its decision.

2. A Party of export or a notifier may request the Party of import to review a decision it has made in respect of it under Article 10 where the Party of export or the notifier considers that:

(a) A change in circumstances has occurred that may influence the outcome of the risk assessment upon which the decision was based; or

(b) Additional relevant scientific or technical information has become available.

3. The Party of import shall respond in writing to such a request within ninety days and set out the reasons for its decision.

4. The Party of import may, at its discretion, require a risk assessment for subsequent imports.

Article 13. Simplified procedure

1. A Party of import may, provided that adequate measures are applied to ensure the safe intentional transboundary movement of living modified organisms in accordance with the objective of this Protocol, specify in advance to the Biosafety Clearing-House:

(a) Cases in which intentional transboundary movement to it may take place at the same time as the movement is notified to the Party of export; and

(b) Imports of living modified organisms to it to be exempted from the advance informed agreement procedure.

Notifications under subparagraph (a) above, may apply to subsequent similar movements to the same Party.

2. The information relating to an intentional transboundary movement that is to be provided in the notifications referred to in paragraph 1 (a) above, shall be the information specified in Annex I.

Article 14. Bilateral, regional and multilateral agreements and arrangements

1. Parties may enter into bilateral, regional and multilateral agreements and arrangements regarding intentional transboundary movements of living modified organisms, consistent with the objective of this Protocol and provided that such agreements and arrangements do not result in a lower level of protection than that provided for by the Protocol.

2. The Parties shall inform each other, through the Biosafety Clearing-House, of any such bilateral, regional and multilateral agreements and arrangements that they have entered into before or after the date of entry into force of this Protocol.

3. The provisions of this Protocol shall not affect intentional transboundary movements that take place pursuant to such agreements and arrangements as between the parties to those agreements or arrangements.

4. Any Party may determine that its domestic regulations shall apply with respect to specific imports to it and shall notify the Biosafety Clearing-House of its decision.

Article 15. Risk assessment

1. Risk assessments undertaken pursuant to this Protocol shall be carried out in a scientifically sound manner, in accordance with Annex III and taking into account recognized risk assessment techniques. Such risk assessments shall be based, at a minimum, on information provided in accordance with Article 8 and other available scientific evidence in order to identify and evaluate the possible adverse effects of living modified organisms on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

2. The Party of import shall ensure that risk assessments are carried out for decisions taken under Article 10. It may require the exporter to carry out the risk assessment.

3. The cost of risk assessment shall be borne by the notifier if the Party of import so requires.

Article 16. Risk management

1. The Parties shall, taking into account Article 8 (g) of the Convention, establish and maintain appropriate mechanisms, measures and strategies to regulate, manage and control risks identified in the risk assessment provisions of this Protocol associated with the use, handling and transboundary movement of living modified organisms.

2. Measures based on risk assessment shall be imposed to the extent necessary to prevent adverse effects of the living modified organism on the conservation and sustainable use of biological diversity, taking also into account risks to human health, within the territory of the Party of import.

3. Each Party shall take appropriate measures to prevent unintentional transboundary movements of living modified organisms, including such measures as requiring a risk assessment to be carried out prior to the first release of a living modified organism.

4. Without prejudice to paragraph 2 above, each Party shall endeavour to ensure that any living modified organism, whether imported or locally developed, has undergone an appropriate period of observation that is commensurate with its life-cycle or generation time before it is put to its intended use.

5. Parties shall cooperate with a view to:

(a) Identifying living modified organisms or specific traits of living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and

(b) Taking appropriate measures regarding the treatment of such living modified organisms or specific traits.
Article 17. Unintentional transboundary movements and emergency measures

1. Each Party shall take appropriate measures to notify affected or potentially affected States, the Biosafety Clearing-House and, where appropriate, relevant international organizations, when it knows of an occurrence under its jurisdiction resulting in a release that leads, or may lead, to an unintentional transboundary movement of a living modified organism that is likely to have significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health in such States. The notification shall be provided as soon as the Party knows of the above situation.

2. Each Party shall, no later than the date of entry into force of this Protocol for it, make available to the Biosafety Clearing-House the relevant details setting out its point of contact for the purposes of receiving notifications under this Article.

3. Any notification arising from paragraph 1 above, should include:
   (a) Available relevant information on the estimated quantities and relevant characteristics and/or traits of the living modified organism;
   (b) Information on the circumstances and estimated date of the release, and on the use of the living modified organism in the originating Party;
   (c) Any available information about the possible adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, as well as available information about possible risk management measures;
   (d) Any other relevant information; and
   (e) A point of contact for further information.

4. In order to minimize any significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party, under whose jurisdiction the release of the living modified organism referred to in paragraph 1 above, occurs, shall immediately consult the affected or potentially affected States to enable them to determine appropriate responses and initiate necessary action, including emergency measures.

Article 18. Handling, transport, packaging and identification

1. In order to avoid adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party shall take necessary measures to require that living modified organisms that are subject to intentional transboundary movement within the scope of this Protocol are handled, packaged and transported under conditions of safety, taking into consideration relevant international rules and standards.

2. Each Party shall take measures to require that documentation accompanying:
   (a) Living modified organisms that are intended for direct use as food or feed, or for processing, clearly identifies that they "may contain" living modified organisms and are not intended for intentional introduction into the environment, as well as a contact point for further information.

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall take a decision on the detailed requirements for this purpose, including specification of their identity and any unique identification, no later than two years after the date of entry into force of this Protocol;

(b) Living modified organisms that are destined for contained use clearly identifies them as living modified organisms; and specifies any requirements for the safe handling, storage, transport and use, the contact point for further information, including the name and address of the individual and institution to whom the living modified organisms are consigned; and

(c) Living modified organisms that are intended for intentional introduction into the environment of the Party of import and any other living modified organisms within the scope of the Protocol, clearly identifies them as living modified organisms; specifies the identity and relevant traits and/or characteristics, any requirements for the safe handling, storage, transport and use, the contact point for further information and, as appropriate, the name and address of the importer and exporter; and contains a declaration that the movement is in conformity with the requirements of this Protocol applicable to the exporter.

3. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall consider the need for and modalities of developing standards with regard to identification, handling, packaging and transport practices, in consultation with other relevant international bodies.

Article 19. Competent national authorities and national focal points

1. Each Party shall designate one national focal point to be responsible on its behalf for liaison with the Secretariat. Each Party shall also designate one or more competent national authorities, which shall be responsible for performing the administrative functions required by this Protocol and which shall be authorized to act on its behalf with respect to those functions. A Party may designate a single entity to fulfil the functions of both focal point and competent national authority.

2. Each Party shall, no later than the date of entry into force of this Protocol for it, notify the Secretariat of the names and addresses of its focal point and its competent national authority or authorities. Where a Party designates more than one competent national authority, it shall convey to the Secretariat, with its notification thereof, relevant information on the respective responsibilities of those authorities. Where applicable, such information shall, at a minimum, specify which competent authority is responsible for which type of living modified organism.

Each Party shall forthwith notify the Secretariat of any changes in the designation of its national focal point or in the name and address or responsibilities of its competent national authority or authorities.

3. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 2 above, and shall also make such information available through the Biosafety Clearing-House.
Article 20. Information sharing and the biosafety clearing-house

1. A Biosafety Clearing-House is hereby established as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention, in order to:

(a) Facilitate the exchange of scientific, technical, environmental and legal information on, and experience with, living modified organisms; and

(b) Assist Parties to implement the Protocol, taking into account the special needs of developing country Parties, in particular the least developed and small island developing States among them, and countries with economies in transition as well as countries that are centres of origin and centres of genetic diversity.

2. The Biosafety Clearing-House shall serve as a means through which information is made available for the purposes of paragraph 1 above. It shall provide access to information made available by the Parties relevant to the implementation of the Protocol. It shall also provide access, where possible, to other international biosafety information exchange mechanisms.

3. Without prejudice to the protection of confidential information, each Party shall make available to the Biosafety Clearing-House any information required to be made available to the Biosafety Clearing-House under this Protocol, and:

(a) Any existing laws, regulations and guidelines for implementation of the Protocol, as well as information required by the Parties for the advance informed agreement procedure;

(b) Any bilateral, regional and multilateral agreements and arrangements;

(c) Summaries of its risk assessments or environmental reviews of living modified organisms generated by its regulatory process, and carried out in accordance with Article 15, including, where appropriate, relevant information regarding products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology;

(d) Its final decisions regarding the importation or release of living modified organisms; and

(e) Reports submitted by it pursuant to Article 33, including those on implementation of the advance informed agreement procedure.

4. The modalities of the operation of the Biosafety Clearing-House, including reports on its activities, shall be considered and decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first meeting, and kept under review thereafter.

Article 21. Confidential information

1. The Party of import shall permit the notifier to identify information submitted under the procedures of this Protocol or required by the Party of import as part of the advance informed agreement procedure of the Protocol that is to be treated as confidential. Justification shall be given in such cases upon request.

2. The Party of import shall consult the notifier if it decides that information identified by the notifier as confidential does not qualify for such treatment and shall, prior to any disclosure, inform the notifier of its decision, providing reasons on request, as well as an opportunity for consultation and for an internal review of the decision prior to disclosure.

3. Each Party shall protect confidential information received under this Protocol, including any confidential information received in the context of the advance informed agreement procedure of the Protocol. Each Party shall ensure that it has procedures to protect such information and shall protect the confidentiality of such information in a manner no less favourable than its treatment of confidential information in connection with domestically produced living modified organisms.

4. The Party of import shall not use such information for a commercial purpose, except with the written consent of the notifier.

5. If a notifier withdraws or has withdrawn a notification, the Party of import shall respect the confidentiality of commercial and industrial information, including research and development information as well as information on which the Party and the notifier disagree as to its confidentiality.

6. Without prejudice to paragraph 5 above, the following information shall not be considered confidential:

(a) The name and address of the notifier;

(b) A general description of the living modified organism or organisms;

(c) A summary of the risk assessment of the effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and

(d) Any methods and plans for emergency response.

Article 22. Capacity-building

1. The Parties shall cooperate in the development and/or strengthening of human resources and institutional capacities in biosafety, including biotechnology to the extent that it is required for biosafety, for the purpose of the effective implementation of this Protocol in developing country Parties, in particular the least developed and small island developing States among them, and in Parties with economies in transition, including through existing global, regional, subregional and national institutions and organizations and, as appropriate, through facilitating private sector involvement.

2. For the purposes of implementing paragraph 1 above, in relation to cooperation, the needs of developing country Parties, in particular the least developed and small island developing States among them, for financial resources and access to and transfer of technology and know-how in accordance with the relevant provisions of the Convention, shall be taken fully into account for capacity-building in biosafety. Cooperation in capacity-building shall, subject to the different situation, capabilities and requirements of each Party, include scientific and technical training in the proper and safe management of biotechnology, and in the use of risk assessment and risk management for biosafety, and the enhancement of technological and institutional capacities in biosafety. The needs of Parties with econo-
Article 23. Public awareness and participation

1. The Parties shall:
   (a) Promote and facilitate public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms in relation to the conservation and sustainable use of biological diversity, taking also into account risks to human health. In doing so, the Parties shall cooperate, as appropriate, with other States and international bodies;
   (b) Endeavour to ensure that public awareness and education encompass access to information on living modified organisms identified in accordance with this Protocol that may be imported.

2. The Parties shall, in accordance with their respective laws and regulations, consult the public in the decision-making process regarding living modified organisms and shall make the results of such decisions available to the public, while respecting confidential information in accordance with Article 21.

3. Each Party shall endeavour to inform its public about the means of public access to the Biosafety Clearing-House.

Article 24. Non-parties

1. Transboundary movements of living modified organisms between Parties and non-Parties shall be consistent with the objective of this Protocol. The Parties may enter into bilateral, regional and multilateral agreements and arrangements with non-Parties regarding such transboundary movements.

2. The Parties shall encourage non-Parties to adhere to this Protocol and to contribute appropriate information to the Biosafety Clearing-House on living modified organisms re-released in, or moved into or out of, areas within their national jurisdictions.

Article 25. Illegal transboundary movements

1. Each Party shall adopt appropriate domestic measures aimed at preventing and, if appropriate, penalizing transboundary movements of living modified organisms carried out in contravention of its domestic measures to implement this Protocol. Such movements shall be deemed illegal transboundary movements.

2. In the case of an illegal transboundary movement, the affected Party may request the Party of origin to dispose, at its own expense, of the living modified organism in question by repatriation or destruction, as appropriate.

3. Each Party shall make available to the Biosafety Clearing-House information concerning cases of illegal transboundary movements pertaining to it.

Article 26. Socio-economic considerations

1. The Parties, in reaching a decision on import under this Protocol or under its domestic measures implementing the Protocol, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.

2. The Parties are encouraged to cooperate on research and information exchange on any socio-economic impacts of living modified organisms, especially on indigenous and local communities.

Article 27. Liability and redress

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, adopt a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms, analysing and taking due account of the ongoing processes in international law on these matters, and shall endeavour to complete this process within four years.

Article 28. Financial mechanism and resources

1. In considering financial resources for the implementation of this Protocol, the Parties shall take into account the provisions of Article 20 of the Convention.

2. The financial mechanism established in Article 21 of the Convention shall, through the institutional structure entrusted with its operation, be the financial mechanism for this Protocol.

3. Regarding the capacity-building referred to in Article 22 of this Protocol, the Conference of the Parties serving as the meeting of the Parties to this Protocol, in providing guidance with respect to the financial mechanism referred to in paragraph 2 above, for consideration by the Conference of the Parties, shall take into account the need for financial resources by developing country Parties, in particular the least developed and the small island developing States among them.

4. In the context of paragraph 1 above, the Parties shall also take into account the needs of the developing country Parties, in particular the least developed and the small island developing States among them, and of the Parties with economies in transition, in their efforts to identify and implement their capacity-building requirements for the purposes of the implementation of this Protocol.

5. The guidance to the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply, mutatis mutandis, to the provisions of this Article.

6. The developed country Parties may also provide, and the developing country Parties and the Parties with economies in transition avail themselves of, financial and technologi-
Article 29. Conference of the parties serving as the meeting of the parties to this protocol

1. The Conference of the Parties shall serve as the meeting of the Parties to this Protocol.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to it.

3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of the bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be substituted by a member to be elected by and from among the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:

(a) Make recommendations on any matters necessary for the implementation of this Protocol;

(b) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;

(c) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies;

(d) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 33 of this Protocol and consider such information as well as reports submitted by any subsidiary body;

(e) Consider and adopt, as required, amendments to this Protocol and its annexes, as well as any additional annexes to this Protocol, that are deemed necessary for the implementation of this Protocol, and

(f) Exercise such other functions as may be required for the implementation of this Protocol.

5. The rules of procedure of the Conference of the Parties and financial rules of the Convention shall be applied, mutatis mutandis, under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

6. The first meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the Secretariat in conjunction with the first meeting of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol.

Subsequent ordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

7. Extraordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to this Protocol, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the Secretariat, it is supported by at least one third of the Parties.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented as observers at meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Any body or agency, whether national or international, governmental or non-governmental, that is qualified in matters covered by this Protocol and that has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties serving as a meeting of the Parties to this Protocol as an observer, may be so admitted, unless at least one third of the Parties present object. Except as otherwise provided in this Article, the admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.

Article 30. Subsidiary bodies

1. Any subsidiary body established by or under the Convention may, upon a decision by the Conference of the Parties serving as the meeting of the Parties to this Protocol, serve the Protocol, in which case the meeting of the Parties shall specify which functions that body shall exercise.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of any such subsidiary bodies. When a subsidiary body of the Convention serves as a subsidiary body to this Protocol, decisions under the Protocol shall be taken only by the Parties to the Protocol.

3. When a subsidiary body of the Convention exercises its functions with regard to matters concerning this Protocol, any member of the bureau of that subsidiary body representing a Party to the Convention but, at that time, not a Party to the Protocol, shall be substituted by a member to be elected by and from among the Parties to the Protocol.

Article 31. Secretariat

1. The Secretariat established by Article 24 of the Convention shall serve as the secretariat to this Protocol.

2. Article 24, paragraph 1, of the Convention on the functions of the Secretariat shall apply, mutatis mutandis, to this Protocol.

3. To the extent that they are distinct, the costs of the secretariat services for this Protocol shall be met by the Parties hereto. The Conference of the Parties serving as the meet-
ing of the Parties to this Protocol shall, at its first meeting, decide on the necessary budgetary arrangements to this end.

Article 32. Relationship with the convention

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

Article 33. Monitoring and reporting

Each Party shall monitor the implementation of its obligations under this Protocol, and shall, at intervals to be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, report to the Conference of the Parties serving as the meeting of the Parties to this Protocol on measures that it has taken to implement the Protocol.

Article 34. Compliance

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of this Protocol and to address cases of non-compliance.

These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. They shall be separate from, and without prejudice to, the dispute settlement procedures and mechanisms established by Article 27 of the Convention.

Article 35. Assessment and review

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall undertake, five years after the entry into force of this Protocol and at least every five years thereafter, an evaluation of the effectiveness of the Protocol, including an assessment of its procedures and annexes.

Article 36. Signature


Article 37. Entry into force

1. This Protocol shall enter into force on the ninetyieth day after the date of deposit of the fiftyieth instrument of ratification, acceptance, approval or accession by States or regional economic integration organizations that are Parties to the Convention.

2. This Protocol shall enter into force for a State or regional economic integration organization that ratifies, accepts or approves this Protocol or accedes thereto after its entry into force pursuant to paragraph 1 above, on the ninetieth day after the date on which that State or regional economic integration organization deposits its instrument of ratification, acceptance, approval or accession, or on the date on which the Convention enters into force for that State or regional economic integration organization, whichever shall be the later.

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

Article 38. Reservations

No reservations may be made to this Protocol.

Article 39. Withdrawal

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

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 40. Authentic texts

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

In witness whereof the undersigned, being duly authorized to that effect, have signed this Protocol.

Done at Montreal on this twenty-ninth day of January, two thousand.
ANNEX I

INFORMATION REQUIRED IN NOTIFICATIONS UNDER ARTICLES 8, 10 AND 13

(a) Name, address and contact details of the exporter.
(b) Name, address and contact details of the importer.
(c) Name and identity of the living modified organism, as well as the domestic classification, if any, of the biosafety level of the living modified organism in the State of export.
(d) Intended date or dates of the transboundary movement, if known.
(e) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.
(f) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.
(g) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.
(h) Description of the nucleic acid or the modification introduced, the technique used, and the resulting characteristics of the living modified organism.
(i) Intended use of the living modified organism or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology.
(j) Quantity or volume of the living modified organism to be transferred.
(k) A previous and existing risk assessment report consistent with Annex III.
(l) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.
(m) Regulatory status of the living modified organism within the State of export (for example, whether it is prohibited in the State of export, whether there are other restrictions, or whether it has been approved for general release) and, if the living modified organism is banned in the State of export, the reason or reasons for the ban.
(n) Result and purpose of any notification by the exporter to other States regarding the living modified organism to be transferred.
(o) A declaration that the above-mentioned information is factually correct.

ANNEX II

INFORMATION REQUIRED CONCERNING LIVING MODIFIED ORGANISMS INTENDED FOR DIRECT USE AS FOOD OR FEED, OR FOR PROCESSING UNDER ARTICLE 11

(a) The name and contact details of the applicant for a decision for domestic use.
(b) The name and contact details of the authority responsible for the decision.
(c) Name and identity of the living modified organism.
(d) Description of the gene modification, the technique used, and the resulting characteristics of the living modified organism.
(e) Any unique identification of the living modified organism.
(f) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.
(g) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.
(h) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.
(i) Approved uses of the living modified organism.
(j) A risk assessment report consistent with Annex III.
(k) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.
ANNEX III

RISK ASSESSMENT

Objective

1. The objective of risk assessment, under this Protocol, is to identify and evaluate the potential adverse effects of living modified organisms on the conservation and sustainable use of biological diversity in the likely potential receiving environment, taking also into account risks to human health.

Use of risk assessment

2. Risk assessment is, inter alia, used by competent authorities to make informed decisions regarding living modified organisms.

General principles

3. Risk assessment should be carried out in a scientifically sound and transparent manner, and can take into account expert advice of, and guidelines developed by, relevant international organizations.

4. Lack of scientific knowledge or scientific consensus should not necessarily be interpreted as indicating a particular level of risk, an absence of risk, or an acceptable risk.

5. Risks associated with living modified organisms or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology, should be considered in the context of the risks posed by the non-modified recipients or parental organisms in the likely potential receiving environment.

6. Risk assessment should be carried out on a case-by-case basis. The required information may vary in nature and level of detail from case to case, depending on the living modified organism concerned, its intended use and the likely potential receiving environment.

Methodology

7. The process of risk assessment may on the one hand give rise to a need for further information about specific subjects, which may be identified and requested during the assessment process, while on the other hand information on other subjects may not be relevant in some instances.

8. To fulfil its objective, risk assessment entails, as appropriate, the following steps:

(a) An identification of any novel genotypic and phenotypic characteristics associated with the living modified organism that may have adverse effects on biological diversity in the likely potential receiving environment, taking also into account risks to human health;

(b) An evaluation of the likelihood of these adverse effects being realized, taking into account the level and kind of exposure of the likely potential receiving environment to the living modified organism;

(c) An evaluation of the consequences should these adverse effects be realized;

(d) An estimation of the overall risk posed by the living modified organism based on the evaluation of the likelihood and consequences of the identified adverse effects being realized;

(e) A recommendation as to whether or not the risks are acceptable or manageable, including, where necessary, identification of strategies to manage these risks; and

(f) Where there is uncertainty regarding the level of risk, it may be addressed by requesting further information on the specific issues of concern or by implementing appropriate risk management strategies and/or monitoring the living modified organism in the receiving environment.

Points to consider

9. Depending on the case, risk assessment takes into account the relevant technical and scientific details regarding the characteristics of the following subjects:

(a) Recipient organism or parental organisms. The biological characteristics of the recipient organism or parental organisms, including information on taxonomic status, common name, origin, centres of origin and centres of genetic diversity, if known, and a description of the habitat where the organisms may persist or proliferate;

(b) Donor organism or organisms. Taxonomic status and common name, source, and the relevant biological characteristics of the donor organisms;

(c) Vector. Characteristics of the vector, including its identity, if any, and its source or origin, and its host range;

(d) Insert or inserts and/or characteristics of modification. Genetic characteristics of the inserted nucleic acid and the function it specifies, and/or characteristics of the modification introduced;

(e) Living modified organism. Identity of the living modified organism, and the differences between the biological characteristics of the living modified organism and those of the recipient organism or parental organisms;

(f) Detection and identification of the living modified organism. Suggested detection and identification methods and their specificity, sensitivity and reliability;

(g) Information relating to the intended use. Information relating to the intended use of the living modified organism, including new or changed use compared to the recipient organism or parental organisms; and

(h) Receiving environment. Information on the location, geographical, climatic and ecological characteristics, including relevant information on biological diversity and centres of origin of the likely potential receiving environment.
No. 40214

Multilateral


Entry into force: 17 May 2004, in accordance with article 26 (1) (see following page)

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish

Registration with the Secretariat of the United Nations: ex officio, 17 May 2004
See also No. A-40214 in volume 2261.

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Multilatéral


Entrée en vigueur : 17 mai 2004, conformément au paragraphe 1 de l'article 26 (voir la page suivante)

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol

Voir aussi No A-40214 du volume 2261.
STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS

The Parties to this Convention,

Recognizing that persistent organic pollutants possess toxic properties, resist degradation, bio accumulate and are transported, through air, water and migratory species, across international boundaries and deposited far from their place of release, where they accumulate in terrestrial and aquatic ecosystems,

Aware of the health concerns, especially in developing countries, resulting from local exposure to persistent organic pollutants, in particular impacts upon women and, through them, upon future generations,

Acknowledging that the Arctic ecosystems and indigenous communities are particularly at risk because of the bio magnification of persistent organic pollutants and that contamination of their traditional foods is a public health issue,

Conscious of the need for global action on persistent organic pollutants,

Mindful of decision 19/13 C of 7 February 1997 of the Governing Council of the United Nations Environment Programme to initiate international action to protect human health and the environment through measures which will reduce and/or eliminate emissions and discharges of persistent organic pollutants,

Recalling the pertinent provisions of the relevant international environmental conventions, especially the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal including the regional agreement developed within the framework of its Article 11,

Recalling also the pertinent provisions of the Rio Declaration on Environment and Development and Agenda 21,

Acknowledging that precaution underlies the concerns of all the Parties and is embedded within this Convention,

Recognizing that this Convention and other international agreements in the field of trade and the environment are mutually supportive,

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

Taking into account the circumstances and particular requirements of developing countries, in particular the least developed among them, and countries with economies in transition, especially the need to strengthen their national capabilities for the management of chemicals, including through the transfer of technology, the provision of financial and technical assistance and the promotion of cooperation among the Parties,

Taking full account of the Programme of Action for the Sustainable Development of Small Island Developing States, adopted in Barbados on 6 May 1994,

Noting the respective capabilities of developed and developing countries, as well as the common but differentiated responsibilities of States as set forth in Principle 7 of the Rio Declaration on Environment and Development,

Recognizing the important contribution that the private sector and non-governmental organizations can make to achieving the reduction and/or elimination of emissions and discharges of persistent organic pollutants,

Underlining the importance of manufacturers of persistent organic pollutants taking responsibility for reducing adverse effects caused by their products and for providing information to users, Governments and the public on the hazardous properties of those chemicals,

Conscious of the need to take measures to prevent adverse effects caused by persistent organic pollutants at all stages of their life cycle,

Reaffirming Principle 16 of the Rio Declaration on Environment and Development which states that national authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment,

Encouraging Parties not having regulatory and assessment schemes for pesticides and industrial chemicals to develop such schemes,

Recognizing the importance of developing and using environmentally sound alternative processes and chemicals,

Determined to protect human health and the environment from the harmful impacts of persistent organic pollutants,

Have agreed as follows:

Article 1. Objective

Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants.

