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UNITED NATIONS JURIDICAL YEARBOOK

2006

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

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



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CONTENTS

	<i>Page</i>
(c) Legal Instruments	230
(d) IAEA legislative assistance activities	232
(e) Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, 1997	233
(f) Code of Conduct on the Safety and Security of Radioactive Sources and the supplementary Guidance on the Import and Export of Radioactive Sources	234
(g) Code of Conduct on the Safety of Research Reactors	234
(h) Safeguards Agreements	235
9. United Nations Industrial Development Organization	
(a) Membership	236
(b) Agreements and other arrangements	236
10. World Intellectual Property Organization	
(a) Introduction	242
(b) Cooperation for development activities	242
(c) Norm-setting activities	243
(d) International registration activities	244
(e) Intellectual property and global issues	246
11. Organization for the Prohibition of Chemical Weapons	
(a) Membership	247
(b) Destruction of chemical weapons	248
(c) Legal status, privileges and immunities and international agreements	248
(d) Review of the Chemical Weapons Convention	249
(e) OPCW legislative assistance activities	249
12. World Trade Organization	
(a) Membership	250
(b) Dispute settlement	252
(c) Waivers under article IX of the WTO Agreement	252
13. Preparatory Commission for the Comprehensive Nuclear Test-Ban-Treaty	256
 CHAPTER IV. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS	
A. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS	
1. International Tropical Timber Agreement	257
2. Convention on the Rights of Persons with Disabilities	282
3. Optional Protocol to the Convention on the rights of persons with disabilities	305
4. International Convention for the Protection of All Persons from Enforced disappearance	309

	<i>Page</i>
B. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF INTERGOVERNMENTAL ORGANIZATIONS RELATED TO UNITED NATIONS	
1. International Labour Organization	
(a) Maritime Labour Convention, 23 February 2006	325
(b) Promotional Framework for Occupational Safety and Health Convention, 15 June 2006	334
2. Food and Agriculture Organization	
(a) Southern Indian Ocean Fisheries Agreement, 7 July 2006	339
3. International Atomic Energy Agency	
Agreement on the Establishment of ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project . .	353
4. World Intellectual Property Organization	
(a) Singapore Treaty on the Law of Trademarks, 27 March 2006.	367
(b) Regulations under the Singapore Treaty on the Law of Trademarks	387
(c) Resolution by the Diplomatic Conference supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder.	395
 CHAPTER V. DECISIONS OF ADMINISTRATIVE TRIBUNALS OF THE UNITED NATIONS AND RELATED INTERGOVERNMENTAL ORGANIZATIONS	
A. DECISIONS OF THE UNITED NATIONS ADMINISTRATIVE TRIBUNAL	
1. <i>Judgement No. 1285 (28 July 2006): Applicant v. the Secretary-General of the United Nations</i>	
Evaluation of personal performances—Discretion of the Secretary-General in personnel matters—Due process in evaluation procedures—No right to promotion for staff members	399
2. <i>Judgement No. 1289 (28 July 2005): Applicant v. the Secretary-General of the United Nations</i>	
Termination of employment for disciplinary reasons—Proportionality of disciplinary measures—Misconduct justifying termination—Fraud—Presumption of innocence—Benefit of the doubt should profit the Applicant.	401
3. <i>Judgement No. 1290 (28 July 2006): Applicant v. the Secretary-General of the United Nations</i>	
Wrongful termination of contract—Rights of due process in termination proceedings—Termination on grounds of unsatisfactory performance requires a proper evaluation of the staff member’s performance—Harassment—Non-payment of salary and emoluments—“No-contest” letters	402

Chapter IV

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

A. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED UNDER THE AUSPICES OF THE UNITED NATIONS

1. INTERNATIONAL TROPICAL TIMBER AGREEMENT*

PREAMBLE

The Parties to this Agreement,

(a) *Recalling* the Declaration and the Programme of Action on the Establishment of a New International Economic Order; the Integrated Programme for Commodities; the New Partnership for Development; and the Spirit of São Paulo and São Paulo Consensus, as adopted by UNCTAD XI;

(b) *Also recalling* the International Tropical Timber Agreement, 1983, and the International Tropical Timber Agreement, 1994, and recognizing the work of the International Tropical Timber Organization and its achievements since its inception, including a strategy for achieving international trade in tropical timber from sustainably managed sources;

(c) *Further recalling* the Johannesburg Declaration and Plan of Implementation as adopted by the World Summit on Sustainable Development in September 2002, the United Nations Forum on Forests established in October 2000 and the associated creation of the Collaborative Partnership on Forests, of which the International Tropical Timber Organization is a member, as well as the Rio Declaration on Environment and Development, the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests, and the relevant Chapters of Agenda 21 as adopted by the United Nations Conference on Environment and Development in June 1992, the United Nations Framework Convention on Climate Change, the United Nations Convention on Biological Diversity and the United Nations Convention to Combat Desertification;

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

* Adopted in Geneva, on 27 January 2006, by the United Nations Conference for the Negotiation of a successor Agreement to the International Tropical Timber Agreement of 1994; see TD/TIMBER.3/12.

forth in principle 1(a) of the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests;

(e) *Recognizing* the importance of timber and related trade to the economies of timber producer countries;

(f) *Also recognizing* the importance of the multiple economic, environmental and social benefits provided by forests, including timber and non-timber forest products and environmental services, in the context of sustainable forest management, at local, national and global levels and the contribution of sustainable forest management to sustainable development and poverty alleviation and the achievement of internationally agreed development goals, including those contained in the Millennium Declaration;

(g) *Further recognizing* the need to promote and apply comparable criteria and indicators for sustainable forest management as important tools for all members to assess, monitor and promote progress toward sustainable management of their forests;

(h) *Taking into account* the linkages of the tropical timber trade and the international timber market and wider global economy and the need to take a global perspective in order to improve transparency in the international timber trade;

(i) *Reaffirming* their commitment to moving as rapidly as possible toward achieving exports of tropical timber and timber products from sustainably managed sources (ITTO Objective 2000) and recalling the establishment of the Bali Partnership Fund;

(j) *Recalling* the commitment made by consumer members in January 1994 to maintain or achieve the sustainable management of their forests;

(k) *Noting* the role of good governance, clear land tenure arrangements and cross-sectoral coordination in achieving sustainable forest management and legally sourced timber exports;

(l) *Recognizing* the importance of collaboration among members, international organizations, the private sector and civil society, including indigenous and local communities, and other stakeholders in promoting sustainable forest management;

(m) *Also recognizing* the importance of such collaboration for improving forest law enforcement and promoting trade from legally harvested timber;

(n) *Noting that* enhancing the capacity of forest-dependent indigenous and local communities, including those who are forest owners and managers, can contribute to achieving the objectives of this Agreement;

(o) *Also noting* the need to improve the standard of living and working conditions within the forest sector, taking into account relevant internationally recognized principles on these matters, and relevant International Labour Organization Conventions and instruments;