Article 2. Definitions

For the purposes of this Convention:

(a) “Party” means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;

(b) “Regional economic integration organization” means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;
(c) “Parties present and voting” means Parties present and casting an affirmative or negative vote.

Article 3. Measures to reduce or eliminate releases from intentional production and use

1. Each Party shall:
   (a) Prohibit and/or take the legal and administrative measures necessary to eliminate:
      (i) Its production and use of the chemicals listed in Annex A subject to the provisions of that Annex; and
      (ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and
   (b) Restrict its production and use of the chemicals listed in Annex B in accordance with the provisions of that Annex.

2. Each Party shall take measures to ensure:
   (a) That a chemical listed in Annex A or Annex B is imported only:
      (i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6; or
      (ii) For a use or purpose which is permitted for that Party under Annex A or Annex B;
   (b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only:
      (i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;
      (ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or
      (iii) To a State not Party to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to:
         a. Protect human health and the environment by taking the necessary measures to minimize or prevent releases;
         b. Comply with the provisions of paragraph 1 of Article 6; and
         c. Comply, where appropriate, with the provisions of paragraph 2 of Part II of Annex B.

The certification shall also include any appropriate supporting documentation, such as legislation, regulatory instruments, or administrative or policy guidelines. The exporting Party shall transmit the certification to the Secretariat within sixty days of receipt.

(c) That a chemical listed in Annex A, for which production and use specific exemptions are no longer in effect for any Party, is not exported from it except for the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

(d) For the purposes of this paragraph, the term “State not Party to this Convention” shall include, with respect to a particular chemical, a State or regional economic integration organization that has not agreed to be bound by the Convention with respect to that chemical.

3. Each Party that has one or more regulatory and assessment schemes for new pesticides or new industrial chemicals shall take measures to regulate with the aim of preventing the production and use of new pesticides or new industrial chemicals which, taking into consideration the criteria in paragraph 1 of Annex D, exhibit the characteristics of persistent organic pollutants.

4. Each Party that has one or more regulatory and assessment schemes for pesticides or industrial chemicals shall, where appropriate, take into consideration within these schemes the criteria in paragraph 1 of Annex D when conducting assessments of pesticides or industrial chemicals currently in use.

5. Except as otherwise provided in this Convention, paragraphs 1 and 2 shall not apply to quantities of a chemical to be used for laboratory-scale research or as a reference standard.

6. Any Party that has a specific exemption in accordance with Annex A or a specific exemption or an acceptable purpose in accordance with Annex B shall take appropriate measures to ensure that any production or use under such exemption or purpose is carried out in a manner that prevents or minimizes human exposure and release into the environment. For exempted uses or acceptable purposes that involve intentional release into the environment under conditions of normal use, such release shall be to the minimum extent necessary, taking into account any applicable standards and guidelines.

Article 4. Register of specific exemptions

1. A Register is hereby established for the purpose of identifying the Parties that have specific exemptions listed in Annex A or Annex B. It shall not identify Parties that make use of the provisions in Annex A or Annex B that may be exercised by all Parties. The Register shall be maintained by the Secretariat and shall be available to the public.

2. The Register shall include:
   (a) A list of the types of specific exemptions reproduced from Annex A and Annex B;
   (b) A list of the Parties that have a specific exemption listed under Annex A or Annex B; and
   (c) A list of the expiry dates for each registered specific exemption.
3. Any State may, on becoming a Party, by means of a notification in writing to the Secretariat, register for one or more types of specific exemptions listed in Annex A or Annex B.

4. Unless an earlier date is indicated in the Register by a Party, or an extension is granted pursuant to paragraph 7, all registrations of specific exemptions shall expire five years after the date of entry into force of this Convention with respect to a particular chemical.

5. At its first meeting, the Conference of the Parties shall decide upon its review process for the entries in the Register.

6. Prior to a review of an entry in the Register, the Party concerned shall submit a report to the Secretariat justifying its continuing need for registration of that exemption. The report shall be circulated by the Secretariat to all Parties. The review of a registration shall be carried out on the basis of all available information. Thereupon, the Conference of the Parties may make such recommendations to the Party concerned as it deems appropriate.

7. The Conference of the Parties may, upon request from the Party concerned, decide to extend the expiry date of a specific exemption for a period of up to five years. In making its decision, the Conference of the Parties shall take due account of the special circumstances of the developing country Parties and Parties with economies in transition.

8. A Party may, at any time, withdraw an entry from the Register for a specific exemption upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

9. When there are no longer any Parties registered for a particular type of specific exemption, no new registrations may be made with respect to it.

Article 5. Measures to reduce or eliminate releases from unintentional production

Each Party shall at a minimum take the following measures to reduce the total releases derived from anthropogenic sources of each of the chemicals listed in Annex C, with the goal of their continuing minimization and, where feasible, ultimate elimination:

(a) Develop an action plan or, where appropriate, a regional or subregional action plan within two years of the date of entry into force of this Convention for it, and subsequently implement it as part of its implementation plan specified in Article 7, designed to identify, characterize and address the release of the chemicals listed in Annex C and to facilitate implementation of subparagraphs (b) to (e). The action plan shall include the following elements:

(i) An evaluation of current and projected releases, including the development and maintenance of source inventories and release estimates, taking into consideration the source categories identified in Annex C;

(ii) An evaluation of the efficacy of the laws and policies of the Party relating to the management of such releases;

(iii) Strategies to meet the obligations of this paragraph, taking into account the evaluations in (i) and (ii);

(iv) Steps to promote education and training with regard to, and awareness of, those strategies;

(v) A review every five years of those strategies and of their success in meeting the obligations of this paragraph; such reviews shall be included in reports submitted pursuant to Article 15;

(vi) A schedule for implementation of the action plan, including for the strategies and measures identified therein;

(b) Promote the application of available, feasible and practical measures that can expeditiously achieve a realistic and meaningful level of release reduction or source elimination;

(c) Promote the development and, where it deems appropriate, require the use of substitute or modified materials, products and processes to prevent the formation and release of the chemicals listed in Annex C, taking into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines to be adopted by decision of the Conference of the Parties;

(d) Promote and, in accordance with the implementation schedule of its action plan, require the use of best available techniques for new sources within source categories which a Party has identified as warranting such action in its action plan, with a particular initial focus on source categories identified in Part II of Annex C. In any case, the requirement to use best available techniques for new sources in the categories listed in Part II of that Annex shall be phased in as soon as practicable but no later than four years after the entry into force of the Convention for that Party. For the identified categories, Parties shall promote the use of best environmental practices. When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in that Annex and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(e) Promote, in accordance with its action plan, the use of best available techniques and best environmental practices:

(i) For existing sources, within the source categories listed in Part II of Annex C and within source categories such as those in Part III of that Annex; and

(ii) For new sources, within source categories such as those listed in Part III of Annex C which a Party has not addressed under subparagraph (d).

When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(f) For the purposes of this paragraph and Annex C:
(i) "Best available techniques" means the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for release limitations designed to prevent and, where that is not practicable, generally to reduce releases of chemicals listed in Part I of Annex C and their impact on the environment as a whole. In this regard:

(ii) "Techniques" includes both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

(iii) "Available" techniques means those techniques that are accessible to the operator and that are developed on a scale that allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages; and

(iv) "Best" means most effective in achieving a high general level of protection of the environment as a whole;

(v) "Best environmental practices" means the application of the most appropriate combination of environmental control measures and strategies;

(vi) "New source" means any source of which the construction or substantial modification is commenced at least one year after the date of:

a. Entry into force of this Convention for the Party concerned; or

b. Entry into force for the Party concerned of an amendment to Annex C where the source becomes subject to the provisions of this Convention only by virtue of that amendment.

(g) Release limit values or performance standards may be used by a Party to fulfill its commitments for best available techniques under this paragraph.

Article 6. Measures to reduce or eliminate releases from stockpiles and wastes

1. In order to ensure that stockpiles consisting of or containing chemicals listed either in Annex A or Annex B and wastes, including products and articles upon becoming wastes, consisting of, containing or contaminated with a chemical listed in Annex A, B or C, are managed in a manner protective of human health and the environment, each Party shall:

(a) Develop appropriate strategies for identifying:

(i) Stockpiles consisting of or containing chemicals listed either in Annex A or Annex B; and

(ii) Products and articles in use and wastes consisting of, containing or contaminated with a chemical listed in Annex A, B or C;

(b) Identify, to the extent practicable, stockpiles consisting of or containing chemicals listed either in Annex A or Annex B on the basis of the strategies referred to in subparagraph (a);

(c) Manage stockpiles, as appropriate, in a safe, efficient and environmentally sound manner. Stockpiles of chemicals listed either in Annex A or Annex B, after they are no longer allowed to be used according to any specific exemption specified in Annex A or any specific exemption or acceptable purpose specified in Annex B, except stockpiles which are allowed to be exported according to paragraph 2 of Article 3, shall be deemed to be waste and shall be managed in accordance with subparagraph (d);

(d) Take appropriate measures so that such wastes, including products and articles upon becoming wastes, are:

(i) Handled, collected, transported and stored in an environmentally sound manner;

(ii) Disposed of in such a way that the persistent organic pollutant content is destroyed or irreversibly transformed so that they do not exhibit the characteristics of persistent organic pollutants or otherwise disposed of in an environmentally sound manner when destruction or irreversible transformation does not represent the environmentally preferable option or the persistent organic pollutant content is low, taking into account international rules, standards, and guidelines, including those that may be developed pursuant to paragraph 2, and relevant global and regional regimes governing the management of hazardous wastes;

(iii) Not permitted to be subjected to disposal operations that may lead to recovery, recycling, reclamation, direct reuse or alternative uses of persistent organic pollutants; and

(iv) Not transported across international boundaries without taking into account relevant international rules, standards and guidelines;

(e) Endeavour to develop appropriate strategies for identifying sites contaminated by chemicals listed in Annex A, B or C; if remediation of those sites is undertaken it shall be performed in an environmentally sound manner.

2. The Conference of the Parties shall cooperate closely with the appropriate bodies of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal to, inter alia:

(a) Establish levels of destruction and irreversible transformation necessary to ensure that the characteristics of persistent organic pollutants as specified in paragraph 1 of Annex D are not exhibited;

(b) Determine what they consider to be the methods that constitute environmentally sound disposal referred to above; and

(c) Work to establish, as appropriate, the concentration levels of the chemicals listed in Annexes A, B and C in order to define the low persistent organic pollutant content referred to in paragraph 1 (d) (ii).
Article 7. Implementation plans

1. Each Party shall:
   (a) Develop and endeavour to implement a plan for the implementation of its obligations under this Convention;
   (b) Transmit its implementation plan to the Conference of the Parties within two years of the date on which this Convention enters into force for it; and
   (c) Review and update, as appropriate, its implementation plan on a periodic basis and in a manner to be specified by a decision of the Conference of the Parties.

2. The Parties shall, where appropriate, cooperate directly or through global, regional and subregional organizations, and consult their national stakeholders, including women's groups and groups involved in the health of children, in order to facilitate the development, implementation and updating of their implementation plans.

3. The Parties shall endeavour to utilize and, where necessary, establish the means to integrate national implementation plans for persistent organic pollutants in their sustainable development strategies where appropriate.

Article 8. Listing of chemicals in Annexes A, B and C

1. A Party may submit a proposal to the Secretariat for listing a chemical in Annexes A, B and/or C. The proposal shall contain the information specified in Annex D. In developing a proposal, a Party may be assisted by other Parties and/or by the Secretariat.

2. The Secretariat shall verify whether the proposal contains the information specified in Annex D. If the Secretariat is satisfied that the proposal contains the information so specified, it shall forward the proposal to the Persistent Organic Pollutants Review Committee.

3. The Committee shall examine the proposal and apply the screening criteria specified in Annex D in a flexible and transparent way, taking all information provided into account in an integrative and balanced manner.

4. If the Committee decides that:
   (a) It is satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, make the proposal and the evaluation of the Committee available to all Parties and observers and invite them to submit the information specified in Annex E; or
   (b) It is not satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, inform all Parties and observers and make the proposal and the evaluation of the Committee available to all Parties and the proposal shall be set aside.

5. Any Party may resubmit a proposal to the Committee that has been set aside by the Committee pursuant to paragraph 4. The resubmission may include any concerns of the Party as well as a justification for additional consideration by the Committee. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the screening criteria in Annex D and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed.

6. Where the Committee has decided that the screening criteria have been fulfilled, or the Conference of the Parties has decided that the proposal should proceed, the Committee shall further review the proposal, taking into account any relevant additional information received, and shall prepare a draft risk profile in accordance with Annex E. It shall, through the Secretariat, make that draft available to all Parties and observers, collect technical comments from them and, taking those comments into account, complete the risk profile.

7. If, on the basis of the risk profile conducted in accordance with Annex E, the Committee decides:
   (a) That the chemical is likely as a result of its long-range environmental transport to lead to significant adverse human health and/or environmental effects such that global action is warranted, the proposal shall proceed. Lack of full scientific certainty shall not prevent the proposal from proceeding. The Committee shall, through the Secretariat, invite information from all Parties and observers relating to the considerations specified in Annex F. It shall then prepare a risk management evaluation that includes an analysis of possible control measures for the chemical in accordance with that Annex; or
   (b) That the proposal should not proceed, it shall, through the Secretariat, make the risk profile available to all Parties and observers and set the proposal aside.

8. For any proposal set aside pursuant to paragraph 7 (b), a Party may request the Conference of the Parties to consider instructing the Committee to invite additional information from the proposing Party and other Parties during a period not to exceed one year. After that period and on the basis of any information received, the Committee shall reconsider the proposal pursuant to paragraph 6 with a priority to be decided by the Conference of the Parties. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the risk profile prepared in accordance with Annex E and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed. If the Conference of the Parties decides that the proposal shall proceed, the Committee shall then prepare the risk management evaluation.

9. The Committee shall, based on the risk profile referred to in paragraph 6 and the risk management evaluation referred to in paragraph 7 (a) or paragraph 8, recommend whether the chemical should be considered by the Conference of the Parties for listing in Annexes A, B and/or C. The Conference of the Parties, taking due account of the recommendations of the Committee, including any scientific uncertainty, shall decide, in a precautionary manner, whether to list the chemical, and specify its related control measures, in Annexes A, B and/or C.

Article 9. Information exchange

1. Each Party shall facilitate or undertake the exchange of information relevant to:
(a) The reduction or elimination of the production, use and release of persistent organic pollutants; and
(b) Alternatives to persistent organic pollutants, including information relating to their risks as well as to their economic and social costs.

2. The Parties shall exchange the information referred to in paragraph 1 directly or through the Secretariat.

3. Each Party shall designate a national focal point for the exchange of such information.

4. The Secretariat shall serve as a clearing-house mechanism for information on persistent organic pollutants, including information provided by Parties, intergovernmental organizations and non-governmental organizations.

5. For the purposes of this Convention, information on health and safety of humans and the environment shall not be regarded as confidential. Parties that exchange other information pursuant to this Convention shall protect any confidential information as mutually agreed.

Article 10. Public information, awareness and education

1. Each Party shall, within its capabilities, promote and facilitate:
(a) Awareness among its policy and decision makers with regard to persistent organic pollutants;
(b) Provision to the public of all available information on persistent organic pollutants, taking into account paragraph 5 of Article 9;
(c) Development and implementation, especially for women, children and the least educated, of educational and public awareness programmes on persistent organic pollutants, as well as on their health and environmental effects and on their alternatives;
(d) Public participation in addressing persistent organic pollutants and their health and environmental effects and in developing adequate responses, including opportunities for providing input at the national level regarding implementation of this Convention;
(e) Training of workers, scientists, educators and technical and managerial personnel;
(f) Development and exchange of educational and public awareness materials at the national and international levels; and
(g) Development and implementation of education and training programmes at the national and international levels.

2. Each Party shall, within its capabilities, ensure that the public has access to the public information referred to in paragraph 1 and that the information is kept up-to-date.

3. Each Party shall, within its capabilities, encourage industry and professional users to promote and facilitate the provision of the information referred to in paragraph 1 at the national level and, as appropriate, subregional, regional and global levels.

4. In providing information on persistent organic pollutants and their alternatives, Parties may use safety data sheets, reports, mass media and other means of communication, and may establish information centres at national and regional levels.

5. Each Party shall give sympathetic consideration to developing mechanisms, such as pollutant release and transfer registers, for the collection and dissemination of information on estimates of the annual quantities of the chemicals listed in Annex A, B or C that are released or disposed of.

Article 11. Research, development and monitoring

1. The Parties shall, within their capabilities, at the national and international levels, encourage and/or undertake appropriate research, development, monitoring and cooperation pertaining to persistent organic pollutants and, where relevant, to their alternatives and to candidate persistent organic pollutants, including on their:
(a) Sources and releases into the environment;
(b) Presence, levels and trends in humans and the environment;
(c) Environmental transport, fate and transformation;
(d) Effects on human health and the environment;
(e) Socio-economic and cultural impacts;
(f) Release reduction and/or elimination; and
(g) Harmonized methodologies for making inventories of generating sources and analytical techniques for the measurement of releases.

2. In undertaking action under paragraph 1, the Parties shall, within their capabilities:
(a) Support and further develop, as appropriate, international programmes, networks and organizations aimed at defining, conducting, assessing and financing research, data collection and monitoring, taking into account the need to minimize duplication of effort;
(b) Support national and international efforts to strengthen national scientific and technical research capabilities, particularly in developing countries and countries with economies in transition, and to promote access to, and the exchange of, data and analyses;
(c) Take into account the concerns and needs, particularly in the field of financial and technical resources, of developing countries and countries with economies in transition and cooperate in improving their capability to participate in the efforts referred to in subparagraphs (a) and (b);
(d) Undertake research work geared towards alleviating the effects of persistent organic pollutants on reproductive health;
(e) Make the results of their research, development and monitoring activities referred to in this paragraph accessible to the public on a timely and regular basis; and
(f) Encourage and/or undertake cooperation with regard to storage and maintenance of information generated from research, development and monitoring.
Article 12. Technical assistance

1. The Parties recognize that rendering of timely and appropriate technical assistance in response to requests from developing country Parties and Parties with economies in transition is essential to the successful implementation of this Convention.

2. The Parties shall cooperate to provide timely and appropriate technical assistance to developing country Parties and Parties with economies in transition, to assist them, taking into account their particular needs, to develop and strengthen their capacity to implement their obligations under this Convention.

3. In this regard, technical assistance to be provided by developed country Parties, and other Parties in accordance with their capabilities, shall include, as appropriate and as mutually agreed, technical assistance for capacity-building relating to implementation of the obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.

4. The Parties shall establish, as appropriate, arrangements for the purpose of providing technical assistance and promoting the transfer of technology to developing country Parties and Parties with economies in transition relating to the implementation of this Convention. These arrangements shall include regional and subregional centres for capacity-building and transfer of technology to assist developing country Parties and Parties with economies in transition to fulfil their obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.

5. The Parties shall, in the context of this Article, take full account of the specific needs and special situation of least developed countries and small island developing states in their actions with regard to technical assistance.

Article 13. Financial resources and mechanisms

1. Each Party undertakes to provide, within its capabilities, financial support and incentives in respect of those national activities that are intended to achieve the objective of this Convention in accordance with its national plans, priorities and programmes.

2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties and Parties with economies in transition to meet the agreed full incremental costs of implementing measures which fulfill their obligations under this Convention as agreed between a recipient Party and an entity participating in the mechanism described in paragraph 6. Other Parties may also on a voluntary basis and in accordance with their capabilities provide such financial resources. Contributions from other sources should also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability, the timely flow of funds and the importance of burden sharing among the contributing Parties.

3. Developed country Parties, and other Parties in accordance with their capabilities and in accordance with their national plans, priorities and programmes, may also provide and developing country Parties and Parties with economies in transition avail themselves of financial resources to assist in their implementation of this Convention through other bilateral, regional and multilateral sources or channels.

4. The extent to which the developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention relating to financial resources, technical assistance and technology transfer. The fact that sustainable economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties will be taken fully into account, giving due consideration to the need for the protection of human health and the environment.

5. The Parties shall take full account of the specific needs and special situation of least developed countries and the small island developing states in their actions with regard to funding.

6. A mechanism for the provision of adequate and sustainable financial resources to developing country Parties and Parties with economies in transition on a grant or concessional basis to assist in their implementation of the Convention is hereby defined. The mechanism shall function under the authority, as appropriate, and guidance of, and be accountable to the Conference of the Parties for the purposes of this Convention. Its operation shall be entrusted to one or more entities, including existing international entities, as may be decided upon by the Conference of the Parties. The mechanism may also include other entities providing multilateral, regional and bilateral financial and technical assistance. Contributions to the mechanism shall be additional to other financial transfers to developing country Parties and Parties with economies in transition as reflected in, and in accordance with, paragraph 2.

7. Pursuant to the objectives of this Convention and paragraph 6, the Conference of the Parties shall at its first meeting adopt appropriate guidance to be provided to the mechanism and shall agree with the entity or entities participating in the financial mechanism upon arrangements to give effect thereto. The guidance shall address, inter alia:

   (a) The determination of the policy, strategy and programme priorities, as well as clear and detailed criteria and guidelines regarding eligibility for access to and utilization of financial resources including monitoring and evaluation on a regular basis of such utilization;

   (b) The provision by the entity or entities of regular reports to the Conference of the Parties on adequacy and sustainability of funding for activities relevant to the implementation of this Convention;

   (c) The promotion of multiple-source funding approaches, mechanisms and arrangements;

   (d) The modalities for the determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention, keeping in mind that the phasing out of persistent organic pollutants might require sustained funding, and the conditions under which that amount shall be periodically reviewed; and

   (e) The modalities for the provision to interested Parties of assistance with needs assessment, information on available sources of funds and on funding patterns in order to facilitate coordination among them.
8. The Conference of the Parties shall review, not later than its second meeting and thereafter on a regular basis, the effectiveness of the mechanism established under this Article, its ability to address the changing needs of the developing country Parties and Parties with economies in transition, the criteria and guidance referred to in paragraph 7, the level of funding as well as the effectiveness of the performance of the institutional entities entrusted to operate the financial mechanism. It shall, based on such review, take appropriate action, if necessary, to improve the effectiveness of the mechanism, including by means of recommendations and guidance on measures to ensure adequate and sustainable funding to meet the needs of the Parties.

Article 14. Interim financial arrangements

The institutional structure of the Global Environment Facility, operated in accordance with the Instrument for the Establishment of the Restructured Global Environment Facility, shall, on an interim basis, be the principal entity entrusted with the operations of the financial mechanism referred to in Article 13, for the period between the date of entry into force of this Convention and the first meeting of the Conference of the Parties, or until such time as the Conference of the Parties decides which institutional structure will be designated in accordance with Article 13. The institutional structure of the Global Environment Facility should fulfill this function through operational measures related specifically to persistent organic pollutants taking into account that new arrangements for this area may be needed.

Article 15. Reporting

1. Each Party shall report to the Conference of the Parties on the measures it has taken to implement the provisions of this Convention and on the effectiveness of such measures in meeting the objectives of the Convention.

2. Each Party shall provide to the Secretariat:

   (a) Statistical data on its total quantities of production, import and export of each of the chemicals listed in Annex A and Annex B or a reasonable estimate of such data; and

   (b) To the extent practicable, a list of the States from which it has imported each such substance and the States to which it has exported each such substance.

3. Such reporting shall be at periodic intervals and in a format to be decided by the Conference of the Parties at its first meeting.

Article 16. Effectiveness evaluation

1. Commencing four years after the date of entry into force of this Convention, and periodically thereafter at intervals to be decided by the Conference of the Parties, the Conference shall evaluate the effectiveness of this Convention.

2. In order to facilitate such evaluation, the Conference of the Parties shall, at its first meeting, initiate the establishment of arrangements to provide itself with comparable monitoring data on the presence of the chemicals listed in Annexes A, B and C as well as their regional and global environmental transport. These arrangements:

   (a) Should be implemented by the Parties on a regional basis when appropriate, in accordance with their technical and financial capabilities, using existing monitoring programmes and mechanisms to the extent possible and promoting harmonization of approaches;

   (b) May be supplemented where necessary, taking into account the differences between regions and their capabilities to implement monitoring activities; and

   (c) Shall include reports to the Conference of the Parties on the results of the monitoring activities on a regional and global basis at intervals to be specified by the Conference of the Parties.

3. The evaluation described in paragraph 1 shall be conducted on the basis of available scientific, environmental, technical and economic information, including:

   (a) Reports and other monitoring information provided pursuant to paragraph 2;

   (b) National reports submitted pursuant to Article 15; and

   (c) Non-compliance information provided pursuant to the procedures established under Article 17.

Article 17. Non-compliance

The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for the treatment of Parties found to be in non-compliance.

Article 18. Settlement of disputes

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

2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

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

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

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

4. A declaration made pursuant to paragraph 2 or paragraph 3 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the depositary.
5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the International Court of Justice unless the parties to the dispute otherwise agree.

6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the Conference of the Parties no later than at its second meeting.

**Article 19. Conference of the Parties**

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme no later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be decided by the Conference.

3. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party provided that it is supported by at least one third of the Parties.

4. The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.

5. The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall:

   (a) Establish, further to the requirements of paragraph 6, such subsidiary bodies as it considers necessary for the implementation of the Convention;

   (b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and

   (c) Regularly review all information made available to the Parties pursuant to Article 15, including consideration of the effectiveness of paragraph 2 (b) (iii) of Article 3;

   (d) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention.

6. The Conference of the Parties shall, at its first meeting, establish a subsidiary body to be called the Persistent Organic Pollutants Review Committee for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:

   (a) The members of the Persistent Organic Pollutants Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of government-designated experts in chemical assessment or management. The members of the Committee shall be appointed on the basis of equitable geographical distribution;

(b) The Conference of the Parties shall decide on the terms of reference, organization and operation of the Committee; and

(c) The Committee shall make every effort to adopt its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.

7. The Conference of the Parties shall, at its third meeting, evaluate the continued need for the procedure contained in paragraph 2 (b) of Article 3, including consideration of its effectiveness.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

**Article 20. Secretariat**

1. A Secretariat is hereby established.

2. The functions of the Secretariat shall be:

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

   (b) To facilitate assistance to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the implementation of this Convention;

   (c) To ensure the necessary coordination with the secretariats of other relevant international bodies;

   (d) To prepare and make available to the Parties periodic reports based on information received pursuant to Article 15 and other available information;

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

   (f) To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.

3. The secretariat functions for this Convention shall be performed by the Executive Director of the United Nations Environment Programme, unless the Conference of the Parties decides, by a three-fourths majority of the Parties present and voting, to entrust the secretariat functions to one or more other international organizations.
Article 21. Amendments to the Convention

1. Amendments to this Convention may be proposed by any Party.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories to this Convention and, for information, to the depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting.

4. The amendment shall be communicated by the depositary to all Parties for ratification, acceptance or approval.

5. Ratification, acceptance or approval of an amendment shall be notified to the depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of its instrument of ratification, acceptance or approval by at least three-fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment.

Article 22. Adoption and amendment of annexes

1. Annexes to this Convention shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annexes thereto.

2. Any additional annexes shall be restricted to procedural, scientific, technical or administrative matters.

3. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

   (a) Additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1, 2 and 3 of Article 21;

   (b) Any Party that is unable to accept an additional annex shall so notify the depositary, in writing, within one year from the date of communication by the depositary of the adoption of the additional annex. The depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance in respect of any additional annex, and the annex shall thereupon enter into force for that Party subject to subparagraph (c); and

   (c) On the expiry of one year from the date of the communication by the depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification in accordance with the provisions of subparagraph (b).

4. The proposal, adoption and entry into force of amendments to Annex A, B or C shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to this Convention, except that an amendment to Annex A, B or C shall not enter into force with respect to any Party that has made a declaration with respect to amendment to those Annexes in accordance with paragraph 4 of Article 25, in which case any such amendment shall enter into force for such a Party on the ninetieth day after the date of deposit of the depositary of its instrument of ratification, acceptance, approval or accession with respect to such amendment.

5. The following procedure shall apply to the proposal, adoption and entry into force of an amendment to Annex D, E or F:

   (a) Amendments shall be proposed according to the procedure in paragraphs 1 and 2 of Article 21;

   (b) The Parties shall take decisions on an amendment to Annex D, E or F by consensus; and

   (c) A decision to amend Annex D, E or F shall forthwith be communicated to the Parties by the depositary. The amendment shall enter into force for all Parties on a date to be specified in the decision.

6. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enters into force.

Article 23. Right to vote

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2.

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

Article 24. Signature

This Convention shall be open for signature at Stockholm by all States and regional economic integration organizations on 23 May 2001, and at the United Nations Headquarters in New York from 24 May 2001 to 22 May 2002.

Article 25. Ratification, acceptance, approval or accession

1. This Convention shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. It shall be open for accession by States and by regional economic integration organizations from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.
2. Any regional economic integration organization that becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In its instrument of ratification, acceptance, approval or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Convention. Any such organization shall also inform the depositary, who shall in turn inform the Parties, of any relevant modification in the extent of its competence.

4. In its instrument of ratification, acceptance, approval or accession, any Party may declare that, with respect to it, any amendment to Annex A, B or C shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto.

Article 26. Entry into force

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

2. For each State or regional economic integration organization that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

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

Article 27. Reservations

No reservations may be made to this Convention.

Article 28. Withdrawal

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

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

Article 29. Depositary

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

Article 30. Authentic texts

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

In Witness Whereof the undersigned, being duly authorized to that effect, have signed this Convention.

Done at Stockholm on this twenty-second day of May, two thousand and one.

[For the list of participants see p.395 of this volume.]
### Annex A

#### ELIMINATION

**Part I**

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Activity</th>
<th>Specific exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aldrin*</td>
<td>Production</td>
<td>None</td>
</tr>
<tr>
<td>CAS No: 309-00-2</td>
<td></td>
<td>Local ectoparasiticide Insecticide</td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td>Local ectoparasiticide Insecticide</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Termitecide</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Termitecide in buildings and dams</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Termitecide in roads</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Additive in plywood adhesives</td>
</tr>
<tr>
<td>Chlorodane*</td>
<td>Production</td>
<td>As allowed for the Parties listed in the Register</td>
</tr>
<tr>
<td>CAS No: 57-74-9</td>
<td></td>
<td>Local ectoparasiticide Insecticide</td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td>Termitecide</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Termitecide in buildings and dams</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Termitecide in roads</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Additive in plywood adhesives</td>
</tr>
<tr>
<td>Dieldrin*</td>
<td>Production</td>
<td>None</td>
</tr>
<tr>
<td>CAS No: 60-57-1</td>
<td></td>
<td>In agricultural operations</td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td>In agricultural operations</td>
</tr>
<tr>
<td>Endrin*</td>
<td>Production</td>
<td>None</td>
</tr>
<tr>
<td>CAS No: 72-20-8</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td>None</td>
</tr>
<tr>
<td>Heptachlor*</td>
<td>Production</td>
<td>None</td>
</tr>
<tr>
<td>CAS No: 76-44-8</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td>Termitecide</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Termitecide in structures of houses</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Termitecide (subterranean)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Wood treatment</td>
</tr>
<tr>
<td></td>
<td></td>
<td>In use in underground cable boxes</td>
</tr>
</tbody>
</table>

**Part I (cont'd)**

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Activity</th>
<th>Specific exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hexachlorobenzene</td>
<td>Production</td>
<td>As allowed for the Parties listed in the Register</td>
</tr>
<tr>
<td>CAS No: 118-74-1</td>
<td></td>
<td>Intermediete</td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td>Solvent in pesticide</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Closed system site limited</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Intermediate</td>
</tr>
<tr>
<td>Mirex*</td>
<td>Production</td>
<td>As allowed for the Parties listed in the Register</td>
</tr>
<tr>
<td>CAS No: 2385-85-5</td>
<td></td>
<td>Termitecide</td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td>Termitecide</td>
</tr>
<tr>
<td>Toxaphene*</td>
<td>Production</td>
<td>None</td>
</tr>
<tr>
<td>CAS No: 8001-35-2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td>None</td>
</tr>
<tr>
<td>Polychlorinated</td>
<td>Production</td>
<td>Articles in use in accordance with the provisions of</td>
</tr>
<tr>
<td>Biphrenyls (PCB)*</td>
<td></td>
<td>Part II of this Annex</td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td></td>
</tr>
</tbody>
</table>

---
Notes:

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note, which does not apply to a chemical that has an asterisk following its name in the Chemical column in Part I of this Annex, shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public. Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered exemptions in respect of them in accordance with Article 4 with the exception of the use of polychlorinated biphenyls in articles in use in accordance with the provisions of Part II of this Annex, which may be exercised by all Parties.

Part II
Polychlorinated biphenyls

Each Party shall:

(a) With regard to the elimination of the use of polychlorinated biphenyls in equipment (e.g. transformers, capacitors or other receptacles containing liquid stocks) by 2025, subject to review by the Conference of the Parties, take action in accordance with the following priorities:

(i) Make determined efforts to identify, label and remove from use equipment containing greater than 10 per cent polychlorinated biphenyls and volumes greater than 5 litres;

(ii) Make determined efforts to identify, label and remove from use equipment containing greater than 0.05 per cent polychlorinated biphenyls and volumes greater than 5 litres;

(iii) Endeavour to identify and remove from use equipment containing greater than 0.005 percent polychlorinated biphenyls and volumes greater than 0.05 litres;

(b) Consistent with the priorities in subparagraph (a), promote the following measures to reduce exposures and risk to control the use of polychlorinated biphenyls:

(i) Use only in intact and non-leaking equipment and only in areas where the risk from environmental release can be minimised and quickly remedied;

(ii) Not use in equipment in areas associated with the production or processing of food or feed;

(iii) When used in populated areas, including schools and hospitals, all reasonable measures to protect from electrical failure which could result in a fire, and regular inspection of equipment for leaks;

(c) Notwithstanding paragraph 2 of Article 3, ensure that equipment containing polychlorinated biphenyls, as described in subparagraph (a), shall not be exported or imported except for the purpose of environmentally sound waste management;

(d) Except for maintenance and servicing operations, not allow recovery for the purpose of reuse in other equipment of liquids with polychlorinated biphenyls content above 0.005 per cent;

(e) Make determined efforts designed to lead to environmentally sound waste management of liquids containing polychlorinated biphenyls and equipment contaminated with polychlorinated biphenyls having a polychlorinated biphenyls content above 0.005 per cent, in accordance with paragraph 1 of Article 6, as soon as possible but no later than 2028, subject to review by the Conference of the Parties;

(f) In lieu of note (ii) in Part I of this Annex, endeavour to identify other articles containing more than 0.005 per cent polychlorinated biphenyls (e.g. cable-sheaths, cured caulk and painted objects) and manage them in accordance with paragraph 1 of Article 6;
(g) Provide a report every five years on progress in eliminating polychlorinated biphenyls and submit it to the Conference of the Parties pursuant to Article 15;

(h) The reports described in subparagraph (g) shall, as appropriate, be considered by the Conference of the Parties in its reviews relating to polychlorinated biphenyls. The Conference of the Parties shall review progress towards elimination of polychlorinated biphenyls at five year intervals or other period, as appropriate, taking into account such reports.

### Annex B

**RESTRICTION**

**Part I**

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Activity</th>
<th>Acceptable purpose or specific exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>DDT (1,1,1-trichloro-2,2-bis (4-chlorophenyl)ethane) CAS No: 50-29-3</td>
<td>Production</td>
<td>Acceptable purpose: Disease vector control use in accordance with Part II of this Annex Specific exemption: Intermediate in production of dicofol Intermediate</td>
</tr>
<tr>
<td></td>
<td>Use</td>
<td>Acceptable purpose: Disease vector control in accordance with Part II of this Annex Specific exemption: Production of dicofol Intermediate</td>
</tr>
</tbody>
</table>

**Notes:**

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use acceptable purpose or specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the
production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public. Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered in respect of them in accordance with Article 4.

Part II

DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane)

1. The production and use of DDT shall be eliminated except for Parties that have notified the Secretariat of their intention to produce and/or use it. A DDT Register is hereby established and shall be available to the public. The Secretariat shall maintain the DDT Register.

2. Each Party that produces and/or uses DDT shall restrict such production and/or use for disease vector control in accordance with the World Health Organization recommendations and guidelines on the use of DDT and when locally safe, effective and affordable alternatives are not available to the Party in question.

3. In the event that a Party not listed in the DDT Register determines that it requires DDT for disease vector control, it shall notify the Secretariat as soon as possible in order to have its name added forthwith to the DDT Register. It shall at the same time notify the World Health Organization.

4. Every three years, each Party that uses DDT shall provide to the Secretariat and the World Health Organization information on the amount used, the conditions of such use and its relevance to that Party’s disease management strategy, in a format to be decided by the Conference of the Parties in consultation with the World Health Organization.

5. With the goal of reducing and ultimately eliminating the use of DDT, the Conference of the Parties shall encourage:

   (a) Each Party using DDT to develop and implement an action plan as part of the implementation plan specified in Article 7. That action plan shall include:

      (i) Development of regulatory and other mechanisms to ensure that DDT use is restricted to disease vector control;

      (ii) Implementation of suitable alternative products, methods and strategies, including resistance management strategies to ensure the continuing effectiveness of these alternatives;

      (iii) Measures to strengthen health care and to reduce the incidence of the disease.

   (b) The Parties, within their capabilities, to promote research and development of safe alternative chemical and non-chemical products, methods and strategies for Parties using DDT, relevant to the conditions of those countries and with the goal of decreasing the human and economic burden of disease. Factors to be promoted when considering alternatives or combinations of alternatives shall include the human health risks and environmental implications of such alternatives. Viable alternatives to DDT shall pose less risk to human health and the environment, be suitable for disease control based on conditions in the Parties in question and be supported with monitoring data.

6. Commencing at its first meeting, and at least every three years thereafter, the Conference of the Parties shall, in consultation with the World Health Organization, evaluate the continued need for DDT for disease vector control on the basis of available scientific, technical, environmental and economic information, including:
(a) The production and use of DDT and the conditions set out in paragraph 2;
(b) The availability, suitability and implementation of the alternatives to DDT; and
(c) Progress in strengthening the capacity of countries to transfer safely to reliance on such alternatives.

7. A Party may, at any time, withdraw its name from the DDT Registry upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

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Annex C
UNINTENTIONAL PRODUCTION
Part I: Persistent organic pollutants subject to the requirements of Article 5

This Annex applies to the following persistent organic pollutants when formed and released unintentionally from anthropogenic sources:

<table>
<thead>
<tr>
<th>Chemical</th>
</tr>
</thead>
<tbody>
<tr>
<td>Polychlorinated dibenzop-dioxins and dibenzofurans (PCDD/PCDF)</td>
</tr>
<tr>
<td>Hexachlorobenzene (HCB) (CAS No: 118-74-1)</td>
</tr>
<tr>
<td>Polychlorinated biphenyls (PCB)</td>
</tr>
</tbody>
</table>

Part II: Source categories

Polychlorinated dibenzop-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls are unintentionally formed and released from thermal processes involving organic matter and chlorine as a result of incomplete combustion or chemical reactions. The following industrial source categories have the potential for comparatively high formation and release of these chemicals to the environment:

(a) Waste incinerators, including co-incinerators of municipal, hazardous or medical waste or of sewage sludge;
(b) Cement kilns firing hazardous waste;
(c) Production of pulp using elemental chlorine or chemicals generating elemental chlorine for bleaching;
(d) The following thermal processes in the metallurgical industry:
   (i) Secondary copper production;
   (ii) Sinter plants in the iron and steel industry;
   (iii) Secondary aluminium production;
   (iv) Secondary zinc production.

Part III: Source categories

Polychlorinated dibenzop-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls may also be unintentionally formed and released from the following source categories, including:

(a) Open burning of waste, including burning of landfill sites;
(b) Thermal processes in the metallurgical industry not mentioned in Part II;
(c) Residential combustion sources;
(d) Fossil fuel-fired utility and industrial boilers;
(e) Firing installations for wood and other biomass fuels;
(f) Specific chemical production processes releasing unintentionally formed persistent organic pollutants, especially production of chlorophenols and chloranil;
(g) Crematoria;
(h) Motor vehicles, particularly those burning leaded gasoline;
(i) Destruction of animal carcasses;
(j) Textile and leather dyeing (with chloranil) and finishing (with alkaline extraction);
(k) Shredder plants for the treatment of end of life vehicles;
(l) Smouldering of copper cables;
(m) Waste oil refineries.

Part IV: Definitions

1. For the purposes of this Annex:
   (a) “Polychlorinated biphenyls” means aromatic compounds formed in such a manner that the hydrogen atoms on the biphenyl molecule (two benzene rings bonded together by a single carbon-carbon bond) may be replaced by up to ten chlorine atoms; and
   (b) “Polychlorinated dibenzo-p-dioxins” and “polychlorinated dibenzofurans” are tricyclic, aromatic compounds formed by two benzene rings connected by two oxygen atoms in polychlorinated dibenzo-p-dioxins and by one oxygen atom and one carbon-carbon bond in polychlorinated dibenzofurans and the hydrogen atoms of which may be replaced by up to eight chlorine atoms.

2. In this Annex, the toxicity of polychlorinated dibenzo-p-dioxins and dibenzofurans is expressed using the concept of toxic equivalency which measures the relative dioxin-like toxic activity of different congeners of polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls in comparison to 2,3,7,8-tetrachlorodibenzo-p-dioxin. The toxic equivalent factor values to be used for the purposes of this Convention shall be consistent with accepted international standards, commencing with the World Health Organization 1998 mammalian toxic equivalent factor values for polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls. Concentrations are expressed in toxic equivalents.

Part V: General guidance on best available techniques and best environmental practices

This Part provides general guidance to Parties on preventing or reducing releases of the chemicals listed in Part I.

A. General prevention measures relating to both best available techniques and best environmental practices

Priority should be given to the consideration of approaches to prevent the formation and release of the chemicals listed in Part I. Useful measures could include:

(a) The use of low-waste technology;
(b) The use of less hazardous substances;
(c) The promotion of the recovery and recycling of waste and of substances generated and used in a process;
(d) Replacement of feed materials which are persistent organic pollutants or where there is a direct link between the materials and releases of persistent organic pollutants from the source;
(e) Good housekeeping and preventive maintenance programmes;
(f) Improvements in waste management with the aim of the cessation of open and other uncontrolled burning of wastes, including the burning of landfill sites. When considering proposals to construct new waste disposal facilities, consideration should be given to alternatives such as activities to minimize the generation of municipal and medical waste, including resource recovery, reuse, recycling, waste separation and promoting products that generate less waste. Under this approach, public health concerns should be carefully considered;
(g) Minimization of these chemicals as contaminants in products;
(h) Avoiding elemental chlorine or chemicals generating elemental chlorine for bleaching.

B. Best available techniques

The concept of best available techniques is not aimed at the prescription of any specific technique or technology, but at taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions. Appropriate control techniques to reduce releases of the chemicals listed in Part I are in general the same. In determining best available techniques, special consideration should be given, generally or in specific cases, to the following factors, bearing in mind the likely costs and benefits of a measure and consideration of precaution and prevention:

(a) General considerations:
   (i) The nature, effects and mass of the releases concerned: techniques may vary depending on source size;
   (ii) The commissioning dates for new or existing installations;
   (iii) The time needed to introduce the best available technique;
   (iv) The consumption and nature of raw materials used in the process and its energy efficiency;
(v) The need to prevent or reduce to a minimum the overall impact of the releases to the environment and the risks to it;
(vi) The need to prevent accidents and to minimize their consequences for the environment;
(vii) The need to ensure occupational health and safety at workplaces;
(viii) Comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;
(ix) Technological advances and changes in scientific knowledge and understanding.

(b) General release reduction measures: When considering proposals to construct new facilities or significantly modify existing facilities using processes that release chemicals listed in this Annex, priority consideration should be given to alternative processes, techniques or practices that have similar usefulness but which avoid the formation and release of such chemicals. In cases where such facilities will be constructed or significantly modified, in addition to the prevention measures outlined in section A of Part V the following reduction measures could also be considered in determining best available techniques:

(i) Use of improved methods for flue-gas cleaning such as thermal or catalytic oxidation, dust precipitation, or adsorption;
(ii) Treatment of residuals, wastewater, wastes and sewage sludge by, for example, thermal treatment or rendering them inert or chemical processes that detoxify them;
(iii) Process changes that lead to the reduction or elimination of releases, such as moving to closed systems;
(iv) Modification of process designs to improve combustion and prevent formation of the chemicals listed in this Annex, through the control of parameters such as incineration temperature or residence time.

C. Best environmental practices

The Conference of the Parties may develop guidance with regard to best environmental practices.

Annex D

INFORMATION REQUIREMENTS AND SCREENING CRITERIA

I. A Party submitting a proposal to list a chemical in Annexes A, B and/or C shall identify the chemical in the manner described in subparagraph (a) and provide the information on the chemical, and its transformation products where relevant, relating to the screening criteria set out in subparagraphs (b) to (e):

(a) Chemical identity:

(i) Names, including trade name or names, commercial name or names and synonyms, Chemical Abstracts Service (CAS) Registry number, International Union of Pure and Applied Chemistry (IUPAC) name and
(ii) Structure, including specification of isomers, where applicable, and the structure of the chemical class;

(b) Persistence:

(i) Evidence that the half-life of the chemical in water is greater than two months, or that its half-life in soil is greater than six months, or that its half-life in sediment is greater than six months; or
(ii) Evidence that the chemical is otherwise sufficiently persistent to justify its consideration within the scope of this Convention;

(c) Bio-accumulation:

(i) Evidence that the bio-concentration factor or bio-accumulation factor in aquatic species for the chemical is greater than 5,000 or, in the absence of such data, that the log Kow is greater than 5;
(ii) Evidence that a chemical presents other reasons for concern, such as high bio-accumulation in other species, high toxicity or ecotoxicity; or
(iii) Monitoring data in biota indicating that the bio-accumulation potential of the chemical is sufficient to justify its consideration within the scope of this Convention;

(d) Potential for long-range environmental transport:

(i) Measured levels of the chemical in locations distant from the sources of its release that are of potential concern;
(ii) Monitoring data showing that long-range environmental transport of the chemical, with the potential for transfer to a receiving environment, may have occurred via air, water or migratory species; or
(iii) Environmental fate properties and/or model results that demonstrate that the chemical has a potential for long-range environmental transport through air, water or migratory species, with the potential for transfer to a receiving environment in locations distant from the sources of its release. For a chemical that migrates significantly through the air, its half-life in air should be greater than two days; and
(e) Adverse effects:
   (i) Evidence of adverse effects to human health or to the environment that justifies consideration of the chemical within the scope of this Convention; or
   (ii) Toxicity or ecotoxicity data that indicate the potential for damage to human health or to the environment.

2. The proposing Party shall provide a statement of the reasons for concern including, where possible, a comparison of toxicity or ecotoxicity data with detected or predicted levels of a chemical resulting or anticipated from its long-range environmental transport, and a short statement indicating the need for global control.

3. The proposing Party shall, to the extent possible and taking into account its capabilities, provide additional information to support the review of the proposal referred to in paragraph 6 of Article 8. In developing such a proposal, a Party may draw on technical expertise from any source.

Annex E

INFORMATION REQUIREMENTS FOR THE RISK PROFILE

The purpose of the review is to evaluate whether the chemical is likely, as a result of its long-range environmental transport, to lead to significant adverse human health and/or environmental effects, such that global action is warranted. For this purpose, a risk profile shall be developed that further elaborates on, and evaluates, the information referred to in Annex D and includes, as far as possible, the following types of information:

(a) Sources, including as appropriate:
   (i) Production data, including quantity and location;
   (ii) Uses; and
   (iii) Releases, such as discharges, losses and emissions;

(b) Hazard assessment for the endpoint or endpoints of concern, including a consideration of toxicological interactions involving multiple chemicals;

(c) Environmental fate, including data and information on the chemical and physical properties of a chemical as well as its persistence and how they are linked to its environmental transport, transfer within and between environmental compartments, degradation and transformation to other chemicals. A determination of the bio-concentration factor or bio-accumulation factor, based on measured values, shall be available, except when monitoring data are judged to meet this need;

(d) Monitoring data;

(e) Exposure in local areas and, in particular, as a result of long-range environmental transport, and including information regarding bio-availability;

(f) National and international risk evaluations, assessments or profiles and labelling information and hazard classifications, as available; and

(g) Status of the chemical under international conventions.
Annex F

INFORMATION ON SOCIO-ECONOMIC CONSIDERATIONS

An evaluation should be undertaken regarding possible control measures for chemicals under consideration for inclusion in this Convention, encompassing the full range of options, including management and elimination. For this purpose, relevant information should be provided relating to socio-economic considerations associated with possible control measures to enable a decision to be taken by the Conference of the Parties. Such information should reflect due regard for the differing capabilities and conditions among the Parties and should include consideration of the following indicative list of items:

(a) Efficacy and efficiency of possible control measures in meeting risk reduction goals:
   (i) Technical feasibility; and
   (ii) Costs, including environmental and health costs;

(b) Alternatives (products and processes):
   (i) Technical feasibility;
   (ii) Costs, including environmental and health costs;
   (iii) Efficacy;
   (iv) Risk;
   (v) Availability; and
   (vi) Accessibility;

(c) Positive and/or negative impacts on society of implementing possible control measures:
   (i) Health, including public, environmental and occupational health;
   (ii) Agriculture, including aquaculture and forestry;
   (iii) Biota (biodiversity);
   (iv) Economic aspects;
   (v) Movement towards sustainable development; and
   (vi) Social costs;

(d) Waste and disposal implications (in particular, obsolete stocks of pesticides and clean-up of contaminated sites):
   (i) Technical feasibility; and
   (ii) Cost;

(e) Access to information and public education;

(f) Status of control and monitoring capacity; and

(g) Any national or regional control actions taken, including information on alternatives, and other relevant risk management information.
Copenhagen Accord (Decision 2/CP.15), United Nations Framework Convention on Climate Change, Conference of the Parties, 2009
(FCCC/CP/2009/11/Add.1)
**CONFERENCEx OF THE PARTIES**

**Report of the Conference of the Parties**

on its fifteenth session, held in Copenhagen

from 7 to 19 December 2009

**Addendum**

**Part Two: Action taken by the Conference of the Parties**

at its fifteenth session

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Decision 2/CP.15

Copenhagen Accord

The Conference of the Parties,

Takes note of the Copenhagen Accord of 18 December 2009.
Copenhagen Accord

The Heads of State, Heads of Government, Ministers, and other heads of the following delegations present at the United Nations Climate Change Conference 2009 in Copenhagen:¹

Albania, Algeria, Armenia, Australia, Austria, Bahamas, Bangladesh, Belarus, Belgium, Benin, Bhutan, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Cambodia, Canada, Central African Republic, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Eritrea, Estonia, Ethiopia, European Union, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kiribati, Lao People’s Democratic Republic, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mexico, Monaco, Mongolia, Montenegro, Morocco, Namibia, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Papua New Guinea, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Swaziland, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Tonga, Trinidad and Tobago, Tunisia, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay and Zambia,

In pursuit of the ultimate objective of the Convention as stated in its Article 2,

Being guided by the principles and provisions of the Convention,

Noting the results of work done by the two Ad hoc Working Groups,

Endorsing decision 1/CP.15 on the Ad hoc Working Group on Long-term Cooperative Action and decision 1/CMP.5 that requests the Ad hoc Working Group on Further Commitments of Annex I Parties under the Kyoto Protocol to continue its work,

Have agreed on this Copenhagen Accord which is operational immediately.