(p) *Noting* that timber is an energy-efficient, renewable and environmentally friendly raw material compared with competing products;

(q) *Recognizing* the need for increased investment in sustainable forest management, including through reinvesting revenues generated from forests, including from timber-related trade;

- (r) *Also recognizing* the benefits of market prices that reflect the costs of sustainable forest management;
 - (s) *Further recognizing* the need for enhanced and predictable financial resources from a broad donor community to help achieve the objectives of this Agreement;
 - (t) *Noting* the special needs of least developed tropical timber producer countries.
- Have agreed as follows;

CHAPTER I. OBJECTIVES

Article 1. Objectives

The objectives of the International Tropical Timber Agreement, 2006 (hereinafter referred to as “this Agreement”) are to promote the expansion and diversification of international trade in tropical timber from sustainably managed and legally harvested forests and to promote the sustainable management of tropical timber producing forests by:

- (a) Providing an effective framework for consultation, international cooperation and policy development among all members with regard to all relevant aspects of the world timber economy;
- (b) Providing a forum for consultation to promote non-discriminatory timber trade practices;
- (c) Contributing to sustainable development and to poverty alleviation;
- (d) Enhancing the capacity of members to implement strategies for achieving exports of tropical timber and timber products from sustainably managed sources;
- (e) Promoting improved understanding of the structural conditions in international markets, including long-term trends in consumption and production, factors affecting market access, consumer preferences and prices, and conditions leading to prices which reflect the costs of sustainable forest management;
- (f) Promoting and supporting research and development with a view to improving forest management and efficiency of wood utilization and the competitiveness of wood products relative to other materials, as well as increasing the capacity to conserve and enhance other forest values in timber producing tropical forests;
- (g) Developing and contributing towards mechanisms for the provision of new and additional financial resources with a view to promoting the adequacy and predictability of funding and expertise needed to enhance the capacity of producer members to attain the objectives of this Agreement;
- (h) Improving market intelligence and encouraging information sharing on the international timber market with a view to ensuring greater transparency and better information on markets and market trends, including the gathering, compilation and dissemination of trade related data, including data related to species being traded;
- (i) Promoting increased and further processing of tropical timber from sustainable sources in producer member countries, with a view to promoting their industrialization and thereby increasing their employment opportunities and export earnings;

(j) Encouraging members to support and develop tropical timber reforestation, as well as rehabilitation and restoration of degraded forest land, with due regard for the interests of local communities dependent on forest resources;

(k) Improving marketing and distribution of tropical timber and timber product exports from sustainably managed and legally harvested sources and which are legally traded, including promoting consumer awareness;

(l) Strengthening the capacity of members for the collection, processing and dissemination of statistics on their trade in timber and information on the sustainable management of their tropical forests;

(m) Encouraging members to develop national policies aimed at sustainable utilization and conservation of timber producing forests, and maintaining ecological balance, in the context of the tropical timber trade;

(n) Strengthening the capacity of members to improve forest law enforcement and governance, and address illegal logging and related trade in tropical timber;

(o) Encouraging information sharing for a better understanding of voluntary mechanisms such as, inter alia, certification, to promote sustainable management of tropical forests, and assisting members with their efforts in this area;

(p) Promoting access to, and transfer of, technologies and technical cooperation to implement the objectives of this Agreement, including on concessional and preferential terms and conditions, as mutually agreed;

(q) Promoting better understanding of the contribution of non-timber forest products and environmental services to the sustainable management of tropical forests with the aim of enhancing the capacity of members to develop strategies to strengthen such contributions in the context of sustainable forest management, and cooperating with relevant institutions and processes to this end;

(r) Encouraging members to recognize the role of forest-dependent indigenous and local communities in achieving sustainable forest management and develop strategies to enhance the capacity of these communities to sustainably manage tropical timber producing forests; and

(s) Identifying and addressing relevant new and emerging issues.

CHAPTER II. DEFINITIONS

Article 2. Definitions

For the purposes of this Agreement:

1. "Tropical timber" means tropical wood for industrial uses, which grows or is produced in the countries situated between the Tropic of Cancer and the Tropic of Capricorn. The term covers logs, sawnwood, veneer sheets and plywood;

2. "Sustainable forest management" will be understood according to the Organization's relevant policy documents and technical guidelines;

3. "Member" means a Government, the European Community or any intergovernmental organization referred to in article 5, which has consented to be bound by this Agreement whether it is in force provisionally or definitively;

4. “Producer member” means any member situated between the Tropic of Cancer and the Tropic of Capricorn with tropical forest resources and/or a net exporter of tropical timber in volume terms which is listed in Annex A and which becomes a party to this Agreement, or any member with tropical forest resources and/or a net exporter of tropical timber in volume terms which is not so listed and which becomes a party to this Agreement and which the Council, with the consent of that member, declares to be a producer member;

5. “Consumer member” means any member which is an importer of tropical timber listed in Annex B which becomes a party to this Agreement, or any member which is an importer of tropical timber not so listed which becomes a party to this Agreement and which the Council, with the consent of that member, declares to be a consumer member;

6. “Organization” means the International Tropical Timber Organization established in accordance with article 3;

7. “Council” means the International Tropical Timber Council established in accordance with article 6;

8. “Special vote” means a vote requiring at least two thirds of the votes cast by producer members present and voting and at least 60 per cent of the votes cast by consumer members present and voting, counted separately, on condition that these votes are cast by at least half of the producer members present and voting and at least half of the consumer members present and voting.

9. “Simple distributed majority vote” means a vote requiring more than half of the votes cast by producer members present and voting and more than half of the votes cast by consumer members present and voting, counted separately;

10. “Financial biennium” means the period from 1 January of one year to 31 December of the following year.

11. “Freely convertible currencies” means the euro, the Japanese yen, the pound sterling, the Swiss franc, the United States dollar, and any other currency which has been designated from time to time by a competent international monetary organization as being in fact widely used to make payments for international transactions and widely traded in the principal exchange markets.

12. For purposes of the calculation of the distribution of votes under article 10, paragraph 2(b), “tropical forest resources” means natural closed forests and forest plantations located between the Tropic of Cancer and the Tropic of Capricorn.

CHAPTER III. ORGANIZATION AND ADMINISTRATION

Article 3. Headquarters and structure of the International Tropical Timber Organization

1. The International Tropical Timber Organization established by the International Tropical Timber Agreement, 1983 shall continue in being for the purposes of administering the provisions and supervising the operation of this Agreement.

2. The Organization shall function through the Council established under article 6, the committees and other subsidiary bodies referred to in article 26 and the Executive Director and staff.

3. The headquarters of the Organization shall at all times be located in the territory of a member.

4. The headquarters of the Organization shall be in Yokohama, unless the Council, by special vote in accordance with article 12, decides otherwise.

5. Regional offices of the Organization may be established if the Council so decides by special vote in accordance with article 12.