1. We underline that climate change is one of the greatest challenges of our time. We emphasise our strong political will to urgently combat climate change in accordance with the principle of common but differentiated responsibilities and respective capabilities. To achieve the ultimate objective of the Convention to stabilize greenhouse gas concentration in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, we shall, recognizing the scientific view that the increase in global temperature should be below 2 degrees Celsius, on the basis of equity and in the context of sustainable development, enhance our long-term cooperative action to combat climate change. We recognize the critical impacts of climate change and the potential impacts of response measures on countries particularly vulnerable to its adverse effects and stress the need to establish a comprehensive adaptation programme including international support.

2. We agree that deep cuts in global emissions are required according to science, and as documented by the IPCC Fourth Assessment Report with a view to reduce global emissions so as to hold the increase in global temperature below 2 degrees Celsius, and take action to meet this objective consistent with science and on the basis of equity. We should cooperate in achieving the peaking of global and national emissions as soon as possible, recognizing that the time frame for peaking will be longer in developing countries and bearing in mind that social and economic development and poverty

¹ Some Parties listed above stated in their communications to the secretariat specific understandings on the nature of the Accord and related matters, based on which they have agreed to be listed here. The full text of the letters received from Parties in relation to the Copenhagen Accord, including the specific understandings, can be found at <http://unfccc.int/meetings/items/5276.php>. 
eradication are the first and overriding priorities of developing countries and that a low-emission development strategy is indispensable to sustainable development.

3. Adaptation to the adverse effects of climate change and the potential impacts of response measures is a challenge faced by all countries. Enhanced action and international cooperation on adaptation is urgently required to ensure the implementation of the Convention by enabling and supporting the implementation of adaptation actions aimed at reducing vulnerability and building resilience in developing countries, especially in those that are particularly vulnerable, especially least developed countries, small island developing States and Africa. We agree that developed countries shall provide adequate, predictable and sustainable financial resources, technology and capacity-building to support the implementation of adaptation action in developing countries.

4. Annex I Parties commit to implement individually or jointly the quantified economy-wide emissions targets for 2020, to be submitted in the format given in Appendix I by Annex I Parties to the secretariat by 31 January 2010 for compilation in an INF document. Annex I Parties that are Party to the Kyoto Protocol will thereby further strengthen the emissions reductions initiated by the Kyoto Protocol. Delivery of reductions and financing by developed countries will be measured, reported and verified in accordance with existing and any further guidelines adopted by the Conference of the Parties, and will ensure that accounting of such targets and finance is rigorous, robust and transparent.

5. Non-Annex I Parties to the Convention will implement mitigation actions, including those to be submitted to the secretariat by non-Annex I Parties in the format given in Appendix II by 31 January 2010, for compilation in an INF document, consistent with Article 4.1 and Article 4.7 and in the context of sustainable development. Least developed countries and small island developing States may undertake actions voluntarily and on the basis of support. Mitigation actions subsequently taken and envisaged by Non-Annex I Parties, including national inventory reports, shall be communicated through national communications consistent with Article 12.1(b) every two years on the basis of guidelines to be adopted by the Conference of the Parties. Those mitigation actions in national communications or otherwise communicated to the Secretariat will be added to the list in appendix II. Mitigation actions taken by Non-Annex I Parties will be subject to their domestic measurement, reporting and verification the result of which will be reported through their national communications every two years. Non-Annex I Parties will communicate information on the implementation of their actions through National Communications, with provisions for international consultations and analysis under clearly defined guidelines that will ensure that national sovereignty is respected. Nationally appropriate mitigation actions seeking international support will be recorded in a registry along with relevant technology, finance and capacity building support. Those actions supported will be added to the list in appendix II. These supported nationally appropriate mitigation actions will be subject to international measurement, reporting and verification in accordance with guidelines adopted by the Conference of the Parties.

6. We recognize the crucial role of reducing emission from deforestation and forest degradation and the need to enhance removals of greenhouse gas emission by forests and agree on the need to provide positive incentives to such actions through the immediate establishment of a mechanism including REDD-plus, to enable the mobilization of financial resources from developed countries.

7. We decide to pursue various approaches, including opportunities to use markets, to enhance the cost-effectiveness of, and to promote mitigation actions. Developing countries, especially those with low emitting economies should be provided incentives to continue to develop on a low emission pathway.

8. Scaled up, new and additional, predictable and adequate funding as well as improved access shall be provided to developing countries, in accordance with the relevant provisions of the Convention, to enable and support enhanced action on mitigation, including substantial finance to reduce emissions from deforestation and forest degradation (REDD-plus), adaptation, technology development
and transfer and capacity-building, for enhanced implementation of the Convention. The collective commitment by developed countries is to provide new and additional resources, including forestry and investments through international institutions, approaching USD 30 billion for the period 2010–2012 with balanced allocation between adaptation and mitigation. Funding for adaptation will be prioritized for the most vulnerable developing countries, such as the least developed countries, small island developing States and Africa. In the context of meaningful mitigation actions and transparency on implementation, developed countries commit to a goal of mobilizing jointly USD 100 billion dollars a year by 2020 to address the needs of developing countries. This funding will come from a wide variety of sources, public and private, bilateral and multilateral, including alternative sources of finance. New multilateral funding for adaptation will be delivered through effective and efficient fund arrangements, with a governance structure providing for equal representation of developed and developing countries. A significant portion of such funding should flow through the Copenhagen Green Climate Fund.

9. To this end, a High Level Panel will be established under the guidance of and accountable to the Conference of the Parties to study the contribution of the potential sources of revenue, including alternative sources of finance, towards meeting this goal.

10. We decide that the Copenhagen Green Climate Fund shall be established as an operating entity of the financial mechanism of the Convention to support projects, programme, policies and other activities in developing countries related to mitigation including REDD-plus, adaptation, capacity-building, technology development and transfer.

11. In order to enhance action on development and transfer of technology we decide to establish a Technology Mechanism to accelerate technology development and transfer in support of action on adaptation and mitigation that will be guided by a country-driven approach and be based on national circumstances and priorities.

12. We call for an assessment of the implementation of this Accord to be completed by 2015, including in light of the Convention’s ultimate objective. This would include consideration of strengthening the long-term goal referencing various matters presented by the science, including in relation to temperature rises of 1.5 degrees Celsius.
Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefit Arising from their Utilization to the Convention on Biological Diversity, 2010
The Parties to this Protocol,

Being Parties to the Convention on Biological Diversity, hereinafter referred to as “the Convention”,

Recalling that the fair and equitable sharing of benefits arising from the utilization of genetic resources is one of three core objectives of the Convention, and recognizing that this Protocol pursues the implementation of this objective within the Convention,

Reaffirming the sovereign rights of States over their natural resources and according to the provisions of the Convention,

Recalling further Article 15 of the Convention,

Recognizing the important contribution to sustainable development made by technology transfer and cooperation to build research and innovation capacities for adding value to genetic resources in developing countries, in accordance with Articles 16 and 19 of the Convention,

Recognizing that public awareness of the economic value of ecosystems and biodiversity and the fair and equitable sharing of this economic value with the custodians of biodiversity are key incentives for the conservation of biological diversity and the sustainable use of its components,

Acknowledging the potential role of access and benefit-sharing to contribute to the conservation and sustainable use of biological diversity, poverty eradication and environmental sustainability and thereby contributing to achieving the Millennium Development Goals,

Acknowledging the linkage between access to genetic resources and the fair and equitable sharing of benefits arising from the utilization of such resources,

Recognizing the importance of providing legal certainty with respect to access to genetic resources and the fair and equitable sharing of benefits arising from their utilization,
Further recognizing the importance of promoting equity and fairness in negotiation of mutually agreed terms between providers and users of genetic resources,

Recognizing also the vital role that women play in access and benefit-sharing and affirming the need for the full participation of women at all levels of policy-making and implementation for biodiversity conservation,

Determined to further support the effective implementation of the access and benefit-sharing provisions of the Convention,

Recognizing that an innovative solution is required to address the fair and equitable sharing of benefits derived from the utilization of genetic resources and traditional knowledge associated with genetic resources that occur in transboundary situations or for which it is not possible to grant or obtain prior informed consent,

Recognizing the importance of genetic resources to food security, public health, biodiversity conservation, and the mitigation of and adaptation to climate change,

Recognizing the special nature of agricultural biodiversity, its distinctive features and problems needing distinctive solutions,

Recognizing the interdependence of all countries with regard to genetic resources for food and agriculture as well as their special nature and importance for achieving food security worldwide and for sustainable development of agriculture in the context of poverty alleviation and climate change and acknowledging the fundamental role of the International Treaty on Plant Genetic Resources for Food and Agriculture and the FAO Commission on Genetic Resources for Food and Agriculture in this regard,

Mindful of the International Health Regulations (2005) of the World Health Organization and the importance of ensuring access to human pathogens for public health preparedness and response purposes,

Acknowledging ongoing work in other international forums relating to access and benefit-sharing,

Recalling the Multilateral System of Access and Benefit-sharing established under the International Treaty on Plant Genetic Resources for Food and Agriculture developed in harmony with the Convention,

Recognizing that international instruments related to access and benefit-sharing should be mutually supportive with a view to achieving the objectives of the Convention,

Recalling the relevance of Article 8(j) of the Convention as it relates to traditional knowledge associated with genetic resources and the fair and equitable sharing of benefits arising from the utilization of such knowledge,

Noting the interrelationship between genetic resources and traditional knowledge, their inseparable nature for indigenous and local communities, the importance of the traditional knowledge for the conservation of biological diversity and the sustainable use of its components, and for the sustainable livelihoods of these communities,

Recognizing the diversity of circumstances in which traditional knowledge associated with genetic resources is held or owned by indigenous and local communities,

Mindful that it is the right of indigenous and local communities to identify the rightful holders of their traditional knowledge associated with genetic resources, within their communities,

Further recognizing the unique circumstances where traditional knowledge associated with genetic resources is held in countries, which may be oral, documented or in other forms, reflecting a rich cultural heritage relevant for conservation and sustainable use of biological diversity,

Noting the United Nations Declaration on the Rights of Indigenous Peoples, and

Affirming that nothing in this Protocol shall be construed as diminishing or extinguishing the existing rights of indigenous and local communities,

Have agreed as follows:

ARTICLE 1

OBJECTIVE

The objective of this Protocol is the fair and equitable sharing of the benefits arising from the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to
technologies, and by appropriate funding, thereby contributing to the
conservation of biological diversity and the sustainable use of its components.

ARTICLE 2

USE OF TERMS

The terms defined in Article 2 of the Convention shall apply to this Protocol. In addition, for the purposes of this Protocol:

(a) “Conference of the Parties” means the Conference of the Parties to the Convention;

(b) “Convention” means the Convention on Biological Diversity;

(c) “Utilization of genetic resources” means to conduct research and
development on the genetic and/or biochemical composition of genetic
resources, including through the application of biotechnology as defined in
Article 2 of the Convention;

(d) “Biotechnology” as defined in Article 2 of the Convention means
any technological application that uses biological systems, living organisms, or
derivatives thereof, to make or modify products or processes for specific use;

(e) “Derivative” means a naturally occurring biochemical compound
resulting from the genetic expression or metabolism of biological or genetic
resources, even if it does not contain functional units of heredity.

ARTICLE 3

SCOPE

This Protocol shall apply to genetic resources within the scope of
Article 15 of the Convention and to the benefits arising from the utilization of
such resources. This Protocol shall also apply to traditional knowledge
associated with genetic resources within the scope of the Convention and to
the benefits arising from the utilization of such knowledge.

ARTICLE 4

RELATIONSHIP WITH INTERNATIONAL AGREEMENTS
AND INSTRUMENTS

1. The provisions of this Protocol shall not affect the rights and obligations
of any Party deriving from any existing international agreement, except where
the exercise of those rights and obligations would cause a serious damage or
threat to biological diversity. This paragraph is not intended to create a
hierarchy between this Protocol and other international instruments.

2. Nothing in this Protocol shall prevent the Parties from developing and
implementing other relevant international agreements, including other
specialized access and benefit-sharing agreements, provided that they are
supportive of and do not run counter to the objectives of the Convention and
this Protocol.

3. This Protocol shall be implemented in a mutually supportive manner
with other international instruments relevant to this Protocol. Due regard
should be paid to useful and relevant ongoing work or practices under such
international instruments and relevant international organizations, provided
that they are supportive of and do not run counter to the objectives of the
Convention and this Protocol.

4. This Protocol is the instrument for the implementation of the access and
benefit-sharing provisions of the Convention. Where a specialized
international access and benefit-sharing instrument applies that is consistent
with, and does not run counter to the objectives of the Convention and this
Protocol, this Protocol does not apply for the Party or Parties to the specialized
instrument in respect of the specific genetic resource covered by and for the
purpose of the specialized instrument.

ARTICLE 5

FAIR AND EQUITABLE BENEFIT-SHARING

1. In accordance with Article 15, paragraphs 3 and 7 of the Convention,
benefits arising from the utilization of genetic resources as well as subsequent
applications and commercialization shall be shared in a fair and equitable way
with the Party providing such resources that is the country of origin of such
resources or a Party that has acquired the genetic resources in accordance with
the Convention. Such sharing shall be upon mutually agreed terms.
2. Each Party shall take legislative, administrative or policy measures, as appropriate, with the aim of ensuring that benefits arising from the utilization of genetic resources that are held by indigenous and local communities, in accordance with domestic legislation regarding the established rights of these indigenous and local communities over these genetic resources, are shared in a fair and equitable way with the communities concerned, based on mutually agreed terms.

3. To implement paragraph 1 above, each Party shall take legislative, administrative or policy measures, as appropriate.

4. Benefits may include monetary and non-monetary benefits, including but not limited to those listed in the Annex.

5. Each Party shall take legislative, administrative or policy measures, as appropriate, in order that the benefits arising from the utilization of traditional knowledge associated with genetic resources are shared in a fair and equitable way with indigenous and local communities holding such knowledge. Such sharing shall be upon mutually agreed terms.

ARTICLE 6
ACCESS TO GENETIC RESOURCES

1. In the exercise of sovereign rights over natural resources, and subject to domestic access and benefit-sharing legislation or regulatory requirements, access to genetic resources for their utilization shall be subject to the prior informed consent of the Party providing such resources that is the country of origin of such resources or a Party that has acquired the genetic resources in accordance with the Convention, unless otherwise determined by that Party.

2. In accordance with domestic law, each Party shall take measures, as appropriate, with the aim of ensuring that the prior informed consent or approval and involvement of indigenous and local communities is obtained for access to genetic resources where they have the established right to grant access to such resources.

3. Pursuant to paragraph 1 above, each Party requiring prior informed consent shall take the necessary legislative, administrative or policy measures, as appropriate, to:

   (a) Provide for legal certainty, clarity and transparency of their domestic access and benefit-sharing legislation or regulatory requirements;
   (b) Provide for fair and non-arbitrary rules and procedures on accessing genetic resources;
   (c) Provide information on how to apply for prior informed consent;
   (d) Provide for a clear and transparent written decision by a competent national authority, in a cost-effective manner and within a reasonable period of time;
   (e) Provide for the issuance at the time of access of a permit or its equivalent as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms, and notify the Access and Benefit-sharing Clearing-House accordingly;
   (f) Where applicable, and subject to domestic legislation, set out criteria and/or processes for obtaining prior informed consent or approval and involvement of indigenous and local communities for access to genetic resources; and
   (g) Establish clear rules and procedures for requiring and establishing mutually agreed terms. Such terms shall be set out in writing and may include, inter alia:

      (i) A dispute settlement clause;
      (ii) Terms on benefit-sharing, including in relation to intellectual property rights;
      (iii) Terms on subsequent third-party use, if any; and
      (iv) Terms on changes of intent, where applicable.

ARTICLE 7
ACCESS TO TRADITIONAL KNOWLEDGE ASSOCIATED WITH GENETIC RESOURCES

In accordance with domestic law, each Party shall take measures, as appropriate, with the aim of ensuring that traditional knowledge associated with genetic resources that is held by indigenous and local communities is accessed with the prior and informed consent or approval and involvement of these indigenous and local communities, and that mutually agreed terms have been established.
ARTICLE 8
SPECIAL CONSIDERATIONS

In the development and implementation of its access and benefit-sharing legislation or regulatory requirements, each Party shall:

(a) Create conditions to promote and encourage research which contributes to the conservation and sustainable use of biological diversity, particularly in developing countries, including through simplified measures on access for non-commercial research purposes, taking into account the need to address a change of intent for such research;

(b) Pay due regard to cases of present or imminent emergencies that threaten or damage human, animal or plant health, as determined nationally or internationally. Parties may take into consideration the need for expeditious access to genetic resources and expeditious fair and equitable sharing of benefits arising out of the use of such genetic resources, including access to affordable treatments by those in need, especially in developing countries;

(c) Consider the importance of genetic resources for food and agriculture and their special role for food security.

ARTICLE 9
CONTRIBUTION TO CONSERVATION AND SUSTAINABLE USE

The Parties shall encourage users and providers to direct benefits arising from the utilization of genetic resources towards the conservation of biological diversity and the sustainable use of its components.

ARTICLE 10
GLOBAL MULTILATERAL BENEFIT-SHARING MECHANISM

Parties shall consider the need for and modalities of a global multilateral benefit-sharing mechanism to address the fair and equitable sharing of benefits derived from the utilization of genetic resources and traditional knowledge associated with genetic resources that occur in transboundary situations or for which it is not possible to grant or obtain prior informed consent. The benefits shared by users of genetic resources and traditional knowledge associated with genetic resources through this mechanism shall be used to support the conservation of biological diversity and the sustainable use of its components globally.

ARTICLE 11
TRANSBOUNDARY COOPERATION

1. In instances where the same genetic resources are found in situ within the territory of more than one Party, those Parties shall endeavour to cooperate, as appropriate, with the involvement of indigenous and local communities concerned, where applicable, with a view to implementing this Protocol.

2. Where the same traditional knowledge associated with genetic resources is shared by one or more indigenous and local communities in several Parties, those Parties shall endeavour to cooperate, as appropriate, with the involvement of the indigenous and local communities concerned, with a view to implementing the objective of this Protocol.

ARTICLE 12
TRADITIONAL KNOWLEDGE ASSOCIATED WITH GENETIC RESOURCES

1. In implementing their obligations under this Protocol, Parties shall in accordance with domestic law take into consideration indigenous and local communities' customary laws, community protocols and procedures, as applicable, with respect to traditional knowledge associated with genetic resources.

2. Parties, with the effective participation of the indigenous and local communities concerned, shall establish mechanisms to inform potential users of traditional knowledge associated with genetic resources about their obligations, including measures as made available through the Access and Benefit-sharing Clearing-House for access to and fair and equitable sharing of benefits arising from the utilization of such knowledge.

3. Parties shall endeavour to support, as appropriate, the development by indigenous and local communities, including women within these communities, of:

   (a) Community protocols in relation to access to traditional knowledge associated with genetic resources and the fair and equitable sharing of benefits arising out of the utilization of such knowledge;

   (b) Minimum requirements for mutually agreed terms to secure the fair and equitable sharing of benefits arising from the utilization of traditional knowledge associated with genetic resources; and
(c) Model contractual clauses for benefit-sharing arising from the utilization of traditional knowledge associated with genetic resources.

4. Parties, in their implementation of this Protocol, shall, as far as possible, not restrict the customary use and exchange of genetic resources and associated traditional knowledge within and amongst indigenous and local communities in accordance with the objectives of the Convention.

ARTICLE 13

NATIONAL FOCAL POINTS AND COMPETENT NATIONAL AUTHORITIES

1. Each Party shall designate a national focal point on access and benefit-sharing. The national focal point shall make information available as follows:

(a) For applicants seeking access to genetic resources, information on procedures for obtaining prior informed consent and establishing mutually agreed terms, including benefit-sharing;

(b) For applicants seeking access to traditional knowledge associated with genetic resources, where possible, information on procedures for obtaining prior informed consent or approval and involvement, as appropriate, of indigenous and local communities and establishing mutually agreed terms including benefit-sharing; and

(c) Information on competent national authorities, relevant indigenous and local communities and relevant stakeholders.

The national focal point shall be responsible for liaison with the Secretariat.

2. Each Party shall designate one or more competent national authorities on access and benefit-sharing. Competent national authorities shall, in accordance with applicable national legislative, administrative or policy measures, be responsible for granting access or, as applicable, issuing written evidence that access requirements have been met and be responsible for advising on applicable procedures and requirements for obtaining prior informed consent and entering into mutually agreed terms.

3. A Party may designate a single entity to fulfil the functions of both focal point and competent national authority.

4. Each Party shall, no later than the date of entry into force of this Protocol for it, notify the Secretariat of the contact information of its national focal point and its competent national authority or authorities. Where a Party designates more than one competent national authority, it shall convey to the Secretariat, with its notification thereof, relevant information on the respective responsibilities of those authorities. Where applicable, such information shall, at a minimum, specify which competent authority is responsible for the genetic resources sought. Each Party shall forthwith notify the Secretariat of any changes in the designation of its national focal point or in the contact information or responsibilities of its competent national authority or authorities.

5. The Secretariat shall make information received pursuant to paragraph 4 above available through the Access and Benefit-sharing Clearing-House.

ARTICLE 14

THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE AND INFORMATION SHARING

1. An Access and Benefit-sharing Clearing-House is hereby established as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention. It shall serve as a means for sharing of information related to access and benefit-sharing. In particular, it shall provide access to information made available by each Party relevant to the implementation of this Protocol.

2. Without prejudice to the protection of confidential information, each Party shall make available to the Access and Benefit-sharing Clearing-House any information required by this Protocol, as well as information required pursuant to the decisions taken by the Conference of the Parties serving as the meeting of the Parties to this Protocol. The information shall include:

(a) Legislative, administrative and policy measures on access and benefit-sharing;

(b) Information on the national focal point and competent national authority or authorities; and

(c) Permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms.

3. Additional information, if available and as appropriate, may include:

(a) Relevant competent authorities of indigenous and local communities, and information as so decided;
(b) Model contractual clauses;
(c) Methods and tools developed to monitor genetic resources; and
(d) Codes of conduct and best practices.

4. The modalities of the operation of the Access and Benefit-sharing Clearing-House, including reports on its activities, shall be considered and decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first meeting, and kept under review thereafter.

**ARTICLE 15**

**COMPLIANCE WITH DOMESTIC LEGISLATION OR REGULATORY REQUIREMENTS ON ACCESS AND BENEFIT-SHARING**

1. Each Party shall take appropriate, effective and proportionate legislative, administrative or policy measures to provide that genetic resources utilized within its jurisdiction have been accessed in accordance with prior informed consent and that mutually agreed terms have been established, as required by the domestic access and benefit-sharing legislation or regulatory requirements of the other Party.

2. Parties shall take appropriate, effective and proportionate measures to address situations of non-compliance with measures adopted in accordance with paragraph 1 above.

3. Parties shall, as far as possible and as appropriate, cooperate in cases of alleged violation of domestic access and benefit-sharing legislation or regulatory requirements referred to in paragraph 1 above.

**ARTICLE 16**

**COMPLIANCE WITH DOMESTIC LEGISLATION OR REGULATORY REQUIREMENTS ON ACCESS AND BENEFIT-SHARING FOR TRADITIONAL KNOWLEDGE ASSOCIATED WITH GENETIC RESOURCES**

1. Each Party shall take appropriate, effective and proportionate legislative, administrative or policy measures, as appropriate, to provide that traditional knowledge associated with genetic resources utilized within their jurisdiction has been accessed in accordance with prior informed consent or approval and involvement of indigenous and local communities and that mutually agreed terms have been established, as required by domestic access and benefit-sharing legislation or regulatory requirements of the other Party where such indigenous and local communities are located.

2. Each Party shall take appropriate, effective and proportionate measures to address situations of non-compliance with measures adopted in accordance with paragraph 1 above.

3. Parties shall, as far as possible and as appropriate, cooperate in cases of alleged violation of domestic access and benefit-sharing legislation or regulatory requirements referred to in paragraph 1 above.

**ARTICLE 17**

**MONITORING THE UTILIZATION OF GENETIC RESOURCES**

1. To support compliance, each Party shall take measures, as appropriate, to monitor and to enhance transparency about the utilization of genetic resources. Such measures shall include:

   (a) The designation of one or more checkpoints, as follows:

   (i) Designated checkpoints would collect or receive, as appropriate, relevant information related to prior informed consent, to the source of the genetic resource, to the establishment of mutually agreed terms, and/or to the utilization of genetic resources, as appropriate;

   (ii) Each Party shall, as appropriate and depending on the particular characteristics of a designated checkpoint, require users of genetic resources to provide the information specified in the above paragraph at a designated checkpoint. Each Party shall take appropriate, effective and proportionate measures to address situations of non-compliance;

   (iii) Such information, including from internationally recognized certificates of compliance where they are available, will, without prejudice to the protection of confidential information, be provided to relevant national authorities, to the Party providing prior informed consent and to the Access and Benefit-sharing Clearing-House, as appropriate;
(iv) Checkpoints must be effective and should have functions relevant to implementation of this subparagraph (a). They should be relevant to the utilization of genetic resources, or to the collection of relevant information at, inter alia, any stage of research, development, innovation, pre-commercialization or commercialization.

(b) Encouraging users and providers of genetic resources to include provisions in mutually agreed terms to share information on the implementation of such terms, including through reporting requirements; and

(c) Encouraging the use of cost-effective communication tools and systems.

2. A permit or its equivalent issued in accordance with Article 6, paragraph 3 (e) and made available to the Access and Benefit-sharing Clearing-House, shall constitute an internationally recognized certificate of compliance.

3. An internationally recognized certificate of compliance shall serve as evidence that the genetic resource which it covers has been accessed in accordance with prior informed consent and that mutually agreed terms have been established, as required by the domestic access and benefit-sharing legislation or regulatory requirements of the Party providing prior informed consent.

4. The internationally recognized certificate of compliance shall contain the following minimum information when it is not confidential:
   
   (a) Issuing authority;
   
   (b) Date of issuance;
   
   (c) The provider;
   
   (d) Unique identifier of the certificate;
   
   (e) The person or entity to whom prior informed consent was granted;
   
   (f) Subject-matter or genetic resources covered by the certificate;
   
   (g) Confirmation that mutually agreed terms were established;
   
   (h) Confirmation that prior informed consent was obtained; and
   
   (i) Commercial and/or non-commercial use.

ARTICLE 18

COMPLIANCE WITH MUTUALLY AGREED TERMS

1. In the implementation of Article 6, paragraph 3 (g) (i) and Article 7, each Party shall encourage providers and users of genetic resources and/or traditional knowledge associated with genetic resources to include provisions in mutually agreed terms to cover, where appropriate, dispute resolution including:

   (a) The jurisdiction to which they will subject any dispute resolution processes;
   
   (b) The applicable law; and/or
   
   (c) Options for alternative dispute resolution, such as mediation or arbitration.

2. Each Party shall ensure that an opportunity to seek recourse is available under their legal systems, consistent with applicable jurisdictional requirements, in cases of disputes arising from mutually agreed terms.

3. Each Party shall take effective measures, as appropriate, regarding:

   (a) Access to justice; and
   
   (b) The utilization of mechanisms regarding mutual recognition and enforcement of foreign judgments and arbitral awards.

4. The effectiveness of this article shall be reviewed by the Conference of the Parties serving as the meeting of the Parties to this Protocol in accordance with Article 21 of this Protocol.

ARTICLE 19

MODEL CONTRACTUAL CLAUSES

1. Each Party shall encourage, as appropriate, the development, update and use of sectoral and cross-sectoral model contractual clauses for mutually agreed terms.
2. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically take stock of the use of sectoral and cross-sectoral model contractual clauses.

**ARTICLE 20**

**CODES OF CONDUCT, GUIDELINES AND BEST PRACTICES AND/OR STANDARDS**

1. Each Party shall encourage, as appropriate, the development, update and use of voluntary codes of conduct, guidelines and best practices and/or standards in relation to access and benefit-sharing.

2. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically take stock of the use of voluntary codes of conduct, guidelines and best practices and/or standards and consider the adoption of specific codes of conduct, guidelines and best practices and/or standards.

**ARTICLE 21**

**AWARENESS-RAISING**

Each Party shall take measures to raise awareness of the importance of genetic resources and traditional knowledge associated with genetic resources, and related access and benefit-sharing issues. Such measures may include, *inter alia*:

(a) Promotion of this Protocol, including its objective;

(b) Organization of meetings of indigenous and local communities and relevant stakeholders;

(c) Establishment and maintenance of a help desk for indigenous and local communities and relevant stakeholders;

(d) Information dissemination through a national clearing-house;

(e) Promotion of voluntary codes of conduct, guidelines and best practices and/or standards in consultation with indigenous and local communities and relevant stakeholders;

(f) Promotion of, as appropriate, domestic, regional and international exchanges of experience;

(g) Education and training of users and providers of genetic resources and traditional knowledge associated with genetic resources about their access and benefit-sharing obligations;

(h) Involvement of indigenous and local communities and relevant stakeholders in the implementation of this Protocol; and

(i) Awareness-raising of community protocols and procedures of indigenous and local communities.

**ARTICLE 22**

**CAPACITY**

1. The Parties shall cooperate in the capacity-building, capacity development and strengthening of human resources and institutional capacities to effectively implement this Protocol in developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition, including through existing global, regional, subregional and national institutions and organizations. In this context, Parties should facilitate the involvement of indigenous and local communities and relevant stakeholders, including non-governmental organizations and the private sector.

2. The need of developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition for financial resources in accordance with the relevant provisions of the Convention shall be taken fully into account for capacity-building and development to implement this Protocol.

3. As a basis for appropriate measures in relation to the implementation of this Protocol, developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition should identify their national capacity needs and priorities through national capacity self-assessments. In doing so, such Parties should support the capacity needs and priorities of indigenous and local communities and relevant stakeholders, as identified by them, emphasizing the capacity needs and priorities of women.

4. In support of the implementation of this Protocol, capacity-building and development may address, *inter alia*, the following key areas:

(a) Capacity to implement, and to comply with the obligations of, this Protocol;
(b) Capacity to negotiate mutually agreed terms;

(c) Capacity to develop, implement and enforce domestic legislative, administrative or policy measures on access and benefit-sharing; and

(d) Capacity of countries to develop their endogenous research capabilities to add value to their own genetic resources.

5. Measures in accordance with paragraphs 1 to 4 above may include, inter alia:

(a) Legal and institutional development;

(b) Promotion of equity and fairness in negotiations, such as training to negotiate mutually agreed terms;

(c) The monitoring and enforcement of compliance;

(d) Employment of best available communication tools and Internet-based systems for access and benefit-sharing activities;

(e) Development and use of valuation methods;

(f) Bioprospecting, associated research and taxonomic studies;

(g) Technology transfer, and infrastructure and technical capacity to make such technology transfer sustainable;

(h) Enhancement of the contribution of access and benefit-sharing activities to the conservation of biological diversity and the sustainable use of its components;

(i) Special measures to increase the capacity of relevant stakeholders in relation to access and benefit-sharing; and

(j) Special measures to increase the capacity of indigenous and local communities with emphasis on enhancing the capacity of women within those communities in relation to access to genetic resources and/or traditional knowledge associated with genetic resources.

6. Information on capacity-building and development initiatives at national, regional and international levels, undertaken in accordance with paragraphs 1 to 5 above, should be provided to the Access and Benefit-sharing Clearing-House with a view to promoting synergy and coordination on capacity-building and development for access and benefit-sharing.

ARTICLE 23

TECHNOLOGY TRANSFER, COLLABORATION AND COOPERATION

In accordance with Articles 15, 16, 18 and 19 of the Convention, the Parties shall collaborate and cooperate in technical and scientific research and development programmes, including biotechnological research activities, as a means to achieve the objective of this Protocol. The Parties undertake to promote and encourage access to technology by, and transfer of technology to, developing country Parties, in particular the least developed countries and small island developing States among them, and Parties with economies in transition, in order to enable the development and strengthening of a sound and viable technological and scientific base for the attainment of the objectives of the Convention and this Protocol. Where possible and appropriate such collaborative activities shall take place in and with a Party or the Parties providing genetic resources that is the country or are the countries of origin of such resources or a Party or Parties that have acquired the genetic resources in accordance with the Convention.

ARTICLE 24

NON-PARTIES

The Parties shall encourage non-Parties to adhere to this Protocol and to contribute appropriate information to the Access and Benefit-sharing Clearing-House.

ARTICLE 25

FINANCIAL MECHANISM AND RESOURCES

1. In considering financial resources for the implementation of this Protocol, the Parties shall take into account the provisions of Article 20 of the Convention.

2. The financial mechanism of the Convention shall be the financial mechanism for this Protocol.

3. Regarding the capacity-building and development referred to in Article 22 of this Protocol, the Conference of the Parties serving as the
meeting of the Parties to this Protocol, in providing guidance with respect to the financial mechanism referred to in paragraph 2 above, for consideration by the Conference of the Parties, shall take into account the need of developing country Parties, in particular the least developed countries and small island developing States among them, and of Parties with economies in transition, for financial resources, as well as the capacity needs and priorities of indigenous and local communities, including women within these communities.

4. In the context of paragraph 1 above, the Parties shall also take into account the needs of the developing country Parties, in particular the least developed countries and small island developing States among them, and of the Parties with economies in transition, in their efforts to identify and implement their capacity-building and development requirements for the purposes of the implementation of this Protocol.

5. The guidance to the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply, mutatis mutandis, to the provisions of this Article.

6. The developed country Parties may also provide, and the developing country Parties and the Parties with economies in transition avail themselves of, financial and other resources for the implementation of the provisions of this Protocol through bilateral, regional and multilateral channels.

ARTICLE 26

CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THIS PROTOCOL

1. The Conference of the Parties shall serve as the meeting of the Parties to this Protocol.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to it.

3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be substituted by a member to be elected by and from among the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:

(a) Make recommendations on any matters necessary for the implementation of this Protocol;

(b) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;

(c) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies;

(d) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 29 of this Protocol and consider such information as well as reports submitted by any subsidiary body;

(e) Consider and adopt, as required, amendments to this Protocol and its Annex, as well as any additional annexes to this Protocol, that are deemed necessary for the implementation of this Protocol; and

(f) Exercise such other functions as may be required for the implementation of this Protocol.

5. The rules of procedure of the Conference of the Parties and financial rules of the Convention shall be applied, mutatis mutandis, under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

6. The first meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the Secretariat and held concurrently with the first meeting of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol. Subsequent ordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held concurrently with ordinary meetings of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

7. Extraordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting
of the Parties to this Protocol, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the Secretariat, it is supported by at least one third of the Parties.

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented as observers at meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Any body or agency, whether national or international, governmental or non-governmental, that is qualified in matters covered by this Protocol and that has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties serving as a meeting of the Parties to this Protocol as an observer, may be so admitted, unless at least one third of the Parties present object. Except as otherwise provided in this Article, the admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.

ARTICLE 27
SUBSIDIARY BODIES

1. Any subsidiary body established by or under the Convention may serve this Protocol, including upon a decision of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Any such decision shall specify the tasks to be undertaken.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of any such subsidiary bodies. When a subsidiary body of the Convention serves as a subsidiary body to this Protocol, decisions under this Protocol shall be taken only by Parties to this Protocol.

3. When a subsidiary body of the Convention exercises its functions with regard to matters concerning this Protocol, any member of the bureau of that subsidiary body representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be substituted by a member to be elected by and from among the Parties to this Protocol.

ARTICLE 28
SECRETARIAT

1. The Secretariat established by Article 24 of the Convention shall serve as the secretariat to this Protocol.

2. Article 24, paragraph 1, of the Convention on the functions of the Secretariat shall apply, mutatis mutandis, to this Protocol.

3. To the extent that they are distinct, the costs of the secretariat services for this Protocol shall be met by the Parties hereto. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, decide on the necessary budgetary arrangements to this end.

ARTICLE 29
MONITORING AND REPORTING

Each Party shall monitor the implementation of its obligations under this Protocol, and shall, at intervals and in the format to be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, report to the Conference of the Parties serving as the meeting of the Parties to this Protocol on measures that it has taken to implement this Protocol.

ARTICLE 30
PROCEDURES AND MECHANISMS TO PROMOTE COMPLIANCE WITH THIS PROTOCOL

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of this Protocol and to address cases of non-compliance. These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. They shall be separate from, and without prejudice to, the dispute settlement procedures and mechanisms under Article 27 of the Convention.

ARTICLE 31
ASSESSMENT AND REVIEW

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall undertake, four years after the entry into force of this Protocol and thereafter at intervals determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, an evaluation of the effectiveness of this Protocol.
ARTICLE 32

SIGNATURE

This Protocol shall be open for signature by Parties to the Convention at the United Nations Headquarters in New York, from 2 February 2011 to 1 February 2012.

ARTICLE 33

ENTRY INTO FORCE

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession by States or regional economic integration organizations that are Parties to the Convention.

2. This Protocol shall enter into force for a State or regional economic integration organization that ratifies, accepts or approves this Protocol or accedes thereto after the deposit of the fiftieth instrument as referred to in paragraph 1 above, on the ninetieth day after the date on which that State or regional economic integration organization deposits its instrument of ratification, acceptance, approval or accession, or on the date on which the Convention enters into force for that State or regional economic integration organization, whichever shall be the later.

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

ARTICLE 34

RESERVATIONS

No reservations may be made to this Protocol.

ARTICLE 35

WITHDRAWAL

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

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

ARTICLE 36

AUTHENTIC TEXTS

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

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Protocol on the dates indicated.

DONE at Nagoya on this twenty-ninth day of October, two thousand and ten.
Annex

MONETARY AND NON-MONETARY BENEFITS

1. Monetary benefits may include, but not be limited to:
   (a) Access fees/fee per sample collected or otherwise acquired;
   (b) Up-front payments;
   (c) Milestone payments;
   (d) Payment of royalties;
   (e) Licence fees in case of commercialization;
   (f) Special fees to be paid to trust funds supporting conservation and sustainable use of biodiversity;
   (g) Salaries and preferential terms where mutually agreed;
   (h) Research funding;
   (i) Joint ventures;
   (j) Joint ownership of relevant intellectual property rights.

2. Non-monetary benefits may include, but not be limited to:
   (a) Sharing of research and development results;
   (b) Collaboration, cooperation and contribution in scientific research and development programmes, particularly biotechnological research activities, where possible in the Party providing genetic resources;
   (c) Participation in product development;
   (d) Collaboration, cooperation and contribution in education and training;
   (e) Admittance to ex situ facilities of genetic resources and to databases;
   (f) Transfer to the provider of the genetic resources of knowledge and technology under fair and most favourable terms, including on concessional and preferential terms where agreed, in particular, knowledge and technology that make use of genetic resources, including biotechnology, or that are relevant to the conservation and sustainable utilization of biological diversity;
   (g) Strengthening capacities for technology transfer;
   (h) Institutional capacity-building;
   (i) Human and material resources to strengthen the capacities for the administration and enforcement of access regulations;
   (j) Training related to genetic resources with the full participation of countries providing genetic resources, and where possible, in such countries;
   (k) Access to scientific information relevant to conservation and sustainable use of biological diversity, including biological inventories and taxonomic studies;
   (l) Contributions to the local economy;
   (m) Research directed towards priority needs, such as health and food security, taking into account domestic uses of genetic resources in the Party providing genetic resources;
   (n) Institutional and professional relationships that can arise from an access and benefit-sharing agreement and subsequent collaborative activities;
   (o) Food and livelihood security benefits;
   (p) Social recognition;
   (q) Joint ownership of relevant intellectual property rights.
NAGOYA – KUALA LUMPUR
SUPPLEMENTARY PROTOCOL
ON LIABILITY AND REDRESS
TO THE CARTAGENA PROTOCOL
ON BIOSAFETY

SECRETARIAT OF THE CONVENTION
ON BIOLOGICAL DIVERSITY
MONTREAL

United Nations
Nagoya - Kuala Lumpur Supplementary Protocol

Introduction

The Cartagena Protocol on Biosafety was adopted on 29 January 2000 as a supplementary agreement to the Convention on Biological Diversity. It entered into force on 11 September 2003. The Protocol is a multilateral environmental agreement that is intended to contribute to the safe transfer, handling, and use of living modified organisms that may have adverse effects on biological diversity, taking also into account risks to human health, and with specific focus on transboundary movements.

The issue of elaborating rules on liability and redress for damage resulting from living modified organisms was under consideration internationally both before and after the adoption of the Protocol on Biosafety. Article 27 of the Protocol set the stage for the establishment of a formal process towards completion of the consideration of the issue within a defined timeframe. Article 27 required the Conference of the Parties to the Convention on Biological Diversity serving as the meeting of the Parties to the Biosafety Protocol to adopt, at its first meeting, a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms.

Accordingly, the first meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety which was held in Kuala Lumpur, from 23 to 27 February 2004 established an Ad Hoc Open-ended Working Group of Legal and Technical Experts on Liability and Redress in the Context of the Cartagena Protocol on Biosafety to analyse issues, elaborate options, and propose international rules and procedures on the subject.

After several years of negotiations, an international agreement, known as the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, was finalized and adopted in Nagoya, Japan, on 15 October 2010 at the fifth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

The Supplementary Protocol adopts an administrative approach to addressing response measures in the event of damage or sufficient likelihood of damage to the conservation and sustainable use of biological diversity resulting from living modified organisms that find their origin in transboundary movements.

Like its parent treaty, the Cartagena Protocol on Biosafety, the adoption of the Nagoya – Kuala Lumpur Supplementary Protocol is seen as playing a function of preventing damage on the one hand and as a further confidence-building measure on the other, in the development and application of modern biotechnology. It advances the enabling environment for deriving maximum benefit from the potential of living modified organisms by providing rules for redress or response measures in the event something goes wrong and biodiversity suffers or is likely to suffer damage.
The Parties to this Supplementary Protocol,

Being Parties to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, hereinafter referred to as “the Protocol”,

Taking into account Principle 13 of the Rio Declaration on Environment and Development,

Reaffirming the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development,

Recognizing the need to provide for appropriate response measures where there is damage or sufficient likelihood of damage, consistent with the Protocol,

Recalling Article 27 of the Protocol,

Have agreed as follows:

Article 1

OBJECTIVE

The objective of this Supplementary Protocol is to contribute to the conservation and sustainable use of biological diversity, taking also into account risks to human health, by providing international rules and procedures in the field of liability and redress relating to living modified organisms.

Article 2

USE OF TERMS

1. The terms used in Article 2 of the Convention on Biological Diversity, hereinafter referred to as “the Convention”, and Article 3 of the Protocol shall apply to this Supplementary Protocol.

2. In addition, for the purposes of this Supplementary Protocol:

(a) “Conference of the Parties serving as the meeting of the Parties to the Protocol” means the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol;

(b) “Damage” means an adverse effect on the conservation and sustainable use of biological diversity, taking also into account risks to human health, that:

(i) Is measurable or otherwise observable taking into account, wherever available, scientifically-established baselines recognized by a competent authority that takes into account any other human induced variation and natural variation; and

(ii) Is significant as set out in paragraph 3 below;

(c) “Operator” means any person in direct or indirect control of the living modified organism which could, as appropriate and as determined by domestic law, include, inter alia, the permit holder, person who placed the living modified organism on the market, developer, producer, notifier, exporter, importer, carrier or supplier;

(d) “Response measures” means reasonable actions to:

(i) Prevent, minimize, contain, mitigate, or otherwise avoid damage, as appropriate;

(ii) Restore biological diversity through actions to be undertaken in the following order of preference:

a. Restoration of biological diversity to the condition that existed before the damage occurred, or its nearest equivalent; and where the competent authority determines this is not possible;

b. Restoration by, inter alia, replacing the loss of biological diversity with other components of biological diversity for the same, or for another type of use either at the same or, as appropriate, at an alternative location.

3. A “significant” adverse effect is to be determined on the basis of factors, such as:

(a) The long-term or permanent change, to be understood as change that will not be redressed through natural recovery within a reasonable period of time;

(b) The extent of the qualitative or quantitative changes that adversely affect the components of biological diversity;

(c) The reduction of the ability of components of biological diversity to provide goods and services;

(d) The extent of any adverse effects on human health in the context of the Protocol.

Article 3

SCOPE

1. This Supplementary Protocol applies to damage resulting from living modified organisms which find their origin in a transboundary movement. The living modified organisms referred to are those:

(a) Intended for direct use as food or feed, or for processing;
(b) Destined for contained use;
(c) Intended for intentional introduction into the environment.

2. With respect to intentional transboundary movements, this Supplementary Protocol applies to damage resulting from any authorized use of the living modified organisms referred to in paragraph 1 above.

3. This Supplementary Protocol also applies to damage resulting from unintentional transboundary movements as referred to in Article 17 of the Protocol as well as damage resulting from illegal transboundary movements as referred to in Article 25 of the Protocol.

4. This Supplementary Protocol applies to damage resulting from a transboundary movement of living modified organisms that started after the entry into force of this Supplementary Protocol for the Party into whose jurisdiction the transboundary movement was made.

5. This Supplementary Protocol applies to damage that occurred in areas within the limits of the national jurisdiction of Parties.

6. Parties may use criteria set out in their domestic law to address damage that occurs within the limits of their national jurisdiction.

7. Domestic law implementing this Supplementary Protocol shall also apply to damage resulting from transboundary movements of living modified organisms from non-Parties.

Article 4

CAUSATION

A causal link shall be established between the damage and the living modified organism in question in accordance with domestic law.

Article 5

RESPONSE MEASURES

1. Parties shall require the appropriate operator or operators, in the event of damage, subject to any requirements of the competent authority, to:
   (a) Immediately inform the competent authority;
   (b) Evaluate the damage; and
   (c) Take appropriate response measures.

2. The competent authority shall:
   (a) Identify the operator which has caused the damage;
   (b) Evaluate the damage; and
   (c) Determine which response measures should be taken by the operator.

3. Where relevant information, including available scientific information or information available in the Biosafety Clearing-House, indicates that there is a sufficient likelihood that damage will result if timely response measures are not taken, the operator shall be required to take appropriate response measures so as to avoid such damage.

4. The competent authority may implement appropriate response measures, including, in particular, when the operator has failed to do so.

5. The competent authority has the right to recover from the operator the costs and expenses of, and incidental to, the evaluation of the damage and the implementation of any such appropriate response measures. Parties may provide, in their domestic law, for other situations in which the operator may not be required to bear the costs and expenses.

6. Decisions of the competent authority requiring the operator to take response measures shall be reasoned. Such decisions should be notified to the operator. Domestic law shall provide for remedies, including the opportunity for administrative or judicial review of such decisions. The competent authority shall, in accordance with domestic law, also inform the operator of the available remedies. Recourse to such remedies shall not impede the competent authority from taking response measures in appropriate circumstances, unless otherwise provided by domestic law.

7. In implementing this Article and with a view to defining the specific response measures to be required or taken by the competent authority, Parties may, as appropriate, assess whether response measures are already addressed by their domestic law on civil liability.

8. Response measures shall be implemented in accordance with domestic law.

Article 6

EXEMPTIONS

1. Parties may provide, in their domestic law, for the following exemptions:
   (a) Act of God or force majeure; and
   (b) Act of war or civil unrest.

2. Parties may provide, in their domestic law, for any other exemptions or mitigations as they may deem fit.
Article 7

TIME LIMITS

Parties may provide, in their domestic law, for:

(a) Relative and/or absolute time limits including for actions related to response measures; and

(b) The commencement of the period to which a time limit applies.

Article 8

FINANCIAL LIMITS

Parties may provide, in their domestic law, for financial limits for the recovery of costs and expenses related to response measures.

Article 9

RIGHT OF RECOURSE

This Supplementary Protocol shall not limit or restrict any right of recourse or indemnity that an operator may have against any other person.

Article 10

FINANCIAL SECURITY

1. Parties retain the right to provide, in their domestic law, for financial security.

2. Parties shall exercise the right referred to in paragraph 1 above in a manner consistent with their rights and obligations under international law, taking into account the final three preambular paragraphs of the Protocol.

3. The first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol after the entry into force of the Supplementary Protocol shall request the Secretariat to undertake a comprehensive study which shall address, inter alia:

(a) The modalities of financial security mechanisms;

(b) An assessment of the environmental, economic and social impacts of such mechanisms, in particular on developing countries; and

(c) An identification of the appropriate entities to provide financial security.

Article 11

RESPONSIBILITY OF STATES FOR INTERNATIONALLY WRONGFUL ACTS

This Supplementary Protocol shall not affect the rights and obligations of States under the rules of general international law with respect to the responsibility of States for internationally wrongful acts.

Article 12

IMPLEMENTATION AND RELATION TO CIVIL LIABILITY

1. Parties shall provide, in their domestic law, for rules and procedures that address damage. To implement this obligation, Parties shall provide for response measures in accordance with this Supplementary Protocol and may, as appropriate:

(a) Apply their existing domestic law, including, where applicable, general rules and procedures on civil liability;

(b) Apply or develop civil liability rules and procedures specifically for this purpose; or

(c) Apply or develop a combination of both.

2. Parties shall, with the aim of providing adequate rules and procedures in their domestic law on civil liability for material or personal damage associated with the damage as defined in Article 2, paragraph 2 (b):

(a) Continue to apply their existing general law on civil liability;

(b) Develop and apply or continue to apply civil liability law specifically for that purpose; or

(c) Develop and apply or continue to apply a combination of both.

3. When developing civil liability law as referred to in subparagraphs (b) or (c) of paragraphs 1 or 2 above, Parties shall, as appropriate, address, inter alia, the following elements:

(a) Damage;

(b) Standard of liability, including strict or fault-based liability;

(c) Channelling of liability, where appropriate;

(d) Right to bring claims.
Article 13

ASSESSMENT AND REVIEW

The Conference of the Parties serving as the meeting of the Parties to the Protocol shall undertake a review of the effectiveness of this Supplementary Protocol five years after its entry into force and every five years thereafter, provided information requiring such a review has been made available by Parties. The review shall be undertaken in the context of the assessment and review of the Protocol as specified in Article 35 of the Protocol, unless otherwise decided by the Parties to this Supplementary Protocol. The first review shall include a review of the effectiveness of Articles 10 and 12.

Article 14

CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL

1. Subject to paragraph 2 of Article 32 of the Convention, the Conference of the Parties serving as the meeting of the Parties to the Protocol shall serve as the meeting of the Parties to this Supplementary Protocol.

2. The Conference of the Parties serving as the meeting of the Parties to the Protocol shall keep under regular review the implementation of this Supplementary Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Supplementary Protocol and, mutatis mutandis, the functions assigned to it by paragraphs 4 (a) and (f) of Article 29 of the Protocol.

Article 15

SECRETARIAT

The Secretariat established by Article 24 of the Convention shall serve as the secretariat to this Supplementary Protocol.

Article 16

RELATIONSHIP WITH THE CONVENTION AND THE PROTOCOL

1. This Supplementary Protocol shall supplement the Protocol and shall neither modify nor amend the Protocol.

2. This Supplementary Protocol shall not affect the rights and obligations of the Parties to this Supplementary Protocol under the Convention and the Protocol.

3. Except as otherwise provided in this Supplementary Protocol, the provisions of the Convention and the Protocol shall apply, mutatis mutandis, to this Supplementary Protocol.

4. Without prejudice to paragraph 3 above, this Supplementary Protocol shall not affect the rights and obligations of a Party under international law.

Article 17

SIGNATURE

This Supplementary Protocol shall be open for signature by Parties to the Protocol at the United Nations Headquarters in New York from 7 March 2011 to 6 March 2012.

Article 18

ENTRY INTO FORCE

1. This Supplementary Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession by States or regional economic integration organizations that are Parties to the Protocol.

2. This Supplementary Protocol shall enter into force for a State or regional economic integration organization that ratifies, accepts or approves it or accedes thereto after the deposit of the fortieth instrument as referred to in paragraph 1 above, on the ninetieth day after the date on which that State or regional economic integration organization deposits its instrument of ratification, acceptance, approval, or accession, or on the date on which the Protocol enters into force for that State or regional economic integration organization, whichever shall be the later.