Article 4. Membership in the Organization

There shall be two categories of membership in the Organization, namely:

- (a) Producer; and
- (b) Consumer.

Article 5. Membership by intergovernmental organizations

1. Any reference in this Agreement to "Governments" shall be construed as including the European Community and other intergovernmental organizations having comparable responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements. Accordingly, any reference in this Agreement to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession shall, in the case of such organizations, be construed as including a reference to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession, by such organizations.

2. In the case of voting on matters within their competence, the European Community and other intergovernmental organizations referred to in paragraph 1 shall vote with a number of votes equal to the total number of votes attributable to their member States which are parties to the Agreement in accordance with article 10. In such cases, the member States of such organizations shall not be entitled to exercise their individual voting rights.

CHAPTER IV. INTERNATIONAL TROPICAL TIMBER COUNCIL

Article 6. Composition of the International Tropical Timber Council

1. The highest authority of the Organization shall be the International Tropical Timber Council, which shall consist of all the members of the Organization.

2. Each member shall be represented in the Council by one representative and may designate alternates and advisers to attend sessions of the Council.

3. An alternate shall be empowered to act and vote on behalf of the representative during the latter's absence or in special circumstances.

Article 7. Powers and functions of the Council

The Council shall exercise all such powers and perform or arrange for the performance of all such functions as are necessary to carry out the provisions of this Agreement. In particular, it shall:

(a) By special vote in accordance with article 12, adopt such rules and regulations as are necessary to carry out the provisions of this Agreement and as are consistent therewith, including its own rules of procedure and the financial rules and staff regulations of the Organization. Such financial rules and regulations shall, inter alia, govern the receipt and expenditure of funds under the accounts established in article 18. The Council may, in its rules of procedure, provide for a procedure whereby it may, without meeting, decide specific questions;

(b) Take such decisions as are necessary to ensure the effective and efficient functioning and operation of the Organization; and

(c) Keep such records as are required for the performance of its functions under this Agreement.

Article 8. Chairman and Vice-chairman of the Council

1. The Council shall elect for each calendar year a Chairman and a Vice-Chairman, whose salaries shall not be paid by the Organization.

2. The Chairman and the Vice-Chairman shall be elected, one from among the representatives of producer members and the other from among the representatives of consumer members.

3. These offices shall alternate each year between the two categories of members, provided, however, that this shall not prohibit the re-election of either or both, under exceptional circumstances.

4. In the temporary absence of the Chairman, the Vice-Chairman shall assume the functions of the Chairman. In the temporary absence of both the Chairman and the Vice-Chairman, or in the absence of one or both of them for the rest of the term for which they were elected, the Council may elect new officers from among the representatives of the producer members and/or from among the representatives of the consumer members, as the case may be, on a temporary basis or for the rest of the term for which the predecessor or predecessors were elected.

Article 9. Sessions of the Council

1. As a general rule, the Council shall hold at least one regular session a year.

2. The Council shall meet in special session whenever it so decides or at the request of any member or the Executive Director, in agreement with the Chairman and Vice-Chairman of the Council, and:

(a) A majority of producer members or a majority of consumer members; or

(b) A majority of members.

3. Sessions of the Council shall be held at the headquarters of the Organization unless the Council, by special vote in accordance with article 12, decides otherwise. In this regard, the Council shall seek to convene alternate sessions of the Council outside headquarters, preferably in a producer country.

4. In considering the frequency and location of its sessions, the Council shall seek to ensure the availability of sufficient funds.

5. Notice of any sessions and the agenda for such sessions shall be communicated to members by the Executive Director at least six weeks in advance, except in cases of emergency, when notice shall be communicated at least seven days in advance.

Article 10. Distribution of votes

1. The producer members shall together hold 1,000 votes and the consumer members shall together hold 1,000 votes.

2. The votes of the producer members shall be distributed as follows:

(a) Four hundred votes shall be distributed equally among the three producing regions of Africa, Asia-Pacific and Latin America and the Caribbean. The votes thus allocated to each of these regions shall then be distributed equally among the producer members of that region;

(b) Three hundred votes shall be distributed among the producer members in accordance with their respective shares of the total tropical forest resources of all producer members; and

(c) Three hundred votes shall be distributed among the producer members in proportion to the average of the values of their respective net exports of tropical timber during the most recent three-year period for which definitive figures are available.

3. Notwithstanding the provisions of paragraph 2 of this article, the total votes allocated to the producer members from the African region, calculated in accordance with paragraph 2 of this article, shall be distributed equally among all producer members from the African region. If there are any remaining votes, each of these votes shall be allocated to a producer member from the African region: the first to the producer member which is allocated the highest number of votes calculated in accordance with paragraph 2 of this article, the second to the producer member which is allocated the second highest number of votes, and so on until all the remaining votes have been distributed.

4. Subject to paragraph 5 of this article, the votes of the consumer members shall be distributed as follows: each consumer member shall have 10 initial votes; the remaining votes shall be distributed among the consumer members in proportion to the average volume of their respective net imports of tropical timber during the five-year period commencing six calendar years prior to the distribution of votes.

5. The votes distributed to a consumer member for a given biennium shall not exceed 5 per cent over and above the votes distributed to that member for the previous biennium. Excess votes shall be redistributed among the consumer members in proportion to the average volume of their respective net imports of tropical timber during the five-year period commencing six calendar years prior to the distribution of votes.

6. The Council may, by special vote in accordance with article 12, adjust the minimum percentage required for a special vote by consumer members if it deems it necessary.

7. The Council shall distribute the votes for each financial biennium at the beginning of its first session of that biennium in accordance with the provisions of this article. Such distribution shall remain in effect for the rest of that biennium, except as provided for in paragraph 8 of this article.

8. Whenever the membership of the Organization changes or when any member has its voting rights suspended or restored under any provision of this Agreement, the Council shall redistribute the votes within the affected category or categories of members in accordance with the provisions of this article. The Council shall, in that event, decide when such redistribution shall become effective.

9. There shall be no fractional votes.

Article 11. Voting procedure of the Council

1. Each member shall be entitled to cast the number of votes it holds, and no member shall be entitled to divide its votes. A member may, however, cast differently from such votes any votes that it is authorized to cast under paragraph 2 of this article.

2. By written notification to the Chairman of the Council, any producer member may authorize, under its own responsibility, any other producer member, and any consumer member may authorize, under its own responsibility, any other consumer member, to represent its interests and to cast its votes at any meeting of the Council.

3. When abstaining, a member shall be deemed not to have cast its votes.

Article 12. Decisions and recommendations of the Council

1. The Council shall endeavour to take all decisions and to make all recommendations by consensus.

2. If consensus cannot be reached, the Council shall take all decisions and make all recommendations by a simple distributed majority vote, unless this Agreement provides for a special vote.