3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.
Article 19

RESERVATIONS

No reservations may be made to this Supplementary Protocol.

Article 20

WITHDRAWAL

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

2. Any such withdrawal shall take place upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

3. Any Party which withdraws from the Protocol in accordance with Article 39 of the Protocol shall be considered as also having withdrawn from this Supplementary Protocol.

Article 21

AUTHENTIC TEXTS

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

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Supplementary Protocol.

DONE at Nagoya on this fifteenth day of October two thousand and ten.
Decision 1/CP.17

Establishment of an Ad Hoc Working Group on the Durban Platform for Enhanced Action

The Conference of the Parties,

Recognizing that climate change represents an urgent and potentially irreversible threat to human societies and the planet and thus requires to be urgently addressed by all Parties, and acknowledging that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, with a view to accelerating the reduction of global greenhouse gas emissions,

Noting with grave concern the significant gap between the aggregate effect of Parties’ mitigation pledges in terms of global annual emissions of greenhouse gases by 2020 and aggregate emission pathways consistent with having a likely chance of holding the increase in global average temperature below 2 °C or 1.5 °C above pre-industrial levels,

Recognizing that fulfilling the ultimate objective of the Convention will require strengthening of the multilateral, rules-based regime under the Convention,

Noting decision 1/CMP.7,

Also noting decision 2/CP.17,

1. Decides to extend the Ad Hoc Working Group on Long-term Cooperative Action under the Convention for one year in order for it to continue its work and reach the agreed outcome pursuant to decision 1/CP.13 (Bali Action Plan) through decisions adopted by the sixteenth, seventeenth and eighteenth sessions of the Conference of the Parties, at which time the Ad Hoc Working Group on Long-term Cooperative Action under the Convention shall be terminated;

2. Also decides to launch a process to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties, through a subsidiary body under the Convention hereby established and to be known as the Ad Hoc Working Group on the Durban Platform for Enhanced Action;

3. Further decides that the Ad Hoc Working Group on the Durban Platform for Enhanced Action shall start its work as a matter of urgency in the first half of 2012 and shall report to future sessions of the Conference of the Parties on the progress of its work;

4. Decides that the Ad Hoc Working Group on the Durban Platform for Enhanced Action shall complete its work as early as possible but no later than 2015 in order to adopt this protocol, another legal instrument or an agreed outcome with legal force at the twenty-first session of the Conference of the Parties and for it to come into effect and be implemented from 2020;

5. Also decides that the Ad Hoc Working Group on the Durban Platform for Enhanced Action shall plan its work in the first half of 2012, including, inter alia, on mitigation, adaptation, finance, technology development and transfer, transparency of action and support, and capacity-building, drawing upon submissions from Parties and relevant technical, social and economic information and expertise;
6.  *Further decides* that the process shall raise the level of ambition and shall be informed, inter alia, by the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, the outcomes of the 2013–2015 review and the work of the subsidiary bodies;

7.  *Decides* to launch a workplan on enhancing mitigation ambition to identify and to explore options for a range of actions that can close the ambition gap with a view to ensuring the highest possible mitigation efforts by all Parties;

8.  *Requests* Parties and observer organizations to submit by 28 February 2012 their views on options and ways for further increasing the level of ambition and decides to hold an in-session workshop at the first negotiating session in 2012 to consider options and ways for increasing ambition and possible further actions.

*10th plenary meeting*
*11 December 2011*
Advancing the Durban Platform (Decision 2/CP.18),
United Nations Framework Convention on Climate Change,
Report of the Conference of the Parties on its
eighteenth session, 2012
(FCCC/CP/2012/8/Add.1)
Decision 2/CP.18

Advancing the Durban Platform

_The Conference of the Parties_,

Recalling decision 1/CP.17,

Recognizing that climate change represents an urgent and potentially irreversible threat to human societies and the planet and thus requires to be urgently addressed by all Parties, and acknowledging that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, with a view to accelerating the reduction of global greenhouse gas emissions,

Noting with grave concern the significant gap between the aggregate effect of Parties’ mitigation pledges in terms of global annual emissions of greenhouse gases by 2020 and aggregate emission pathways consistent with having a likely chance of holding the increase in global average temperature below 2 °C or 1.5 °C above pre-industrial levels,

Recognizing that fulfilling the ultimate objective of the Convention will require strengthening of the multilateral, rules-based regime under the Convention,

Noting decision 1/CMP.8,

Also noting decision 1/CP.18,

Acknowledging that the work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action shall be guided by the principles of the Convention,

1. Welcomes with high appreciation the successful start, as a matter of urgency, of the work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, including the workplan on enhancing mitigation ambition, and the progress that has been made in 2012;

2. Endorses the arrangement for the Bureau of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, as set out in document FCCC/ADP/2012/2, paragraph 7, recognizing that this is an exception to rule 27, paragraphs 5 and 6, of the draft rules of procedure being applied;

3. Notes the agenda adopted by the Ad Hoc Working Group on the Durban Platform for Enhanced Action, as set out in document FCCC/ADP/2012/2, paragraph 13, including the initiation of two workstreams: one on matters related to paragraphs 2 to 6 of decision 1/CP.17 (agenda item 3(a)) and one on matters related to paragraphs 7 and 8 of the same decision (agenda item 3(b));

4. Determined to adopt a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties at its twenty-first session, due to be held from Wednesday, 2 December to Sunday, 13 December 2015, and for it to come into effect and be implemented from 2020;

5. Decides to identify and to explore in 2013 options for a range of actions that can close the pre-2020 ambition gap with a view to identifying further activities for its plan of work in 2014 ensuring the highest possible mitigation efforts under the Convention;

6. Welcomes the planning of work of the Ad Hoc Working Group on the Durban Platform for Enhanced Action, as set out in document FCCC/ADP/2012/L.4, including,
inter alia, on mitigation, adaptation, finance, technology development and transfer, capacity-building, and transparency of action and support;

7. **Underlines** the importance of high-level engagement on matters related to decision 1/CP.17;

8. **Welcomes** the announcement of the Secretary-General of the United Nations at the eighteenth session of the Conference of the Parties and the eighth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol to convene world leaders in 2014;

9. **Decides** that the Ad Hoc Working Group on the Durban Platform for Enhanced Action will consider elements for a draft negotiating text no later than at its session to be held in conjunction with the twentieth session of the Conference of the Parties, due to be held from Wednesday, 3 December to Sunday, 14 December 2014, with a view to making available a negotiating text before May 2015.

*9th plenary meeting*
*8 December 2012*
Environment, Sustainable Development and International Law - Extracts from Relevant Case Law, 1993-2011
(Professor Laurence Boisson de Chazournes)
This case, however, has a special and novel element. Petitioners minors assert that they represent their generation as well as generations yet unborn. We find no difficulty in ruling that they can, for themselves, for others of their generation and for the succeeding generations, file a class suit. Their personality to sue in behalf of the succeeding generations can only be based on the concept of intergenerational responsibility insofar as the right to a balanced and healthful ecology is concerned. Such a right, as hereinafter expounded, considers the "rhythm and harmony of nature." Nature means the created world in its entirety. Such rhythm and harmony indispensably include, inter alia, the judicious disposition, utilization, management, renewal and conservation of the country's forest, mineral, land, waters, fisheries, wildlife, off-shore areas and other natural resources to the end that their exploration, development and utilization be equitably accessible to the present as well as future generations. Needless to say, every generation has a responsibility to the next to preserve that rhythm and harmony for the full enjoyment of a balanced and healthful ecology. Put a little differently, the minors' assertion of their right to a sound environment constitutes, at the same time, the performance of their obligation to ensure the protection of that right for the generations to come.

The Panel Report took the view that clean air was a "natural resource" that could be "depleted." Accordingly, as already noted earlier, the Panel concluded that a policy to reduce the depletion of clean air was a policy to conserve an exhaustible natural resource within the meaning of Article XX(g). Shortly thereafter, however, the Panel Report also concluded that "the less favourable baseline establishments methods" were not primarily aimed at the conservation of human, animal or plant life. The Panel Report, it will be recalled, found that the baseline "necessary" test not only in examining the baseline establishment rules under Article XX(b), but also in the course of applying Article XX(g).

Furthermore, the Panel Report appears to have utilized a conclusion it had reached earlier in holding that the baseline establishment rules did not fall within the justifying terms of Articles XX(b); i.e. that the baseline establishment rules were not "necessary" for the protection of human, animal or plant life. The Panel Report, it will be recalled, found that the baseline establishment rules had not been shown by the United States to be "necessary" under Article XX(b) since alternative measures either consistent or less inconsistent with the General Agreement were reasonably available to the United States for achieving its aim of protecting human, animal or plant life. In other words, the Panel Report appears to have applied the "necessary" test not only in examining the baseline establishment rules under Article XX(b), but also in the course of applying Article XX(g).
"primarily aimed at" the conservation of exhaustible natural resources in order to fall within the scope of Article XX(g). Accordingly, we see no need to examine this point further, save perhaps to note that the phrase "primarily aimed at" is not itself treaty language and was not designed as a simple test for inclusion or exclusion from Article XX(g).

Against this background, we turn to the specific question of whether the baseline establishment rules are appropriately regarded as "primarily aimed at" the conservation of natural resources for the purposes of Article XX(g). We consider that this question must be answered in the affirmative.

The baseline establishment rules, taken as a whole (that is, the provisions relating to baselines for blenders and importers of gasoline), need to be related to the "non-degradation" requirements set out elsewhere in the Gasoline Rule. Those provisions can scarcely be understood in isolation; they cannot be viewed as self-contained in the round. Without a baseline or baseline establishment rule, the "non-degradation" requirements of the Gasoline Rule would be impossible or would be present without the baseline rule being a baseline rule. The baseline establishment rules, the "non-degradation" requirements of the Gasoline Rule, and the "non-degradation" requirements of the Gasoline Rule, taken together, would be possible only if all of these provisions were to be regarded as part of the context of the "non-degradation" requirements of the Gasoline Rule. We consider that given this relationship between the baseline establishment rules and the "non-degradation" requirements of the Gasoline Rule, the baseline establishment rules cannot be regarded as merely incidentally or incidentally aimed at the conservation of exhaustible natural resources for the purposes of Article XX(g).

Panel, of the baseline establishment rules with the terms of Article III:4. We consider that, given that substantial relationship, the baseline establishment rules cannot be regarded as merely incidental or incidentally aimed at the conservation of exhaustible natural resources.

General Agreement. The context of Article XX(g) includes the provisions of the General Agreement on Tariffs and Trade, the General Agreement on Trade in Services, and the General Agreement on Trade in Goods. Accordingly, the phrase "relating to the conservation of exhaustible natural resources" may not be read so expansively as seriously to affect the General Agreement on Tariffs and Trade and the policies and interests it embodies. The relationship between the affirmative commitments set out in, e.g., Articles I, III, and XI, and the policies and interests embedded in the "General Exceptions" to the General Agreement on Tariffs and Trade is a relationship within the framework of the General Agreement on Tariffs and Trade and its object and policy purposes. It is a relationship that is not to be interpreted as including the "primarily aimed at" the conservation of exhaustible natural resources (emphasis added).

27. In both their written and oral statements, some States further argued that any use of nuclear weapons would be unlawful by reference to existing norms relating to the safeguarding and protection of the environment, in view of their essential importance. The 1987 Herring and Salmon report, and the Panel Report itself, gave some recognition to the foregoing considerations of principle. As earlier noted, the Panel Report quoted the following excerpt from the Herring and Salmon report and the Panel Report itself, given some recognition to the foregoing considerations of principle. As earlier noted, the Panel Report quoted the following excerpt from the Herring and Salmon report:

"to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction."

All the participants and the third participants in this appeal accepted the propriety and applicability of the view of the Herring and Salmon report and the Panel Report that a measure must be
These instruments and other provisions relating to the protection and safeguarding of the environment were said to apply at all times, in war as well as in peace, and it was contended that they would be violated by the use of nuclear weapons whose consequences would be widespread and would have transboundary effects.

28. Other States questioned the binding legal quality of these precepts of environmental law; or, in the context of the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, denied that it was concerned at all with the use of nuclear weapons in hostilities; or, in the case of Additional Protocol 1, denied that they were generally bound by its terms, or recalled that they had reserved their position in respect of Article 35, paragraph 3, thereof.

It was also argued by some States that the principal purpose of environmental treaties and norms was the protection of the environment in time of peace. It was said that those treaties made no mention of nuclear weapons. It was also pointed out that warfare in general, and nuclear warfare in particular, were not mentioned in their texts and that it would be destabilizing to the rule of law and to confidence in international negotiations if those treaties were now interpreted in such a way as to prohibit the use of nuclear weapons.

29. The Court recognizes that the environment is under daily threat and that the use of nuclear weapons could constitute a catastrophe for the environment. The Court also recognizes that the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn. The existence of the general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control is now part of the corpus of international law relating to the environment.

30. However, the Court is of the view that the issue is not whether the treaties relating to the protection of the environment are or are not applicable during an armed conflict, but rather whether the obligations stemming from these treaties were intended to be obligations of total restraint during military conflict.

The Court does not consider that the treaties in question could have intended to deprive a State of the exercise of its right of self-defence under international law because of its obligations to protect the environment. Nonetheless, States must take environmental considerations into account when assessing what is necessary and proportionate in the pursuit of legitimate military objectives. Respect for the environment is one of the elements that go to assessing whether an action is in conformity with the principles of necessity and proportionality.

This approach is supported, indeed, by the terms of Principle 24 of the Rio Declaration, which provides that:

“Warfare is inherently destructive of sustainable development. States shall therefore respect international law providing protection for the environment in times of armed conflict and cooperate in its further development, as necessary.”

31. The Court notes furthermore that Articles 35, paragraph 3, and 55 of Additional Protocol I provide additional protection for the environment. Taken together, these provisions embody a general obligation to protect the natural environment against widespread, long-term and severe environmental damage; the prohibition of methods and means of warfare which are intended, or may be expected, to cause such damage; and the prohibition of attacks against the natural environment by way of reprisals.

These are powerful constraints for all the States having subscribed to these provisions.

32. General Assembly resolution 47/37 of 25 November 1992 on the "Protection of the Environment in Times of Armed Conflict" is also of interest in this context. It affirms the general view according to which environmental considerations constitute one of the elements to be taken into account in the implementation of the principles of the law applicable in armed conflict: it states that "destruction of the environment, not justified by military necessity and carried out wantonly, is clearly contrary to existing international law". Addressing the reality that certain instruments are not yet binding on all States, the General Assembly in this resolution "[a]ppeals to all States that have not yet done so to consider becoming parties to the relevant international conventions".

In its recent Order in the Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) Case, the Court stated that its conclusion was "without prejudice to the obligations of States to respect and protect the natural environment" (Order of 22 September 1995, I. C. J. Reports 1995, p. 306, para. 64). Although that statement was made in the context of nuclear testing, it naturally also applies to the actual use of nuclear weapons in armed conflict.

33. The Court thus finds that while the existing international law relating to the protection and safeguarding of the environment does not specifically prohibit the use of nuclear weapons, it indicates important environmental factors that are properly to be taken into account in the context of the implementation of the principles and rules of the law applicable in armed conflict.

34. In the light of the foregoing the Court concludes that the most directly relevant applicable law governing the question of which it was seised, is that relating to the use of force enshrined in the United Nations Charter and the law applicable in armed conflict which regulates the conduct of hostilities, together with any specific treaties on nuclear weapons that the Court might determine to be relevant.

35. In applying this law to the present case, the Court cannot however fail to take into account certain unique characteristics of nuclear weapons. The Court has noted the definitions of nuclear weapons contained in various treaties and accords. It also notes that nuclear weapons are explosive devices whose energy results from the fusion or fission of the atom. By its very nature, that process, in nuclear weapons as they exist today, releases not only immense quantities of heat and energy, but also powerful and prolonged radiation. According to the material before the Court, the first two causes of damage are vastly more powerful than the damage caused by other weapons, while the phenomenon of radiation is said to be peculiar to nuclear weapons. These characteristics render the nuclear weapon potentially catastrophic. The destructive power of nuclear weapons cannot be contained in either space or time. They have the potential to destroy all civilization and the entire ecosystem of the planet.

The radiation released by a nuclear explosion would affect health, agriculture, natural resources...
and demography over a very wide area.

Further, the use of nuclear weapons would be a serious danger to future generations. Ionizing radiation has the potential to damage the future environment, food and marine ecosystem, and to cause genetic defects and illness in future generations.

36. In consequence, in order correctly to apply to the present case the Charter law on the use of force and the law applicable in armed conflict, in particular humanitarian law, it is imperative for the Court to take account of the unique characteristics of nuclear weapons, and in particular their destructive capacity, their capacity to cause untold human suffering, and their ability to cause damage to generations to come.

Case Concerning the Gabcíkovo-Nagymaros Project (Hungary/Slovakia), Judgment of the International Court of Justice, 25 September 1997 (paras 53 and 140)

53. The Court has no difficulty in acknowledging that the concerns expressed by Hungary for its natural environment in the region affected by the Gabcíkovo-Nagymaros Project related to an "essential interest" of that State, within the meaning given to that expression in Article 33 of the Draft of the International Law Commission.

The Commission, in its Commentary, indicated that one should not, in that context, reduce an "essential interest" to a matter only of the "existence" of the State, and that the whole question was, ultimately, to be judged in the light of the particular case (see Yeebook of the International Law Commission, 1980, Vol. II, Part 2, p. 49, para. 32); at the same time, it included among the situations that could occasion a state of necessity, "a grave danger to ... the ecological preservation of all or some of [the] territory [of a State]" (ibid., p. 35, para. 3); and specified, with reference to State practice, that "It is primarily in the last two decades that safeguarding the ecological balance has come to be considered an 'essential interest' of all States." (Ibid., p. 39, para. 14.)

The Court recalls that it has recently had occasion to stress, in the following terms, the great significance that it attaches to respect for the environment, not only for States but also for the whole of mankind:

"the environment is not an abstraction but represents the living space, the quality of life and the very health of human beings, including generations unborn. The existence of the general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control is now part of the corpus of international law relating to the environment." (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I. C. J. Reports 1996, pp. 241 -242, para. 29.)

[...]

140. It is clear that the Project's impact upon, and its implications for, the environment are of necessity a key issue. The numerous scientific reports which have been presented to the Court by the Parties even if their conclusions are often contradictory, provide abundant evidence that this impact and these implications are considerable.

In order to evaluate the environmental risks, current standards must be taken into consideration. This is not only allowed by the wording of Articles 15 and 19, but even prescribed, to the extent that these articles impose a continuing - and thus necessarily evolving - obligation on the parties to maintain the quality of the water of the Danube and to protect nature.

The Court is mindful that, in the field of environmental protection, vigilance and prevention are required on account of the often irreversible character of damage to the environment and of the limitations inherent in the very mechanism of reparation of this type of damage.

Throughout the ages, mankind has, for economic and other reasons, constantly interfered with nature. In the past, this was often done without consideration of the effects upon mankind — for present and future generations — of pursuit of such interventions at an unconsidered and unabated pace, new norms and standards have been developed, set forth in a great number of instruments during the last two decades. Such new norms have to be taken into consideration, and such new standards given proper weight, not only when States contemplate new activities but also when continuing with activities begun in the past.

This need to reconcile economic development with protection of the environment is aptly expressed in the concept of sustainable development.

For the purposes of the present case, this means that the Parties together should look afresh at the effects on the environment of the operation of the Gabcíkovo power plant. In particular they must find a satisfactory solution for the volume of water to be released into the old bed of the Danube and into the side-arms on both sides of the river.


128. [...] Textually, Article XX(g) is not limited to the conservation of "mineral" or "non-living" natural resources. The commentators' principal argument is rooted in the notion that "living" natural resources are "renewable" and therefore cannot be "exhaustible" natural resources. We do not believe that "exhaustible" natural resources and "renewable" natural resources are mutually exclusive. One lesson that modern biological sciences teach us is that living species, though in principle, capable of reproduction and, in that sense, "renewable", are in certain circumstances indeed susceptible of depletion, exhaustion and extinction, frequently because of human activities. Living resources are just as "finite" as petroleum, iron ore and other non-living resources.

129. The words of Article XX(g), "exhaustible natural resources", were actually crafted more than 50 years ago. They must be read by a treaty interpreter in the light of contemporary concerns of the community of nations about the protection and conservation of the environment. While Article XX was not modified in the Uruguay Round, the preamble attached to the WTO Agreement shows that the signatories to that Agreement were, in 1994, fully aware of the importance and legitimacy of environmental protection as a goal of national and international policy. The preamble of the WTO Agreement -- which informs not only the GATT 1994, but
132. The Parties to this Agreement, recognizing that their relations in the field of trade and economic development are part of an interdependent world, and that their economic development is integrated with that of other countries, and that this integration is often mutually dependent, and recognizing also the objectives of the general and special agreements, have decided to establish a new WTO Agreement, which, inter alia, facilitates the implementation, administration, and operation, and to further the objectives of that Agreement and the other agreements resulting from that Round. In recognition of the importance of continuity with the previous GATT Agreement, the negotiators agreed to use the preamble to the world trading system of the 1990s. As a result, they decided to qualify the original objective of the GATT 1947 with the following words: "Apropos the failure to have prior consistent recourse to diplomacy as an instrument of environmental protection policy, which proceeds inconsistent with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with the respective needs and concerns at different levels, the WTO Agreement is appropriately read with the perspective embodied in the above preamble."

133. In the exclusive economic zone, the coastal State has:

1. The right to exploit, develop and conserve its natural resources, whether living or non-living, and to make use of those resources from that zone, by allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with the respective needs and concerns at different levels, the WTO Agreement is appropriately read with the perspective embodied in the above preamble.

134. The UNCLOS also repeatedly refers to the exclusive economic zones. For instance, the 1982 United Nations Convention on the Law of the Sea ("UNCLOS"), in defining the jurisdictional rights of coastal states in their exclusive economic zones, provides:

Article 56. Rights, jurisdiction and duties of the coastal State in the exclusive economic zones.

1. In the exclusive economic zone, the coastal State has:
(a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the territorial sea, its waters, and its bed and subsoil, and its submersible strata, adjacent to the coastal State, and to make use of such resources from that zone, by allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with the respective needs and concerns at different levels, the WTO Agreement is appropriately read with the perspective embodied in the above preamble.

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136. Apart from the negotiation of the Inter-American Convention for the Protection and Conservation of Sea Turtles (the "Inter-American Convention") which concluded in 1996, the record before the Panel does not indicate any serious, substantial efforts to carry out these express directions of Congress.

137. We note once more that this language demonstrates a recognition by WTO negotiators that optimal use of the world's resources should be made in accordance with the objective of sustainable development. As this preambular language reflects the intent of negotiating the agreements annexed to the WTO Agreement, in this case, the GATT 1944. We have already observed that Article XX(g) of the GATT 1944 is appropriately read with the perspective embodied in the above preamble.

138. Second, the protection and conservation of highly migratory species of sea turtles, that is, the very policy objective of the measure, demands concerted and cooperative efforts on the part of the many countries whose waters are traversed in the course of recurrent sea turtle migration.
migrations. The need for, and the appropriateness of, such efforts have been recognized in the WTO itself as well as in a significant number of other international instruments and declarations. As stated earlier, the Decision on Trade and Environment, which provided for the establishment of the CTE and set out its terms of reference, refers to both the Rio Declaration on Environment and Development and Agenda 21. Of particular relevance is Principle 12 of the Rio Declaration on Environment and Development, which states:

Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on international consensus. (emphasis added)

In almost identical language, paragraph 2.22(i) of Agenda 21 provides:

Governments should encourage GATT, UNCTAD and other relevant international and regional economic institutions to examine, in accordance with their respective mandates and competences, the following propositions and principles:

(i) Avoid unilateral action to deal with environmental challenges outside the jurisdiction of the importing country. Environmental measures addressing transboundary problems should, as far as possible, be based on international consensus. (emphasis added)

Moreover, we note that Article 5 of the Convention on Biological Diversity states:

... each contracting party shall, as far as possible and appropriate, cooperate with other contracting parties directly or, where appropriate, through competent international organizations, in respect of areas beyond national jurisdiction and on other matters of mutual interest, for the conservation and sustainable use of biological diversity.

The Convention on the Conservation of Migratory Species of Wild Animals, which classifies the relevant species of sea turtles in its Annex I as “Endangered Migratory Species,” states:

The contracting parties [are] convinced that conservation and effective management of migratory species of wild animals requires the concerted action of all States within the national boundaries of which such species spend any part of their life cycle.

Furthermore, we note that WTO Members in the Report of the CTE, forming part of the Report of the General Council to Ministers on the occasion of the Singapore Ministerial Conference, endorsed and supported:

... multilateral solutions based on international cooperation and consensus as the best and most effective way for governments to tackle environmental problems of a transboundary or global nature. WTO Agreements and multilateral environmental agreements (MEAs) are representative of efforts of the international community to pursue shared goals, and in the development of a mutually supportive relationship between them, due respect must be afforded to both. (emphasis added)

169. Third, the United States did negotiate and conclude one regional international agreement for the protection and conservation of sea turtles: The Inter-American Convention. […]

185. In reaching these conclusions, we wish to underscore what we have not decided in this appeal. We have not decided that the protection and preservation of the environment is of no significance to the Members of the WTO. Clearly, it is. We have not decided that the sovereign nations that are Members of the WTO cannot adopt effective measures to protect endangered species, such as sea turtles. Clearly, they can and should. And we have not decided that sovereign states should not act together bilaterally, plurilaterally or multilaterally, either within the WTO or in other international fora, to protect endangered species or to otherwise protect the environment. Clearly, they should and do.

186. What we have decided in this appeal is simply this: although the measure of the United States in dispute in this appeal serves an environmental objective that is recognized as legitimate under paragraph (g) of Article XX of the GATT 1994, this measure has been applied by the United States in a manner which constitutes arbitrary and unjustifiable discrimination between Members of the WTO, contrary to the requirements of the chapeau of Article XX. For all of the specific reasons outlined in this Report, this measure does not qualify for the exemption that Article XX of the GATT 1994 affords to measures which serve certain recognized, legitimate environmental purposes but which, at the same time, are not applied in a manner that constitutes a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade. As we emphasized in United States – Gasoline, WTO Members are free to adopt their own policies aimed at protecting the environment as long as, in so doing, they fulfill their obligations and respect the rights of other Members under the WTO Agreement.