3. Where a member avails itself of the provisions of article 11, paragraph 2, and its votes are cast at a meeting of the Council, such member shall, for the purposes of paragraph 1 of this article, be considered as present and voting.

Article 13. Quorum for the Council

1. The quorum for any meeting of the Council shall be the presence of a majority of members of each category referred to in article 4, provided that such members hold at least two thirds of the total votes in their respective categories.

2. If there is no quorum in accordance with paragraph 1 of this article on the day fixed for the meeting and on the following day, the quorum on the subsequent days of the session shall be the presence of a majority of members of each category referred to in article 4, provided that such members hold a majority of the total votes in their respective categories.

3. Representation in accordance with article 11, paragraph 2, shall be considered as presence.

Article 14. Executive Director and staff

1. The Council shall, by special vote in accordance with article 12, appoint the Executive Director.

2. The terms and conditions of appointment of the Executive Director shall be determined by the Council.

3. The Executive Director shall be the chief administrative officer of the Organization and shall be responsible to the Council for the administration and operation of this Agreement in accordance with decisions of the Council.

4. The Executive Director shall appoint staff in accordance with regulations to be established by the Council. The staff shall be responsible to the Executive Director.

5. Neither the Executive Director nor any member of the staff shall have any financial interest in the timber industry or trade, or associated commercial activities.

6. In the performance of their duties, the Executive Director and staff shall not seek or receive instructions from any member or from any authority external to the Organization. They shall refrain from any action which might reflect adversely on their positions as international officials ultimately responsible to the Council. Each member shall respect the exclusively international character of the responsibilities of the Executive Director and staff and shall not seek to influence them in the discharge of their responsibilities.

Article 15. Cooperation and coordination with other organizations

1. In pursuing the objectives of the Agreement, the Council shall make arrangements as appropriate for consultations and cooperation with the United Nations and its organs and specialized agencies, including the United Nations Conference on Trade and Development (UNCTAD) and other relevant international and regional organizations and institutions, as well as the private sector, non-governmental organizations and civil society.

2. The Organization shall, to the maximum extent possible, utilize the facilities, services and expertise of intergovernmental, governmental or non-governmental organizations, civil society and the private sector in order to avoid duplication of efforts in achieving the objectives of this Agreement and to enhance the complementarity and the efficiency of their activities.

3. The Organization shall take full advantage of the facilities of the Common Fund for Commodities.

Article 16. Admission of observers

The Council may invite any member or observer State of the United Nations which is not party to this Agreement, or any organization referred to in article 15 interested in the activities of the Organization, to attend as observers the sessions of the Council.

CHAPTER V. PRIVILEGES AND IMMUNITIES

Article 17. Privileges and immunities

1. The Organization shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property, and to institute legal proceedings.

2. The status, privileges and immunities of the Organization, of its Executive Director, its staff and experts, and of representatives of members while in the territory of Japan shall continue to be governed by the Headquarters Agreement between the Government of

Japan and the International Tropical Timber Organization signed at Tokyo on 27 February 1988, with such amendments as may be necessary for the proper functioning of this Agreement.

3. The Organization may conclude, with one or more countries, agreements to be approved by the Council relating to such capacity, privileges and immunities as may be necessary for the proper functioning of this Agreement.

4. If the headquarters of the Organization is moved to another country, the member in question shall, as soon as possible, conclude with the Organization a headquarters agreement to be approved by the Council. Pending the conclusion of such an Agreement, the Organization shall request the new host Government to grant, within the limits of its national legislation, exemption from taxation on remuneration paid by the Organization to its employees, and on the assets, income and other property of the Organization.

5. The Headquarters Agreement shall be independent of this Agreement. It shall, however, terminate:

- (a) By agreement between the host Government and the Organization;
- (b) In the event of the headquarters of the Organization being moved from the country of the host Government; or
- (c) In the event of the Organization ceasing to exist.

CHAPTER VI. FINANCE

Article 18. Financial accounts

1. There shall be established:

- (a) The Administrative Account, which is an assessed contribution account;
- (b) The Special Account and The Bali Partnership Fund, which are voluntary contribution accounts; and
- (c) Other accounts that the Council might consider appropriate and necessary.

2. The Council shall establish, in accordance with article 7, financial rules that provide transparent management and administration of the accounts, including rules covering the settlement of accounts on termination or expiry of this Agreement.

3. The Executive Director shall be responsible for, and report to the Council on the administration of the financial accounts.

Article 19. Administrative account

1. The expenses necessary for the administration of this Agreement shall be brought into the Administrative Account and shall be met by annual contributions paid by members in accordance with their respective constitutional or institutional procedures and assessed in accordance with paragraphs 4, 5 and 6 of this article.

2. The Administrative Account shall include:

- (a) Basic administrative costs such as salaries and benefits, installation costs, and official travel; and

(b) Core operational costs such as those related to communication and outreach, expert meetings convened by the Council and preparation and publication of studies and assessments pursuant to articles 24, 27 and 28 of this Agreement.

3. The expenses of delegations to the Council, the committees and any other subsidiary bodies of the Council referred to in article 26 shall be met by the members concerned. In cases where a member requests special services from the Organization, the Council shall require that member to pay the costs of such services.

4. Before the end of each financial biennium, the Council shall approve the budget for the Administrative Account of the Organization for the following biennium and shall assess the contribution of each member to that budget.

5. Contributions to the Administrative Account for each financial biennium shall be assessed as follows:

(a) The costs referred to in paragraph 2 (a) of this article shall be shared equally among producer and consumer members and assessed in the proportion the number of each member's votes bears to the total votes of the member's group;

(b) The costs referred to in paragraph 2 (b) of this article shall be shared among members in the proportions of 20 per cent for producers and 80 per cent for consumers and assessed in the proportion the number of each member's votes bears to the total votes of the member's group;

(c) The costs referred to in paragraph 2 (b) of this article shall not exceed one third of the costs referred to in paragraph 2 (a) of this article. The Council may, by consensus, decide to vary this limit for a specific financial biennium;

(d) The Council may review how the Administrative Account and the voluntary accounts contribute to the efficient and effective operation of the Organization in the context of the evaluation referred to in article 33; and

(e) In assessing contributions, the votes of each member shall be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom.

6. The initial contribution of any member joining the Organization after the entry into force of this Agreement shall be assessed by the Council on the basis of the number of votes to be held by that member and the period remaining in the current financial biennium, but the assessment made upon other members from the current financial biennium shall not thereby be altered.

7. Contributions to the Administrative Account shall become due on the first day of each financial year. Contributions of members in respect of the financial biennium in which they join the Organization shall be due on the date on which they become members.

8. If a member has not paid its full contribution to the Administrative Account within four months after such contribution becomes due in accordance with paragraph 7 of this article, the Executive Director shall request that member to make payment as quickly as possible. If that member has still not paid its contribution within two months after such request, that member shall be requested to state the reasons for its inability to make payment. If at the expiry of seven months from the due date of contribution, that member has still not paid its contribution, its voting rights shall be suspended until such time as it has paid in full its contribution, unless the Council, by special vote in accordance

with article 12, decides otherwise. If a member has not paid its contribution in full for two consecutive years, taking into account the provisions contained in article 30, that member shall become ineligible to submit project or pre-project proposals for funding consideration under article 25, paragraph 1.

9. If a member has paid its full contribution to the Administrative Account within four months after such contribution becomes due in accordance with paragraph 7 of this article, that member's contribution shall receive a discount as may be established by the Council in the financial rules of the Organization.

10. A member whose rights have been suspended under paragraph 8 of this article shall remain liable to pay its contribution.

Article 20. Special account

1. The Special Account shall comprise two sub-accounts:

- (a) The Thematic Programmes Sub-Account; and
- (b) The Project Sub-Account.

2. The possible sources of finance for the Special Account shall be:

- (a) The Common Fund for Commodities;
- (b) Regional and international financial institutions;
- (c) Voluntary contributions from members; and
- (d) Other sources.

3. The Council shall establish criteria and procedures for the transparent operation of the Special Account. Such procedures shall take into account the need for balanced representation among members, including contributing members, in the operation of the Thematic Programmes Sub-Account and the Project Sub-Account.

4. The purpose of the Thematic Programmes Sub-Account shall be to facilitate unearmarked contributions for the financing of approved pre-projects, projects and activities consistent with Thematic Programmes established by the Council on the basis of the policy and project priorities identified in accordance with articles 24 and 25.

5. The donors may allocate their contributions to specific Thematic Programmes or may request the Executive Director to make proposals for allocating their contributions.

6. The Executive Director shall report regularly to the Council on the allocation and expenditure of funds within the Thematic Programmes Sub-Account and on the implementation, monitoring and evaluation of pre-projects, projects and activities and the financial needs for the successful implementation of the Thematic Programmes.

7. The purpose of the Project Sub-Account shall be to facilitate earmarked contributions for the financing of pre-projects, projects and activities approved in accordance with articles 24 and 25.

8. Earmarked contributions to the Project Sub-Account shall be used only for the pre-projects, projects and activities for which they were designated, unless otherwise decided by the donor in consultation with the Executive Director. After the completion or termination of a pre-project, project or activity, the use of any remaining funds shall be decided by the donor.

9. To ensure the necessary predictability of funds for the Special Account, taking into consideration the voluntary nature of contributions, members shall strive to replenish it to attain an adequate resource level to fully carry out the pre-projects, projects and activities approved by Council.

10. All receipts pertaining to specific pre-projects, projects and activities under the Project Sub-Account or the Thematic Programmes Sub-Account shall be brought into the respective Sub-Account. All expenditures incurred on such pre-projects, projects or activities, including remuneration and travel expenses of consultants and experts, shall be charged to the same Sub-Account.

11. No member shall be responsible by reason of its membership in the Organization for any liability arising from any actions by any other member or entity in connection with pre-projects, projects or activities.

12. The Executive Director shall provide assistance in the development of proposals for pre-projects, projects and activities in accordance with articles 24 and 25 and endeavour to seek, on such terms and conditions as the Council may decide, adequate and assured finance for approved pre-projects, projects and activities.

Article 21. The Bali Partnership Fund

1. A Fund for sustainable management of tropical timber producing forests is hereby established to assist producer members to make the investments necessary to achieve the objective of article 1 (d) of this Agreement.

2. The Fund shall be constituted by:

- (a) Contributions from donor members;
- (b) Fifty per cent of income earned as a result of activities related to the Special Account;
- (c) Resources from other private and public sources which the Organization may accept consistent with its financial rules; and
- (d) Other sources approved by the Council.

3. Resources of the Fund shall be allocated by the Council only for pre-projects and projects for the purpose set out in paragraph 1 of this article and that have been approved in accordance with articles 24 and 25.

4. In allocating resources of the Fund, the Council shall establish criteria and priorities for use of the Fund, taking into account:

- (a) The needs of members for assistance in achieving exports of tropical timber and timber products from sustainably managed sources;
- (b) The needs of members to establish and manage significant conservation programmes in timber producing forests; and
- (c) The needs of members to implement sustainable forest management programmes.

5. The Executive Director shall provide assistance in the development of project proposals in accordance with article 25 and endeavour to seek, on such terms and condi-

tions as the Council may decide, adequate and assured finance for projects approved by the Council.

6. Members shall strive to replenish the Bali Partnership Fund to an adequate level to further the objectives of the Fund.

7. The Council shall examine at regular intervals the adequacy of the resources available to the Fund and endeavour to obtain additional resources needed by producer members to achieve the purpose of the Fund.

Article 22. Forms of payment

1. Financial contributions to accounts established under article 18 shall be payable in freely convertible currencies and shall be exempt from foreign-exchange restrictions.

2. The Council may also decide to accept other forms of contributions to the accounts established under article 18, other than the administrative account, including scientific and technical equipment or personnel, to meet the requirements of approved projects.

Article 23. Audit and publications of accounts

1. The Council shall appoint independent auditors for the purpose of auditing the accounts of the Organization.

2. Independently audited statements of the accounts established under article 18 shall be made available to members as soon as possible after the close of each financial year, but not later than six months after that date, and be considered for approval by the Council at its next session, as appropriate. A summary of the audited accounts and balance sheet shall thereafter be published.

CHAPTER VII. OPERATIONAL ACTIVITIES

Article 24. Policy work of the Organization

1. In order to achieve the objectives set out in article 1, the Organization shall undertake policy work and project activities in an integrated manner.

2. The policy work of the Organization should contribute to achieving the objectives of this Agreement for ITTO members broadly.

3. The Council shall establish on a regular basis an action plan to guide policy activities and identify priorities and the thematic programmes referred to in article 20, paragraph 4, of this Agreement. Priorities identified in the action plan shall be reflected in the work programmes approved by the Council. Policy activities may include the development and preparation of guidelines, manuals, studies, reports, basic communication and outreach tools, and similar work identified in the Organization's action plan.

Article 25. Project activities of the Organization

1. Members and the Executive Director may submit pre-project and project proposals which contribute to the achievement of the objectives of this Agreement and one or more of the priority areas for work or thematic programmes identified in the action plan approved by the Council pursuant to article 24.

2. The Council shall establish criteria for approving projects and pre-projects, taking into account inter alia their relevance to the objectives of this Agreement and to priority areas for work or thematic programmes, their environmental and social effects, their relationship to national forest programmes and strategies, their cost effectiveness, technical and regional needs, the need to avoid duplication of efforts, and the need to incorporate lessons learned.

3. The Council shall establish a schedule and procedure for submitting, appraising, approving and prioritizing pre-projects and projects seeking funding from the Organization, as well as for their implementation, monitoring and evaluation.