The Ogoni Case (Nigeria), Communication 155/96 of the African Commission on Human and Peoples’ Rights in response to a petition by the Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria, 27 May 2002 (paras 53-58, 68-69 and findings)

53. Government compliance with the spirit of Articles 16 and 24 of the African Charter must also include ordering or at least permitting independent scientific monitoring of threatened environments, requiring and publicising environmental and social impact studies prior to any major industrial development, undertaking appropriate monitoring and providing information to those communities exposed to hazardous materials and activities and providing meaningful opportunities for individuals to be heard and to participate in the development decisions affecting their communities.

54. We now examine the conduct of the government of Nigeria in relation to Articles 16 and 24 of the African Charter. Undoubtedly and admittedly, the government of Nigeria, through NNPC has the right to produce oil, the income from which will be used to fulfil the economic and social rights of Nigerians. But the care that should have been taken as outlined in the preceding paragraph and which would have protected the rights of the victims of the violations complained of was not taken. To exacerbate the situation, the security forces of the government engaged in conduct in violation of the rights of the Ogonis by attacking, burning and destroying several
Ogoni villages and homes.

55. The Complainants also allege a violation of Article 21 of the African Charter by the government of Nigeria. The Complainants allege that the Military government of Nigeria was involved in oil production and thus did not monitor or regulate the operations of the oil companies and in so doing paved a way for the Oil Consortiums to exploit oil reserves in Ogoniland. Furthermore, in all their dealings with the Oil Consortiums, the government did not involve the Ogoni Communities in the decisions that affected the development of Ogoniland. The destructive and selfish role-played by oil development in Ogoniland, closely tied with repressive tactics of the Nigerian Government, and the lack of material benefits accruing to the local population, may well be said to constitute a violation of Article 21.

Article 21 provides

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.

2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.

3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic co-operation based on mutual respect, equitable exchange and the principles of international law.

4. States parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.

5. States Parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practised by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.

56. The origin of this provision may be traced to colonialism, during which the human and material resources of Africa were largely exploited for the benefit of outside powers, creating tragedy for Africans themselves, depriving them of their birthright and alienating them from the land. The aftermath of colonial exploitation has left Africa's precious resources and people still vulnerable to foreign misappropriation. The drafters of the Charter obviously wanted to remind African governments of the continent's painful legacy and restore co-operative economic development to its traditional place at the heart of African Society.

57. Governments have a duty to protect their citizens, not only through appropriate legislation and effective enforcement but also by protecting them from damaging acts that may be perpetrated by private parties (See Union des Jeunes Avocats /Chad). This duty calls for positive action on part of governments in fulfilling their obligation under human rights instruments. The practice before other tribunals also enhances this requirement as is evidenced in the case Velásquez Rodríguez v. Honduras. In this landmark judgment, the Inter-American Court of Human Rights held that when a State allows private persons or groups to act freely and with impunity to the detriment of the rights recognised, it would be in clear violation of its obligations to protect the human rights of its citizens. Similarly, this obligation of the State is further emphasised in the practice of the European Court of Human Rights, in X and Y v. Netherlands. In that case, the Court pronounced that there was an obligation on authorities to take steps to make sure that the enjoyment of the rights is not interfered with by any other private person.

58. The Commission notes that in the present case, despite its obligation to protect persons against interferences in the enjoyment of their rights, the Government of Nigeria facilitated the destruction of the Ogoniland. Contrary to its Charter obligations and despite such internationally established principles, the Nigerian Government has given the green light to private actors, and the oil Companies in particular, to devastatingly affect the well-being of the Ogonis. By any measure of standards, its practice falls short of the minimum conduct expected of governments, and therefore, is in violation of Article 21 of the African Charter

[...]

68. The uniqueness of the African situation and the special qualities of the African Charter on Human and Peoples' Rights imposes upon the African Commission an important task. International law and human rights must be responsive to African circumstances. Clearly, collective rights, environmental rights, and economic and social rights are essential elements of human rights in Africa. The African Commission will apply any of the diverse rights contained in the African Charter. It welcomes this opportunity to make clear that there is no right in the African Charter that cannot be made effective. As indicated in the preceding paragraphs, however, the Nigerian Government did not live up to the minimum expectations of the African Charter.

69. The Commission does not wish to fault governments that are labouring under difficult circumstances to improve the lives of their people. The situation of the people of Ogoniland, however, requires, in the view of the Commission, a reconsideration of the Government's attitude to the allegations contained in the instant communication. The intervention of multinational corporations may be a potentially positive force for development if the State and the people concerned are ever mindful of the common good and the sacred rights of individuals and communities. The Commission however takes note of the efforts of the present civilian administration to redress the atrocities that were committed by the previous military administration as illustrated in the Note Verbale referred to in paragraph 30 of this decision.

For the above reasons, the Commission,...

Appeals to the government of the Federal Republic of Nigeria to ensure protection of the environment, health and livelihood of the people of Ogoniland by: [...]

- Ensuring that appropriate environmental and social impact assessments are prepared for any future oil development and that the safe operation of any further oil development is guaranteed through effective and independent oversight bodies for the petroleum industry; and

- Providing information on health and environmental risks and meaningful access to regulatory and decision-making bodies to communities likely to be affected by oil operations.
Arbitration Regarding the Iron Rhine ("IJzeren Rijn") Railway (Belgium v Netherlands), Award of the Permanent Court of Arbitration ad hoc Arbitral Tribunal, 24 May 2005 (paras 58-59 and 221-223)

58. It is to be recalled that Article 31, paragraph 3, subparagraph (c) of the Vienna Convention on the Law of Treaties makes reference to "any relevant rules of international law applicable in the relations between the parties." For this reason – as well as for reasons relating to its own jurisdiction - the Tribunal has examined any provisions of European law that might be considered of possible relevance in this case (see Chapter III below). Provisions of general international law are also applicable to the relations between the Parties, and thus should be taken into account in interpreting Article XII of the 1839 Treaty of Separation and Article IV of the Iron Rhine Treaty. Further, international environmental law has relevance to the relations between the Parties. There is considerable debate as to what, within the field of environmental law, constitutes "rules" or "principles": what is "soft law"; and which environmental treaty law or principles have contributed to the development of customary international law. Without entering further into those controversies, the Tribunal notes that in all of these categories "environment" is broadly referred to as including air, water, land, flora and fauna, natural ecosystems and sites, human health and safety, and climate. The emerging principles, whatever their current status, make reference to conservation, management, notions of prevention and of sustainable development, and protection for future generations.

59. Since the Stockholm Conference on the Environment in 1972 there has been a marked development of international law relating to the protection of the environment. Today, both international and EC law require the integration of appropriate environmental measures in the design and implementation of economic development activities. Principle 4 of the Rio Declaration on Environment and Development, adopted in 1992 (31 I.L.M. p. 874, at p. 877), which reflects this trend, provides that "environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it." Importantly, these emerging principles now integrate environmental protection into the development process. Environmental law and the law on development stand not as alternatives but as mutually reinforcing, integral concepts, which require that where development may cause significant harm to the environment there is a duty to prevent, or at least mitigate, such harm (see paragraph 222). This duty, in the opinion of the Tribunal, has now become a principle of general international law. This principle applies not only in autonomous activities but also in activities undertaken in implementation of specific treaties between the Parties. The Tribunal would recall the observation of the International Court of Justice in the Gabčíkovo-Nagymaros case that "[t]his need to reconcile economic development with protection of the environment is aptly expressed in the concept of sustainable development" (Gabčíkovo-Nagymaros (Hungary/Slovakia), Judgment, I.C.J Reports 1997, p. 7 at p. 78, para. 140). And in that context the Court further clarified that "new norms have to be taken into consideration, and . . . new standards given proper weight, not only when States contemplate new activities but also when continuing with activities begun in the past" (Ibid.). In the view of the Tribunal this dictum applies equally to the Iron Rhine railway.

221. […] As the Tribunal has already observed above (see paragraph 59), economic development is to be reconciled with the protection of the environment, and, in so doing, new norms have to be taken into consideration, including when activities begun in the past are now expanded and upgraded.

222. The use of the Iron Rhine railway started some 120 years ago and it is now envisaged and requested by Belgium at a substantially increased and intensified level. Such new use is susceptible of having an adverse impact on the environment and causing harm to it. Today, in international environmental law, a growing emphasis is being put on the duty of prevention. Much of international environmental law has been formulated by reference to the impact that activities in one territory may have on the territory of another. The International Court of Justice expressed the view that "[t]he existence of the general obligation of States to ensure that activities within their jurisdiction and control respect the environment of other States or of areas beyond national control is now part of the corpus of international law relating to the environment" (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996(1), p. 226 at pp. 241-242, para. 29).

223. Applying the principles of international environmental law, the Tribunal observes that it is faced, in the instant case, not with a situation of a transboundary effect of the economic activity in the territory of one state on the territory of another state, but with the effect of the exercise of a treaty-guaranteed right of one state in the territory of another state and a possible impact of such exercise on the territory of the latter state. The Tribunal is of the view that, by analogy, where a state exercises a right under international law within the territory of another state, considerations of environmental protection also apply. The exercise of Belgium's right of transit, as it has formulated its request, thus may well necessitate measures by the Netherlands to protect the environment to which Belgium will have to contribute as an integral element of its request. The reactivation of the Iron Rhine railway cannot be viewed in isolation from the environmental protection measures necessitated by the intended use of the railway line. These measures are to be fully integrated into the project and its costs.


[...]

7. Relevance of other rules of international law to the interpretation of the WTO agreements at issue in this dispute

(a) Other applicable rules of international law as an interpretative element to be taken into account together with the "context" (Article 31(3)(c) of the Vienna Convention on the Law of Treaties)

(i) General

7.65 Pursuant to Article 3.2 of the DSU, we are to interpret the WTO agreements "in accordance with customary rules of interpretation of public international law". These customary rules are reflected, in part, in Article 31 of the Vienna Convention.
rules of international law, and that such consideration may prompt a treaty interpreter to adopt one interpretation rather than another. We think it makes sense to interpret Article 31(3)c as requiring consideration of those rules of international law which bind the States parties to the treaty and to enhance the consistency of the rules of international law applicable to those States, and thus contributes to avoiding conflicts between the relevant rules.

7.71 The European Communities appears to suggest that we must interpret the WTO Articles 31(3)c. We therefore agree with the European Communities that a treaty like the WTO agreements identified by the European Communities are "relevant rules of international law in the relations between the Parties". The European Communities has identified two multilateral treaties, the Convention on Biological Diversity and the Biosafety Protocol. We first address the Convention on Biological Diversity.

7.72 Before applying our interpretation of Article 31(3)c to the present case, it is important to note that the present case is not one in which relevant rules of international law are applicable in the relations between all WTO Members, and in which the parties to that treaty in the light of other rules of international law. Therefore, we need not, and do not, take a position on whether in such a situation we would be entitled to take the relevant other rules of international law into account.

7.73 With the foregoing observations in mind, we now consider whether the multilateral treaties identified by the European Communities are "relevant rules of international law applicable in the relations between the Parties". The European Communities has identified two internationally binding rules of international law to be taken into account in interpreting the WTO agreements at issue in this dispute. The European Communities considers that the principle of precaution is a "general principle of international law". Based on the Appellate Body report on US – Shrimp, we would agree that if the precautionary principle is a general principle of international law, it could be considered a "rule of international law" within the meaning of Article 31(3)c. Sze also agrees that if that rule is a "general principle of international law", it should be taken into account in interpreting the WTO agreements at issue in the present dispute. But even independently of our own considerations, we think Article 31(3)c cannot reasonably be interpreted as the European Communities suggests. Indeed, it is not apparent why a sovereign State would agree to a mandatory rule of treaty interpretation which could have as a consequence that the interpretation of a treaty to which that State is a party is affected by a rule of international law which it has not accepted. Moreover, it is not clear that the terms of Article 31(3)c require that the rule be a "general principle of international law". It is sufficient that the rule be "rules of international law" which bind the States parties to the agreement.

7.74 We note that like most other WTO Members, Argentina, Canada and the European United States have signed it in 1993, but has not ratified it since. Thus, the United States is not a party to the Convention on Biological Diversity. We therefore agree with the European Communities that a rule of international law is applicable to one of the Parties to this dispute. But even so, we do not take a position on whether the rule is applicable in the relations between all the Parties to the dispute. This is a question of whether the rule is applicable to the States parties to the treaty. The European Communities does not refer to "one or more parties". Nor does it refer to "the parties to a dispute". In the light of these arguments, we agree with the European Communities that a rule of international law is applicable to the States parties to the Convention on Biological Diversity. This interpretation is consistent with the meaning of Article 31(3)c.

7.75 Furthermore, and importantly, Article 31(3)c indicates that it is only those rules of international law which are applicable in the relations between the States parties to the treaty which are to be considered. In the present case, we are considering the treaty to which the European Communities is a party, and the United States is not a party to the Convention on Biological Diversity. Therefore, the rule of international law which the United States has not agreed to apply to the Convention on Biological Diversity cannot be considered under Article 31(3)c.

7.76 We further note that the United States has not agreed to apply the rules of the Convention on Biological Diversity. Thus, the United States is not bound by the rules of the Convention on Biological Diversity. Therefore, the United States would not be bound by the rule we are considering. This is consistent with the meaning of Article 31(3)c, which requires that the rules of international law applicable to the States parties to the treaty must be considered. This interpretation is consistent with the meaning of Article 31(3)c.

7.77 We now consider whether the United States is bound by the rules of the Convention on Biological Diversity. The United States is not a party to the Convention on Biological Diversity. Therefore, the United States is not bound by the rules of the Convention on Biological Diversity. This is consistent with the meaning of Article 31(3)c, which requires that the rules of international law applicable to the States parties to the treaty must be considered. This interpretation is consistent with the meaning of Article 31(3)c.

7.78 We now consider whether the United States is bound by the rules of the Convention on Biological Diversity. The United States is not a party to the Convention on Biological Diversity. Therefore, the United States is not bound by the rules of the Convention on Biological Diversity. This is consistent with the meaning of Article 31(3)c, which requires that the rules of international law applicable to the States parties to the treaty must be considered. This interpretation is consistent with the meaning of Article 31(3)c.

7.79 We now consider whether the United States is bound by the rules of the Convention on Biological Diversity. The United States is not a party to the Convention on Biological Diversity. Therefore, the United States is not bound by the rules of the Convention on Biological Diversity. This is consistent with the meaning of Article 31(3)c, which requires that the rules of international law applicable to the States parties to the treaty must be considered. This interpretation is consistent with the meaning of Article 31(3)c.
The status of the precautionary principle in international law and its relevance for the SPS Agreement is currently under debate among academics, law practitioners, regulators, and judges. The European Communities argue that the precautionary principle constitutes a recognized principle of general or customary international law. The Appellate Body agreed with this view, stating that the precautionary principle is a general principle of international law that may be applied in cases where there is insufficient scientific evidence to determine the potential impact of a measure. This view is supported by the fact that many international conventions and declarations have incorporated the precautionary principle.

However, the United States, which is not a party to the Convention on Biological Diversity, disagrees with the European Communities' position. The United States has signed the Convention on Biological Diversity, but it has not ratified it, and it does not consider the Convention to be applicable to it. Furthermore, even if the United States were a party to the Convention, it would not necessarily be bound by its provisions. The United States argues that the precautionary principle is not a general principle of international law and that it should not be applied in cases where there is sufficient scientific evidence to determine the potential impact of a measure.

The Appellate Body's decision in this case provides guidance on how to interpret the precautionary principle in the context of the SPS Agreement. It emphasizes the importance of considering the obligations of Members under the SPS Agreement and the need to apply the principles of international law in a manner consistent with these obligations. The Appellate Body's decision also highlights the importance of the precautionary principle in promoting environmental protection and sustainable development.

In conclusion, the status of the precautionary principle in international law remains a topic of debate. The Appellate Body's decision in this case provides useful guidance on how to interpret the principle in the context of the SPS Agreement, but it also highlights the need for further discussion and clarification on this important issue.
purposes of disposing of the legal claims before us, we need not take a position on whether or not the precautionary principle is a recognized principle of general or customary international law. Therefore, we refrain from expressing a view on this issue.

(b) Other rules of international law as evidence of the ordinary meaning of terms used in a treaty

7.90 Up to this point, we have examined whether there are other applicable rules of international law which we are required to take into account, in accordance with Article 31(3)(c) of the Vienna Convention, in interpreting the WTO agreements at issue in this dispute. We now turn to examine whether other rules of international law could be considered by us in the interpretation of the WTO agreements at issue even if these rules are not applicable in the relations between the WTO Members and thus do not fall within the category of rules which is at issue in Article 31(3)(c).

7.91 The European Communities notes in this regard that in US – Shrimp the Appellate Body interpreted WTO rules by reference to treaties which were not binding on all parties to the proceedings. More specifically, the European Communities points out that the Appellate Body in that case invoked treaties in support of arguments made by the United States, even though the United States had either not signed or not ratified these treaties. The European Communities notes that one such treaty was the Convention on Biological Diversity.

7.92 The Panel recalls that pursuant to Article 31(1) of the Vienna Convention, the terms of a treaty must be interpreted in accordance with the "ordinary meaning" to be given to these terms in their context and in the light of its object and purpose. The ordinary meaning of treaty terms is often determined on the basis of dictionaries. We think that, in addition to dictionaries, other relevant rules of international law may in some cases aid a treaty interpreter in establishing, or confirming, the ordinary meaning of treaty terms in the specific context in which they are used. Such rules would not be considered because they are legal rules, but rather because they may provide evidence of the ordinary meaning of terms in the same way that dictionaries do. They would be considered for their informative character. It follows that when a treaty interpreter does not consider another rule of international law to be informative, he or she need not rely on it.

7.93 In the light of the foregoing, we consider that a panel may consider other relevant rules of international law when interpreting the terms of WTO agreements if it deems such rules to be informative. But a panel need not necessarily rely on other rules of international law, particularly if it considers that the ordinary meaning of the terms of WTO agreements may be ascertained by reference to other elements.

7.94 This approach is consistent with the Appellate Body's approach in US – Shrimp, as we understand it. In that case, the Appellate Body had to interpret the term "exhaustible natural resources" in Article XX(g) of the GATT 1994. The Appellate Body found that this term was by definition evolutionary and therefore found it "pertinent to note that modern international conventions and declarations make frequent references to natural resources as embracing both living and non-living resources". Thus, as we understand it, the Appellate Body drew on other rules of international law because it considered that they were informative and aided it in establishing the meaning and scope of the term "exhaustible natural resources". The European Communities correctly points out that the Appellate Body referred to conventions which were not applicable to all disputing parties. However, the mere fact that one or more disputing parties are not parties to a convention does not necessarily mean that a convention cannot shed light on the meaning and scope of a treaty term to be interpreted.

7.95 In the present case, in response to a question from the Panel, the European Communities has identified a number of provisions of the Convention on Biological Diversity and of the Biosafety Protocol which it considers must be taken into account by the Panel. The European Communities has not explained how these provisions are relevant to the interpretation of the WTO agreements at issue in this dispute. We have carefully considered the provisions referred to by the European Communities. Ultimately, however, we did not find it necessary or appropriate to rely on these particular provisions in interpreting the WTO agreements at issue in this dispute.

7.96 Furthermore, we recall that after consulting the Parties, we have requested several international organizations (Codex, FAO, the IPPC Secretariat, WHO, OIE, the CBD Secretariat and UNEP) to identify materials (reference works, glossaries, official documents of the relevant international organizations, including conventions, standards and guidelines, etc.) that might aid us in determining the ordinary meaning of certain terms used in the definitions provided in Annex A to the SPS Agreement. The materials we have obtained in this way have been taken into account by us, as appropriate.


139. We begin by recalling that the analysis of a measure under Article XX of the GATT 1994 is two-tiered. First, a panel must examine whether the measure falls under at least one of the ten exceptions listed under Article XX. Secondly, the question of whether the measure at issue satisfies the requirements of the chapeau of Article XX must be considered.

140. We note at the outset that the participants do not dispute that it is within the authority of a WTO Member to set the public health or environmental objectives it seeks to achieve, as well as the level of protection that it wants to obtain, through the measure or the policy it chooses to adopt.

141. Article XX(b) of the GATT 1994 refers to measures "necessary to protect human, animal or plant life or health". The term "necessary" is mentioned not only in Article XX(b) of the GATT 1994, but also in Articles XX(a) and XX(d) of the GATT 1994, as well as in Article XIV(a), (b), and (c) of the GATS. In Korea – Various Measures on Beef, the Appellate Body underscored that "the word 'necessary' is not limited to that which is 'indispensable'". The Appellate Body added:

Measures which are indispensable or of absolute necessity or inevitable to secure compliance certainly fulfil the requirements of Article XX(d). But other measures, too, may fall within the ambit of this exception. As used in Article XX(d), the term "necessary" refers, in our view, to a range of degrees of necessity. At one end of this
We note that the Panel chose to conduct a qualitative analysis of the contribution of the Import Ban to the achievement of its objective. Previous cases, the Appellate Body emphasized that the requirement under Article XX(b) of the GATT 1994 is to quantify, as such, the risk to human, animal, or plant life or health. Therefore, it appears to us that the same qualitative analysis is within the bounds of the latitude the Appellate Body enjoys in choosing a methodology for the analysis of the contribution, which may be evaluated either in quantitative or qualitative terms.

Accordingly, we do not accept the European Communities' contention that the Panel erred in determining whether the Import Ban is necessary. The Panel's approach of evaluating the extent to which the Import Ban is likely to result in a reduction of the exposure to these risks is consistent with the GATT 1994.

We turn to the methodology used by the Panel in analyzing the contribution of the Import Ban to the achievement of its objective. Such a methodology exists when there is a genuine relationship between the objective pursued and the measure at issue. The Panel's approach of evaluating the extent to which the Import Ban is likely to result in a reduction of the exposure to these risks is consistent with the GATT 1994.
Import Ban "may lead to a reduction in the total number of waste tyres because imported retreaded tyres may be substituted for used tyres which have a longer lifespan." As concerns tyres retreaded in Brazil from local casings, the Panel was satisfied that Brazil had the production capacity to retread domestic used tyres and that "at least some domestic used tyres will be retreaded industry-wide to be of same quality as imported retreaded tyres." Therefore, the Panel found that a reduction in waste tyres would result from the Import Ban, and that "the Import Ban would thus lead to a reduction in waste tyres." The Panel also agreed that Brazil has taken measures to facilitate the access of domestic retreaders to good-quality used tyres, and that new tyres sold in Brazil are high-quality tyres that comply with international standards and have the potential to reduce the number of waste tyres generated with the Import Ban.

As the Panel recognized, an import ban is "by design a trade-restrictive measure." We agree with the Panel that there may be circumstances where such a measure can facilitate the access of domestic retreaders to good-quality used tyres, and that new tyres sold in Brazil are high-quality tyres that comply with international standards and have the potential to reduce the number of waste tyres generated with the Import Ban.

We recognize that certain complex public health or environmental problems may be tackled by measures adopted in order to attenuate global warming and climate change, or certain environmental objectives pursued. This is not, however, the only type of demonstration that could establish such a contribution. Thus, a panel might conclude that an import ban is necessary on the basis of a demonstration that the import ban at issue is apt to produce a material contribution to the achievement of its objective.

The Panel’s conclusion with which we agree was that, "if the domestic retreaded industry-wide retreaded more domestic used tyres, the overall number of waste tyres would be reduced." The Panel also agreed that Brazil has taken measures to facilitate the access of domestic retreaders to good-quality used tyres, and that new tyres sold in Brazil are high-quality tyres that comply with international standards and have the potential to reduce the number of waste tyres generated with the Import Ban.

We agree with the Panel that there may be circumstances where such a measure can facilitate the access of domestic retreaders to good-quality used tyres, and that new tyres sold in Brazil are high-quality tyres that comply with international standards and have the potential to reduce the number of waste tyres generated with the Import Ban.

As the Panel recognized, an import ban is "a trade-restrictive measure." We agree with the Panel that there may be circumstances where such a measure can facilitate the access of domestic retreaders to good-quality used tyres, and that new tyres sold in Brazil are high-quality tyres that comply with international standards and have the potential to reduce the number of waste tyres generated with the Import Ban.

We agree with the Panel that there may be circumstances where such a measure can facilitate the access of domestic retreaders to good-quality used tyres, and that new tyres sold in Brazil are high-quality tyres that comply with international standards and have the potential to reduce the number of waste tyres generated with the Import Ban.
alternatives are not real substitutes for the Import Ban since they complement each other as part of Brazil's comprehensive policy. Finally, having found that other proposed alternatives were not reasonably available or carried their own risks, these alternatives would not have weighed differently in a collective assessment of alternatives.

In sum, the Panel's conclusion that the Import Ban is necessary was the result of a process involving, first, the examination of the contribution of the Import Ban to the achievement of its objective of reducing the exposure to risks arising from the accumulation of waste tires. On the basis of these considerations, we are of the view that the Panel did not err in finding that the Import Ban contributes to the achievement of its objective.

178. We begin our analysis by recalling that, in order to determine whether a measure is necessary within the meaning of Article X:2(b) of the GATT 1994, a panel must consider first the objective of the measure, particularly the importance of the measure's objective and its trade restrictiveness. If the measure's objective is important, its trade restrictiveness may, under the circumstances of the case, justify the measure if it is determined that the measure is necessary.

179. In this case, the Panel identified the objective of the Import Ban as being the reduction of the exposure to risks arising from the accumulation of waste tires. It assessed the importance of the objective of the Import Ban and concluded that it is both vital and important in the highest degree. The Panel noted that Brazil's objective of protecting human, animal or plant life or health against such diseases is both vital and important in the highest degree. The Panel also acknowledged that the trade restrictiveness of the measure is necessary.