4. The Executive Director may suspend disbursement of the Organization's funds to a pre-project or project if they are being used contrary to the project document or in cases of fraud, waste, neglect or mismanagement. The Executive Director will provide to the Council at its next session a report for its consideration. The Council shall take appropriate action.

5. The Council may establish, according to agreed criteria, limits on the number of projects and pre-projects that a member or the Executive Director may submit in a given project cycle. The Council may also take appropriate measures, including suspension or termination of its sponsorship of any pre-project or project, following the report of the Executive Director.

Article 26. Committees and subsidiary bodies

1. The following are hereby established as Committees of the Organization, which shall be open to all members:

- (a) Committee on Forest Industry;
- (b) Committee on Economics, Statistics and Markets;
- (c) Committee on Reforestation and Forest Management; and
- (d) Committee on Finance and Administration.

2. The Council may, by special vote in accordance with article 12, establish or dissolve committees and subsidiary bodies as appropriate.

3. The Council shall determine the functioning and scope of work of the committees and other subsidiary bodies. The Committees and other subsidiary bodies shall be responsible to and work under the authority of the Council.

CHAPTER VIII. STATISTICS, STUDIES AND INFORMATION

Article 27. Statistics, studies and information

1. The Council shall authorize the Executive Director to establish and maintain close relationships with relevant intergovernmental, governmental and non-governmental organizations in order to help ensure the availability of recent and reliable data and information, including on production and trade in tropical timber, trends and data discrepancies, as well as relevant information on non-tropical timber and on the management of timber producing forests. As deemed necessary for the operation of this Agreement, the Organization, in cooperation with such organizations, shall compile, collate, analyse and publish such information.

2. The Organization shall contribute to efforts to standardize and harmonize international reporting on forest-related matters, avoiding overlapping and duplication in data collection from different organizations.

3. Members shall, to the fullest extent possible not inconsistent with their national legislation, furnish, within the time specified by the Executive Director, statistics and information on timber, its trade and activities aimed at achieving sustainable management of timber producing forests, as well as other relevant information as requested by the Council. The Council shall decide on the type of information to be provided under this paragraph and on the format in which it is to be presented.

4. Upon request or where necessary, the Council shall endeavour to enhance the technical capacity of member countries, in particular developing member countries, to meet the statistics and reporting requirements under this Agreement.

5. If a member has not furnished, for two consecutive years, the statistics and information required under paragraph 3 and has not sought the assistance of the Executive Director, the Executive Director shall initially request an explanation from that member within a specified time. In the event that no satisfactory explanation is forthcoming, the Council shall take such action as it deems appropriate.

6. The Council shall arrange to have any relevant studies undertaken of the trends and of short and long-term problems of the international timber markets and of the progress towards the achievement of sustainable management of timber producing forests.

Article 28. Annual report and biennial review

1. The Council shall publish an annual report on its activities and such other information as it considers appropriate.

2. The Council shall biennially review and assess:

(a) The international timber situation; and

(b) Other factors, issues and developments considered relevant to achieving the objectives of this Agreement.

3. The review shall be carried out in the light of:

(a) Information supplied by members in relation to national production, trade, supply, stocks, consumption and prices of timber;

(b) Other statistical data and specific indicators provided by members as requested by the Council;

(c) Information supplied by members on their progress towards the sustainable management of their timber-producing forests;

(d) Such other relevant information as may be available to the Council either directly or through the organizations in the United Nations system and intergovernmental, governmental or non-governmental organizations; and

(e) Information supplied by members on their progress towards the establishment of control and information mechanisms regarding illegal harvesting and illegal trade in tropical timber and non-timber forest products.

4. The Council shall promote the exchange of views among member countries regarding:

(a) The status of sustainable management of timber-producing forests and related matters in member countries; and

(b) Resource flows and requirements in relation to objectives, criteria and guidelines set by the Organization.

5. Upon request, the Council shall endeavour to enhance the technical capacity of member countries, in particular developing member countries, to obtain the data necessary for adequate information-sharing, including the provision of resources for training and facilities to members.

6. The results of the review shall be included in the corresponding Council session reports.

CHAPTER IX. MISCELLANEOUS

Article 29. General obligations of Members

1. Members shall, for the duration of this Agreement, use their best endeavours and cooperate to promote the attainment of its objectives and avoid any action contrary thereto.

2. Members undertake to accept and carry out the decisions of the Council under the provisions of this Agreement and shall refrain from implementing measures that would have the effect of limiting or running counter to them.

Article 30. Relief from obligations

1. Where it is necessary on account of exceptional circumstances or emergency or *force majeure* not expressly provided for in this Agreement, the Council may, by special vote in accordance with article 12, relieve a member of an obligation under this Agreement if it is satisfied by an explanation from that member regarding the reasons why the obligation cannot be met.

2. The Council, in granting relief to a member under paragraph 1 of this article, shall state explicitly the terms and conditions on which, and the period for which, the member is relieved of such obligation, and the reasons for which the relief is granted.

Article 31. Complaints and disputes

Any member may bring to the Council any complaint that a member has failed to fulfil its obligations under this Agreement and any dispute concerning the interpretation or application of this Agreement. Decisions by the Council on these matters shall be taken by consensus, notwithstanding any other provision of this Agreement, and be final and binding.

Article 32. Differential and remedial measures and special measures

1. Consumer members that are developing countries whose interests are adversely affected by measures taken under this Agreement may apply to the Council for appropriate differential and remedial measures. The Council shall consider taking appropriate meas-

ures in accordance with section III, paragraphs 3 and 4, of resolution 93 (IV) of the United Nations Conference on Trade and Development.

2. Members in the category of least developed countries as defined by the United Nations may apply to the Council for special measures in accordance with section III, paragraph 4, of resolution 93 (IV) and with paragraphs 56 and 57 of the Paris Declaration and Programme of Action for the Least Developed Countries for the 1990s.

Article 33. Review

The Council may evaluate the implementation of this Agreement, including the objectives and financial mechanisms, five years after its entry into force.

Article 34. Non-discrimination

Nothing in this Agreement authorizes the use of measures to restrict or ban international trade in, and in particular as they concern imports of, and utilization of, timber and timber products.

CHAPTER X. FINAL PROVISIONS

Article 35. Depositary

The Secretary-General of the United Nations is hereby designated as the depositary of this Agreement.

Article 36. Signature, ratification, acceptance and approval

1. This Agreement shall be open for signature, at United Nations Headquarters from 3 April 2006 until one month after the date of its entry into force, by Governments invited to the United Nations Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1994.

2. Any Government referred to in paragraph 1 of this article may:

(a) At the time of signing this Agreement, declare that by such signature it expresses its consent to be bound by this Agreement (definitive signature); or

(b) After signing this Agreement, ratify, accept or approve it by the deposit of an instrument to that effect with the depositary.

3. Upon signature and ratification, acceptance or approval, or accession, or provisional application, the European Community or any intergovernmental organization referred to in article 5, paragraph 1, shall deposit a declaration issued by the appropriate authority of such organization specifying the nature and extent of its competence over matters governed by this Agreement, and shall inform the depositary of any subsequent substantial change in such competence. Where such organization declares exclusive competence over all matters governed by this Agreement, the member States of such organization shall not take the actions under article 36, paragraph 2, article 37 and article 38, or shall take the action under article 41 or withdraw notification of provisional application under article 38.

Article 37. Accession

1. This Agreement shall be open for accession by Governments upon conditions established by the Council, which shall include a time-limit for the deposit of instruments of accession. These conditions shall be transmitted by the Council to the Depositary. The Council may, however, grant extensions of time to Governments which are unable to accede by the time-limit set in the conditions of accession.

2. Accession shall be effected by the deposit of an instrument of accession with the depositary.

Article 38. Notification of provisional application

A signatory Government which intends to ratify, accept or approve this Agreement, or a Government for which the Council has established conditions for accession but which has not yet been able to deposit its instrument may, at any time, notify the depositary that it will apply this Agreement provisionally in accordance with its laws and regulations, either when it enters into force in accordance with article 39 or, if it is already in force, at a specified date.

Article 39. Entry into force

1. This Agreement shall enter into force definitively on 1 February 2008 or on any date thereafter, if 12 Governments of producers holding at least 60 per cent of the total votes as set out in Annex A to this Agreement and 10 Governments of consumers as listed in Annex B and accounting for 60 per cent of the global import volume of tropical timber in the reference year 2005 have signed this Agreement definitively or have ratified, accepted or approved it pursuant to article 36, paragraph 2, or article 37.

2. If this Agreement has not entered into force definitively on 1 February 2008, it shall enter into force provisionally on that date or on any date within six months thereafter if 10 Governments of producers holding at least 50 per cent of the total votes as set out in Annex A to this Agreement and seven Governments of consumers as listed in Annex B and accounting for 50 per cent of the global import volume of tropical timber in the reference year 2005 have signed this Agreement definitively or have ratified, accepted or approved it pursuant to article 36, paragraph 2, or have notified the depositary under article 38 that they will apply this Agreement provisionally.

3. If the requirements for entry into force under paragraph 1 or paragraph 2 of this article have not been met on 1 September 2008, the Secretary-General of the United Nations shall invite those Governments which have signed this Agreement definitively or have ratified, accepted or approved it pursuant to article 36, paragraph 2, or have notified the depositary that they will apply this Agreement provisionally, to meet at the earliest time practicable to decide whether to put this Agreement into force provisionally or definitively among themselves in whole or in part. Governments which decide to put this Agreement into force provisionally among themselves may meet from time to time to review the situation and decide whether this Agreement shall enter into force definitively among themselves.

4. For any Government which has not notified the depositary under article 38 that it will apply this Agreement provisionally and which deposits its instrument of ratification,

acceptance, approval or accession after the entry into force of this Agreement, this Agreement shall enter into force on the date of such deposit.

5. The Executive Director of the Organization shall convene the Council as soon as possible after the entry into force of this Agreement.

Article 40. Amendments

1. The Council may, by special vote in accordance with article 12, recommend an amendment of this Agreement to members.

2. The Council shall fix a date by which members shall notify the depositary of their acceptance of the amendment.

3. An amendment shall enter into force 90 days after the depositary has received notifications of acceptance from members constituting at least two thirds of the producer members and accounting for at least 75 per cent of the votes of the producer members, and from members constituting at least two thirds of the consumer members and accounting for at least 75 per cent of the votes of the consumer members.

4. After the depositary informs the Council that the requirements for entry into force of the amendment have been met, and notwithstanding the provisions of paragraph 2 of this article relating to the date fixed by the Council, a member may still notify the depositary of its acceptance of the amendment, provided that such notification is made before the entry into force of the amendment.

5. Any member which has not notified its acceptance of an amendment by the date on which such amendment enters into force shall cease to be a party to this Agreement as from that date, unless such member has satisfied the Council that its acceptance could not be obtained in time owing to difficulties in completing its constitutional or institutional procedures and the Council decides to extend for that member the period for acceptance of the amendment. Such member shall not be bound by the amendment before it has notified its acceptance thereof.

6. If the requirements for the entry into force of the amendment have not been met by the date fixed by the Council in accordance with paragraph 2 of this article, the amendment shall be considered withdrawn.

Article 41. Withdrawal

1. A member may withdraw from this Agreement at any time after the entry into force of the Agreement by giving written notice of withdrawal to the depositary. That member shall simultaneously inform the Council of the action it has taken.

2. Withdrawal shall become effective 90 days after the notice is received by the depositary.

3. Financial obligations to the Organization incurred by a member under this Agreement shall not be terminated by its withdrawal.

Article 42. Exclusion

If the Council decides that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of

this Agreement, it may, by special vote in accordance with article 12, exclude that member from this Agreement. The Council shall immediately so notify the depositary. Six months after the date of the Council's decision, that member shall cease to be a party to this Agreement.

Article 43. Settlements of accounts with withdrawing of excluded Members or Members unable to accept amendment

1. The Council shall determine any settlement of accounts with a member that ceases to be a party to this Agreement owing to:

- (a) Non-acceptance of an amendment to this Agreement under article 40;
- (b) Withdrawal from this Agreement under article 41; or
- (c) Exclusion from this Agreement under article 42.

2. The Council shall retain any assessments or contributions paid to the financial accounts established under article 18 by a member that ceases to be a party to this Agreement.

3. A member that has ceased to be a party to this Agreement shall not be entitled to any share of the proceeds of liquidation or the other assets of the Organization. Nor shall such member be liable for payment of any part of the deficit, if any, of the Organization upon termination of this Agreement.

Article 44. Duration, extension and termination

1. This Agreement shall remain in force for a period of 10 years after its entry into force unless the Council, by special vote in accordance with article 12, decides to extend, renegotiate or terminate it in accordance with the provisions of this article.

2. The Council may, by special vote in accordance with article 12, decide to extend this Agreement for two periods, an initial period of five years and an additional one of three years.

3. If, before the expiry of the 10-year period referred to in paragraph 1 of this article, or before the expiry of an extension period referred to in paragraph 2 of this article, as the case may be, the new Agreement to replace this Agreement has been negotiated but has not yet entered into force either definitively or provisionally, the Council may, by special vote in accordance with article 12, extend this Agreement until the provisional or definitive entry into force of the new Agreement.

4. If the new Agreement is negotiated and enters into force during any period of extension of this Agreement under paragraph 2 or paragraph 3 of this article, this Agreement, as extended, shall terminate upon the entry into force of the new Agreement.

5. The Council may at any time, by special vote in accordance with article 12, decide to terminate this Agreement with effect from such date as it may determine.

6. Notwithstanding the termination of this Agreement, the Council shall continue in being for a period not exceeding 18 months to carry out the liquidation of the Organization, including the settlement of accounts, and, subject to relevant decisions to be taken by special vote in accordance with article 12, shall have during that period such powers and functions as may be necessary for these purposes.