180. The Panel then proceeded to examine the alternatives to the Import Ban proposed by the European Communities. The Panel concluded that some of these alternatives were not reasonably available or carried their own risks, and that these alternatives would not have weighed differently in a collective assessment of alternatives.

181. The Panel's conclusion that the Import Ban is necessary was the result of a process involving, first, the examination of the contribution of the Import Ban to the achievement of its objective of reducing the exposure to risks arising from the accumulation of waste tires. On the basis of these considerations, we are of the view that the Panel did not err in finding that the Import Ban contributes to the achievement of its objective.

183. In the light of all these considerations, we are of the view that the Panel did not err in concluding that the Import Ban was "necessary to protect human, animal or plant life or health" within the meaning of Article X:2(b) of the GATT 1994.
interventions made by the public officials were also identical. The Aarhus Committee found that
the lists of participants of the two meetings differ only regarding four additional public officials
who attended the first meeting. The Aarhus Committee stated that “the results of this
comparative analysis raise serious concerns regarding the extent to which the report of the
meeting can be relied upon as an accurate record of the proceedings as well as regarding the
genuine nature of the questions and concerns raised, recorded and subsequently taken into
account in the decision-making process.”

326. With respect to the October 31, 2002, meeting, the Aarhus Committee concluded the
following:

“The unclear circumstances surrounding the meeting in October 2002, and the failure of
the Party concerned to provide anything to substantiate the claim that the meeting was
duly announced and open for public participation, as well as concerns about the quality of
the meeting records, lead the Committee to conclude that the Party concerned failed
to comply with the requirements for public participation set out in paragraphs 3, 4 and 8
of article 6 of the Convention.”

327. The Aarhus Committee also reviewed and commented on the meetings that took place on
April 2, 2003, and September 3, 2003. (As noted above, Management indicates that the
meetings held on April 2, 2003, and September 3, 2003 correspond to the two EA consultations
required by the Bank for a Category A project.) The Aarhus Committee stated that the two
meetings that took place on April 2, 2003, and September 3, 2003, took place after the decision
on the approval of the construction site in Vlora and “therefore cannot be considered as events
contributing to the involvement of the public in that decision.”

328. The Aarhus Committee further noted that Albania did not provide any information “to
demonstrate that the meetings in April and September 2003 were publicly announced, so as to
allow members of the public opposing the project to actively take part in the decision-making.”
In addition, the Aarhus Committee stated that Albania did not “give any reasonable explanation
as to why the rather strong local opposition to the project, indicated by the 14,000 people calling
for a referendum, was not heard or represented properly at any of these meetings.” With respect
to the meetings held on April 2, 2003, and September 3, 2003, the Aarhus Committee concluded
that “[t]his gives rise to concerns that the invitation process also at this stage was selective and
insufficient.”

329. Following its field inquiry, the Aarhus Committee (see Box 1, Ch.1) issued its overall
conclusion after its June 2007 meeting. The Aarhus Committee found that: “[a]lthough some
efforts were made to provide for public participation, these largely took place after the crucial
decision on siting and were subject to some qualitative deficiencies, leading the Committee to
find that the Party concerned failed to comply fully with the requirements in question.”

330. In accordance with OP 4.01, it is necessary that an EA takes into account inter alia, the
country’s obligations pertaining to project activities under relevant international environmental
treaties and agreements. OP 4.01 states that the Bank does not finance project activities that
would contravene a country’s obligations under any such international treaty or agreement.

331. As noted above, with respect to the proposed thermal power plant, the Aarhus Committee
found that some efforts were made to provide for public participation, but noted that “…these
largely took place after the crucial decision on siting and were subject to some qualitative deficiencies”. The Aarhus Committee concluded that Albania failed to comply with the requirements for public participation set out in paragraphs 3, 4 and 8 of Article 6 of the Aarhus Convention.

332. Based on the foregoing, the Panel finds that Management did not ensure that the Project preparation activities complied with the consultation and public participation requirements of the Aarhus Convention. This does not comply with OP 4.01.

Case Concerning Pulp Mills on the River Uruguay (Argentina/Uruguay), Judgment of the International Court of Justice, 20 April 2010 (paras 101, 164, 177, 188, 204-205, 215-217 and 219)

101. The Court points out that the principle of prevention, as a customary rule, has its origins in the due diligence that is required of a State in its territory. It is “every State’s obligation not to allow knowingly its territory to be used for acts contrary to the rights of other States” (Corfu Channel (United Kingdom v. Albania), Merits, Judgment, I.C.J. Reports 1949, p. 24). A State is thus obliged to use all the means at its disposal in order to avoid activities which take place in its territory, or in any area under its jurisdiction, causing significant damage to the environment of another State. This Court has established that this obligation “is now part of the corpus of international law relating to the environment” (Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996 (I), p. 242, para. 29).

[…] 164. Regarding the arguments put forward by Argentina on the reversal of the burden of proof and on the existence, vis-à-vis each Party, of an equal onus to prove under the 1975 Statute, the Court considers that while a precautionary approach may be relevant in the interpretation and application of the provisions of the Statute, it does not follow that it operates as a reversal of the burden of proof. The Court is also of the view that there is nothing in the 1975 Statute itself to indicate that it places the burden of proof equally on both Parties.

[…] 177. Regarding Article 27, it is the view of the Court that its formulation reflects not only the need to reconcile the varied interests of riparian States in a transboundary context and in particular in the use of a shared natural resource, but also the need to strike a balance between the use of the waters and the protection of the river consistent with the objective of sustainable development. The Court has already dealt with the obligations arising from Articles 7 to 12 of the 1975 Statute which have to be observed, according to Article 27, by any Party wishing to exercise its right to use the waters of the river for any of the purposes mentioned therein insofar as such use may be liable to affect the régime of the river or the quality of its waters. The Court wishes to add that such utilization could not be considered to be equitable and reasonable if the interests of the other riparian State in the shared resource and the environmental protection of the latter were not taken into account. Consequently, it is the opinion of the Court that Article 27 embodies this interconnectedness between equitable and reasonable utilization of a shared resource and the balance between economic development and environmental protection that is the essence of sustainable development.

188. This vigilance and prevention is all the more important in the preservation of the ecological balance, since the negative impact of human activities on the waters of the river may affect other components of the ecosystem of the watercourse such as its flora, fauna, and soil. The obligation to co-ordinate, through the Commission, the adoption of the necessary measures, as well as their enforcement and observance, assumes, in this context, a central role in the overall system of protection of the River Uruguay established by the 1975 Statute. It is therefore of crucial importance that the Parties respect this obligation.

204. It is the opinion of the Court that in order for the Parties properly to comply with their obligations under Article 41 (a) and (b) of the 1975 Statute, they must, for the purposes of protecting and preserving the aquatic environment with respect to activities which may be liable to cause transboundary harm, carry out an environmental impact assessment. As the Court has observed in the case concerning the Dispute Regarding Navigational and Related Rights, “there are situations in which the parties’ intent upon conclusion of the treaty was, or may be presumed to have been, to give the terms used – or some of them – a meaning or content capable of evolving, not one fixed once and for all, so as to make allowance for, among other things, developments in international law” (Dispute Regarding Navigational and Related Rights (Costa Rica v. Nicaragua), Judgment of 13 July 2009, para. 64). In this sense, the obligation to protect and preserve, under Article 41 (a) of the Statute, has to be interpreted in accordance with a practice, which in recent years has gained so much acceptance among States that it may now be considered a requirement under general international law to undertake an environmental impact assessment where there is a risk that the proposed industrial activity may have a significant adverse impact in a transboundary context, in particular, on a shared resource. Moreover, due diligence, and the duty of vigilance and prevention which it implies, would not be considered to have been exercised, if a party planning works liable to affect the régime of the river or the quality of its waters did not undertake an environmental impact assessment on the potential effects of such works.

205. The Court observes that neither the 1975 Statute nor general international law specify the scope and content of an environmental impact assessment. It points out moreover that Argentina and Uruguay are not parties to the Espoo Convention. Finally, the Court notes that the other instrument to which Argentina refers in support of its arguments, namely, the UNEP Goals and Principles, is not binding on the Parties, but, as guidelines issued by an international technical body, has to be taken into account by each Party in accordance with Article 41 (a) in adopting measures within its domestic regulatory framework. Moreover, this instrument provides only that the “environmental effects in an EIA should be assessed with a degree of detail commensurate with their likely environmental significance” (Principle 5) without giving any indication of minimum core components of the assessment. Consequently, it is the view of the Court that it is for each State to determine in its domestic legislation or in the authorization process for the project, the specific content of the environmental impact assessment required in each case, having regard to the nature and magnitude of the proposed development and its likely adverse impact on the environment as well as to the need to exercise due diligence in conducting such an assessment. The Court also considers that an environmental impact
assessment must be conducted prior to the implementation of a project. Moreover, once operations have started and, where necessary, throughout the life of the project, continuous monitoring of its effects on the environment shall be undertaken.

[...]

(ii) Consultation of the affected populations

215. The Parties disagree on the extent to which the populations likely to be affected by the construction of the Orion (Botnia) mill, particularly on the Argentine side of the river, were consulted in the course of the environmental impact assessment. While both Parties agree that consultation of the affected populations should form part of an environmental impact assessment, Argentina asserts that international law imposes specific obligations on States in this regard. In support of this argument, Argentina points to Articles 2.6 and 3.8 of the Espoo Convention, Article 13 of the 2001 International Law Commission draft Articles on Prevention of Transboundary Harm from Hazardous Activities, and Principles 7 and 8 of the UNEP Goals and Principles. Uruguay considers that the provisions invoked by Argentina cannot serve as a legal basis for an obligation to consult the affected populations and adds that in any event the affected populations had indeed been consulted.

216. The Court is of the view that no legal obligation to consult the affected populations arises for the Parties from the instruments invoked by Argentina.

217. Regarding the facts, the Court notes that both before and after the granting of the initial environmental authorization, Uruguay did undertake activities aimed at consulting the affected populations, both on the Argentine and the Uruguayan sides of the river. These activities included meetings on 2 December 2003 in Río Negro, and on 26 May 2004 in Fray Bentos, with participation of Argentine non-governmental organizations. In addition, on 21 December 2004, a public hearing was convened in Fray Bentos which, according to Uruguay, addressed among other subjects, the “handling of chemical products in the plant and in the port; the appearance of acid rain, dioxins, furans and other polychlorates of high toxicity that could affect the environment; compliance with the Stockholm Convention; atmospheric emissions of the plant; electromagnetic and electrostatic emissions; [and] liquid discharges into the river”.

Inhabitants of Fray Bentos and nearby regions of Uruguay and Argentina participated in the meeting and submitted 138 documents containing questions or concerns.

[...]

219. In the light of the above, the Court finds that consultation by Uruguay of the affected populations did indeed take place.

Responsibilities and Obligations of States sponsoring Persons and Entities with respect to Activities in The Area, Advisory Opinion of the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea, February 2011 (paras 121-137 and 141-163)

V. Direct obligations of sponsoring States

121. The obligations of sponsoring States are not limited to the due diligence “obligation to ensure”. Under the Convention and related instruments, sponsoring States also have obligations with which they have to comply independently of their obligation to ensure a certain behaviour by the sponsored contractor. These obligations may be characterized as “direct obligations”.

122. Among the most important of these direct obligations incumbent on sponsoring States are: the obligation to assist the Authority in the exercise of control over activities in the Area; the obligation to apply a precautionary approach; the obligation to apply best environmental practices; the obligation to take measures to ensure the provision of guarantees in the event of an emergency order by the Authority for protection of the marine environment; the obligation to ensure the availability of recourse for compensation in respect of damage caused by pollution; and the obligation to conduct environmental impact assessments. These obligations will be examined in paragraphs 124-150.

123. It must nevertheless be stated, at the outset, that compliance with these obligations can also be seen as a relevant factor in meeting the due diligence “obligation to ensure” and that the said obligations are in most cases couched as obligations to ensure compliance with a specific rule.

The obligation to assist the Authority

124. Pursuant to the last sentence of article 153, paragraph 4, of the Convention, sponsoring States have the obligation to assist the Authority in its task of controlling activities in the Area for the purpose of ensuring compliance with the relevant provisions of Part XI of the Convention and related instruments. This obligation is to be met “by taking all measures necessary to ensure such compliance in accordance with article 139”. The obligation of the sponsoring States is a direct one, but it is to be met through compliance with the “due diligence obligation” set out in article 139 of the Convention.

Precautionary approach

125. The Nodules Regulations and the Sulphides Regulations contain provisions that establish a direct obligation for sponsoring States. This obligation is relevant for implementing the “responsibility to ensure” that sponsored contractors meet the obligations set out in Part XI of the Convention and related instruments. These are regulation 31, paragraph 2, of the Nodules Regulations and regulation 33, paragraph 2, of the Sulphides Regulations, both of which state that sponsoring States (as well as the Authority) “shall apply a precautionary approach, as reflected in Principle 15 of the Rio Declaration” in order “to ensure effective protection for the marine environment from harmful effects which may arise from activities in the Area”.

126. Principle 15 of the 1992 Rio Declaration on Environment and Development (hereinafter “the Rio Declaration”) reads:

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.
131. The precautionary approach, as defined in these Regulations, and in the Implementing Arrangements for the Nodules Regulations, Annex 4, section 5.1, is one of the main elements of the Convention on the Law of the Sea (UNCLOS), which provides that “States shall act with prudence and caution to ensure that conservation and development activities do not cause irreversible damage” (article 196, paragraph 5). This approach is also an integral part of the general obligation of due diligence (article 197, paragraph 3) of sponsoring States, which is applicable in the relations between the parties. This obligation applies in situations where there is scientific uncertainty regarding measures to be taken to prevent or mitigate adverse impacts. A sponsoring State would not meet its obligation of due diligence if it disregarded those risks. Such disregard would amount to a failure to comply with the precautionary approach.

132. The link between an obligation of due diligence and the precautionary approach is implicit in the provisions of the Nodules Regulations, Annex 4, section 5.1, which state that “States shall not enter into agreements unless they have adequate information or procedures to ensure that conservation and development activities are carried out in accordance with the precautionary approach.” This obligation is also consistent with article 203, paragraph 1, of UNCLOS, which provides that “States shall act prudently and with due caution in order to avoid causing irreversible damage to the marine environment.”

133. It should be further noted that the Nodules Regulations, Annex 4, section 5.1, in setting out a “standard clause” for exploration contracts, provides that: “The Authority shall take necessary measures to prevent, reduce and control pollution and other hazards to the marine environment arising from its activities in the Area as far as reasonably possible applying, a precautionary approach and best environmental practices.” Thus, the precautionary approach is a contractual obligation of the sponsored contractors whose compliance the sponsoring State has the responsibility to ensure.

134. In the parallel provision of the corresponding standard clause in the Nodules Regulations, Annex 4, section 5.1, no reference is made to the precautionary approach. However, under the general obligation illustrated in paragraph 31 of the ICJ Judgment in the Uruguayan Pulp Mills on the River Plate case (Argentina v. Uruguay), the precautionary approach is also an integral part of the general obligation of due diligence of sponsoring States, which is applicable even outside the scope of the Regulations. The due diligence obligation of the sponsoring States requires them to take all appropriate measures to prevent damage that might result from the activities of contractors that they sponsor. This obligation applies in situations where scientific evidence concerning the scope and potential negative impact of the activity in question is insufficient but where there are plausible indications of potential risks. A sponsoring State would not meet its obligation of due diligence if it disregarded those risks. Such disregard would amount to a failure to comply with the precautionary approach.

135. The reference to the precautionary approach in the parallel provision of the corresponding standard clause in the Sulphides Regulations, Annex 4, section 5.1, is also an integral part of the general obligation of due diligence of sponsoring States, which is applicable even outside the scope of the Regulations. The due diligence obligation of the sponsoring States requires them to take all appropriate measures to prevent damage that might result from the activities of contractors that they sponsor. This obligation applies in situations where scientific evidence concerning the scope and potential negative impact of the activity in question is insufficient but where there are plausible indications of potential risks. A sponsoring State would not meet its obligation of due diligence if it disregarded those risks. Such disregard would amount to a failure to comply with the precautionary approach.

136. Moreover, regulation 31, paragraph 2, of the Sulphides Regulations supplements the sponsoring State’s obligation to apply the precautionary approach with an obligation to apply the best environmental practices. The same obligation is established as a contractual obligation in the standard clause contained in Annex 4, section 5.1, of the Sulphides Regulations. So does the following statement in paragraph 164 of the ICJ Judgment in the Southern Bluefin Tuna Cases (Australia v. Japan; Argentina v. Japan), p. 274, at paragraph 77, which states: “It is for the parties to determine how far such guiding principles should be transposed into specific rules.” This statement may be read in light of article 31, paragraph 3(c), of the Vienna Convention, according to which the interpretation of a treaty should take into account not only the context but “any relevant rules of international law applicable in the relations between the parties.”
141. The obligation of the contractor to conduct an environmental impact assessment is explicitly set forth in section 1, paragraph 7, of the Annex to the 1994 Agreement as follows: "An environmental impact assessment shall be conducted by the contractor in accordance with the guidelines of the Authority, in order to assess the potential impact of the activities on the marine environment, and shall be included in the plan of work approved by the Authority. The contractor shall submit a summary of the assessment to the Authority within three months of the commencement of the activities." This provision is also enforceable by the Authority, as set forth in section 6, paragraph 7, of the Annex to the 1994 Agreement, which states that the Authority may request the contractor to conduct an environmental impact assessment at any time during the period of the contract.

142. Regulation 31, paragraph 6, of the Nodules Regulations establishes a direct obligation of the sponsoring State concerning environmental impact assessments. The Regulations require the Contracting Party to conduct an environmental impact assessment in the area defined in the first preambular paragraph of the Regulations, prior to the commencement of any activity that may have significant environmental effects. The Regulations also require the Authority to approve the plan of work if it is determined that the proposed activities may have significant adverse environmental effects.

143. Contractors and sponsoring States must cooperate with the Authority in the establishment and implementation of environmental monitoring programmes. This cooperation is designed to clarify and ensure compliance with the Authorities' environmental impact assessment requirements. The Authority may request the contractor to conduct an environmental impact assessment at any time during the period of the contract.

144. As clarified in paragraph 10 of the Recommendations for the Guidance of the Contractors in the Assessment of the Possible Environmental Impacts Arising from Exploration for Poly Metallic Nodules in the Area, issued by the Authority and published in the United Nations Treaty Series (Vol. 176, No. 5, 1972), certain activities require "prior environmental impact assessment, as well as implementation of an environmental monitoring programme." These activities are listed in paragraph 10 (a) to (c) of the Recommendations.

145. It should be stressed that the obligation to conduct an environmental impact assessment is a direct obligation under the Convention and a general obligation under customary international law. The obligation to conduct an environmental impact assessment is linked to the direct obligation of the sponsoring State under the Convention to cooperate with the Authority in the exercise of the latter's control over activities in the Area which lie outside the limits of national jurisdiction. Moreover, the obligation to conduct an environmental impact assessment is enforceable by the Authority, as set forth in section 6, paragraph 7, of the Annex to the 1994 Agreement, which states that the Authority may request the contractor to conduct an environmental impact assessment at any time during the period of the contract.

146. In light of the above, the Chamber is of the view that the obligations of the contractors and sponsoring States concerning environmental impact assessments extend beyond the scope of application of specific provisions of the Regulations.

147. With respect to customary international law, the ICJ, in its Judgment in the Pulp Mills on the River Uruguay (Chile v. Argentina) (2001), speaks of: "the potential environmental impacts of the proposed activities ..." The sponsoring State is under a practice, which in recent years has gained so much acceptance among States that it is now considered a direct obligation under international law, to conduct an environmental impact assessment in the area defined in the first preambular paragraph of the Regulations, prior to the commencement of any activity that may have significant adverse environmental effects.

148. Such a practice, which in recent years has gained so much acceptance among States that it is now considered a direct obligation under international law, is linked to the direct obligation of the sponsoring States under the Convention to cooperate with the Authority in the exercise of the latter's control over activities in the Area which lie outside the limits of national jurisdiction. Moreover, the obligation to conduct an environmental impact assessment is enforceable by the Authority, as set forth in section 6, paragraph 7, of the Annex to the 1994 Agreement, which states that the Authority may request the contractor to conduct an environmental impact assessment at any time during the period of the contract.

149. In the case of activities in the Area, the fifth preambular paragraph of the Convention states that the achievement of the goals set out in previous preambular paragraphs of the Convention "... shall be achieved through the establishment and implementation of a comprehensive monitoring programme." These activities are listed in paragraph 10 (a) to (c) of the Recommendations.

150. Accordingly, it is necessary to examine whether developing States have the right to preferential treatment as compared with that granted to developed States under the Convention and related instruments.

151. With respect to activities in the Area, the fifth preambular paragraph of the Convention states that the achievement of the goals set out in previous preambular paragraphs of the Convention shall be achieved through the establishment and implementation of a comprehensive monitoring programme. These activities are listed in paragraph 10 (a) to (c) of the Recommendations.

152. In light of the above, the Chamber is of the view that the obligations of the contractors and sponsoring States concerning environmental impact assessments extend beyond the scope of application of specific provisions of the Regulations.
153. Under article 140, paragraph 1, of the Convention:

Activities in the Area shall, as specifically provided for in this Part, be carried out for the benefit of mankind as a whole, irrespective of the geographical location of States, whether coastal or land-locked, and taking into particular consideration the interests and needs of developing States.

154. According to article 148 of the Convention:

The effective participation of developing States in activities in the Area shall be promoted as specifically provided for in this Part, having due regard to their special interests and needs, and in particular to the special needs of the land-locked and geographically disadvantaged among them to overcome obstacles arising from their disadvantaged location, including remoteness from the Area and difficulty of access to and from it.

155. These provisions develop, with respect to activities in the Area, the statement in the fifth preambular paragraph of the Convention.

156. For the purposes of the present Advisory Opinion, and in particular of Question 1, it is important to determine the meaning of article 148 of the Convention. According to this provision, the general purpose of promoting the participation of developing States in activities in the Area taking into account their special interests and needs is to be achieved “as specifically provided for” in Part XI (an expression also found in article 140 of the Convention). This means that there is no general clause for the consideration of such interests and needs beyond what is provided for in specific provisions of Part XI of the Convention. A perusal of Part XI shows immediately that there are several provisions designed to ensure the participation of developing States in activities in the Area and to take into particular consideration their interests and needs.

157. The approach of the Convention to this is particularly evident in the provisions granting a preference to developing States that wish to engage in mining in areas of the deep seabed reserved for the Authority (Annex III, articles 8 and 9, of the Convention); in the obligation of States to promote international cooperation in marine scientific research in the Area in order to ensure that programmes are developed “for the benefit of developing States” (article 143, paragraph 3, of the Convention); and in the obligation of the Authority and of States Parties to promote the transfer of technology to developing States (article 144, paragraph 1, of the Convention and section 5 of the Annex to the 1994 Agreement), and to provide training opportunities for personnel from developing States (article 144, paragraph 2, of the Convention and section 5 of the Annex to the 1994 Agreement); in the permission granted to the Authority in the exercise of its powers and functions to give special consideration to developing States, notwithstanding the rule against discrimination (article 152 of the Convention); and in the obligation of the Council to take “into particular consideration the interests and needs of developing States” in recommending, and approving, respectively, rules and procedures on the equitable sharing of financial and other benefits derived from activities in the Area (articles 160, paragraph 2(o)(i), and 162, paragraph 2(o)(i), of the Convention).

158. However, none of the general provisions of the Convention concerning the responsibilities (or the liability) of the sponsoring State “specifically provides” for according preferential treatment to sponsoring States that are developing States. As observed above, there is no provision requiring the consideration of such interests and needs beyond what is specifically stated in Part XI. It may therefore be concluded that the general provisions concerning the responsibilities and liability of the sponsoring State apply equally to all sponsoring States, whether developing or developed.

159. Equality of treatment between developing and developed sponsoring States is consistent with the need to prevent commercial enterprises based in developed States from setting up companies in developing States, acquiring their nationality and obtaining their sponsorship in the hope of being subject to less burdensome regulations and controls. The spread of sponsoring States “of convenience” would jeopardize uniform application of the highest standards of protection of the marine environment, the safe development of activities in the Area and protection of the common heritage of mankind.

160. These observations do not exclude that rules setting out direct obligations of the sponsoring State could provide for different treatment for developed and developing sponsoring States.

161. As pointed out in paragraph 125, the provisions of the Nodules Regulations and the Sulphides Regulations that set out the obligation for the sponsoring State to apply a precautionary approach in ensuring effective protection of the marine environment refer to Principle 15 of the Rio Declaration. As mentioned earlier, Principle 15 provides that the precautionary approach shall be applied by States “according to their capabilities”. It follows that the requirements for complying with the obligation to apply the precautionary approach may be stricter for the developed than for the developing sponsoring States. The reference to different capabilities in the Rio Declaration does not, however, apply to the obligation to follow “best environmental practices” set out, as mentioned above, in regulation 33, paragraph 2, of the Sulphides Regulations.

162. Furthermore, the reference to “capabilities” is only a broad and imprecise reference to the differences in developed and developing States. What counts in a specific situation is the level of scientific knowledge and technical capability available to a given State in the relevant scientific and technical fields.

163. It should be pointed out that the fifth preambular paragraph of the Convention emphasizes that the achievement of the goals of the Convention will “contribute to the realization of a just and equitable international economic order which takes into account the interests and needs of mankind as a whole and, in particular, the special interests and needs of developing countries, whether coastal or landlocked”. As noted above, article 148 of the Convention speaks about the promotion of the effective participation of developing States in activities in the Area. What is more important is that Annex III, article 9, paragraph 4, of the Convention specifically refers to the right of a developing State or any natural or juridical person sponsored by it and effectively controlled by it, to inform the Authority that it wishes to submit a plan of work with respect to a reserved area. These provisions have the effect of reserving half of the proposed contract areas in favour of the Authority and developing States. Together with those provisions mentioned in paragraph 157, they require effective implementation with a view to enabling the developing States to participate in deep seabed mining on an equal footing with developed States. Developing States should receive necessary assistance including training.

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