7. The Council shall notify the depositary of any decision taken under this article.

Article 45. Reservations

Reservations may not be made with respect to any of the provisions of this Agreement.

Article 46. Supplementary and transitional provisions

1. This Agreement shall be the successor to the International Tropical Timber Agreement, 1994.

2. All acts by or on behalf of the Organization or any of its organs under the International Tropical Timber Agreement, 1983, and/or the International Tropical Timber Agreement, 1994, which are in effect on the date of entry into force of this Agreement and the terms of which do not provide for expiry on that date shall remain in effect unless changed under the provisions of this Agreement.

Done at Geneva on 27 January 2006, the texts of this Agreement in the Arabic, Chinese, English, French, Russian and Spanish languages being equally authentic.

ANNEX A

LIST OF GOVERNMENTS ATTENDING THE UNITED NATIONS CONFERENCE FOR THE NEGOTIATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL TIMBER AGREEMENT, 1994 THAT ARE POTENTIAL PRODUCER MEMBERS AS DEFINED IN ARTICLE 2 (DEFINITIONS) AND INDICATIVE ALLOCATION OF VOTES AS PER ARTICLE 10 (DISTRIBUTION OF VOTES)

Members	Total votes
AFRICA	249
Angola	18
Benin	17
Cameroon*	18
Central African Republic*	18
Côte d'Ivoire*	18
Democratic Republic of the Congo*	18
Gabon*	18
Ghana*	18
Liberia*	18
Madagascar	18
Nigeria*	18
Republic of Congo*	18
Rwanda	17
Togo*	17
ASIA-PACIFIC	389
Cambodia*	15
Fiji*	14
India*	22
Indonesia*	131
Malaysia*	105
Myanmar*	33
Papua New Guinea*	25
Philippines*	14
LATIN AMERICA AND THE CARIBBEAN	362
Barbados	7
Bolivia*	19
Brazil*	157
Colombia*	19
Costa Rica	7
Dominican Republic	7
Ecuador*	11
Guatemala*	8
Guyana*	12
Haiti	7
Honduras*	8
Mexico*	15
Nicaragua	8
Panama*	8
Paraguay	10
Peru*	24
Suriname*	10
Trinidad & Tobago*	7
Venezuela*	18
TOTAL:	1000

ANNEX B

LIST OF GOVERNMENTS ATTENDING THE UNITED NATIONS CONFERENCE FOR THE
 NEGOTIATION OF A SUCCESSOR AGREEMENT TO THE INTERNATIONAL TROPICAL
 TIMBER AGREEMENT, 1994 THAT ARE POTENTIAL CONSUMER MEMBERS
 AS DEFINED IN ARTICLE 2 (DEFINITIONS)

Albania
 Algeria
 Australia*
 Canada*
 China*
 Egypt*
 European Community*
 Austria*
 Belgium*
 Czech Republic
 Estonia
 Finland*
 France*
 Germany*
 Greece*
 Ireland*
 Italy*
 Lithuania
 Luxembourg*
 Netherlands*
 Poland
 Portugal*
 Slovakia
 Spain*
 Sweden*
 United Kingdom of Great Britain
 and Northern Ireland*
 Iran (Islamic Republic of)
 Iraq
 Japan*
 Lesotho
 Libyan Arab Jamahiriya
 Morocco
 Nepal*
 New Zealand*
 Norway*
 Republic of Korea*
 Switzerland*
 United States of America*

* Member of the International Tropical Timber Agreement, 1994

2. CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES*

PREAMBLE

The States Parties to the present Convention,

(a) *Recalling* the principles proclaimed in the Charter of the United Nations which recognize the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world,

(b) *Recognizing* that the United Nations, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, has proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,

(c) *Reaffirming* the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and the need for persons with disabilities to be guaranteed their full enjoyment without discrimination,

(d) *Recalling* the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

(e) *Recognizing* that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others,

(f) *Recognizing* the importance of the principles and policy guidelines contained in the World Programme of Action concerning Disabled Persons and in the Standard Rules on the Equalization of Opportunities for Persons with Disabilities in influencing the promotion, formulation and evaluation of the policies, plans, programmes and actions at the national, regional and international levels to further equalize opportunities for persons with disabilities,

(g) *Emphasizing* the importance of mainstreaming disability issues as an integral part of relevant strategies of sustainable development,

(h) *Recognizing also* that discrimination against any person on the basis of disability is a violation of the inherent dignity and worth of the human person,

(i) *Recognizing further* the diversity of persons with disabilities,

(j) *Recognizing* the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,

(k) *Concerned* that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,

* Adopted at the seventy-sixth plenary meeting of the General Assembly by resolution 61/106 of 13 December 2006.

(l) *Recognizing* the importance of international cooperation for improving the living conditions of persons with disabilities in every country, particularly in developing countries,

(m) *Recognizing* the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,

(n) *Recognizing* the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,

(o) *Considering* that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,

(p) *Concerned* about the difficult conditions faced by persons with disabilities who are subject to multiple or aggravated forms of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national, ethnic, indigenous or social origin, property, birth, age or other status,

(q) *Recognizing* that women and girls with disabilities are often at greater risk, both within and outside the home, of violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,

(r) *Recognizing* that children with disabilities should have full enjoyment of all human rights and fundamental freedoms on an equal basis with other children, and recalling obligations to that end undertaken by States Parties to the Convention on the Rights of the Child,

(s) *Emphasizing* the need to incorporate a gender perspective in all efforts to promote the full enjoyment of human rights and fundamental freedoms by persons with disabilities,

(t) *Highlighting* the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,

(u) *Bearing in mind* that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with disabilities, in particular during armed conflicts and foreign occupation,

(v) *Recognizing* the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully enjoy all human rights and fundamental freedoms,

(w) *Realizing* that the individual, having duties to other individuals and to the community to which he or she belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the International Bill of Human Rights,

(x) *Convinced* that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,

(y) *Convinced* that a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, in both developing and developed countries,

Have agreed as follows:

Article 1. Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Article 2. Definitions

For the purposes of the present Convention:

“Communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

“Language” includes spoken and signed languages and other forms of non spoken languages;

“Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

“Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

“Universal design” means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. “Universal design” shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Article 3. General principles

The principles of the present Convention shall be:

- (a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;
- (c) Full and effective participation and inclusion in society;
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Equality between men and women;
- (h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 4. General obligations

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:

- (a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
- (b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- (c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
- (d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
- (e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
- (f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
- (g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;

(h) To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;

(i) To promote the training of professionals and staff working with persons with disabilities in the rights recognized in the present Convention so as to better provide the assistance and services guaranteed by those rights.

2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.

3. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.

5. The provisions of the present Convention shall extend to all parts of federal States without any limitations or exceptions.

Article 5. Equality and non-discrimination

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

Article 6. Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Article 7. Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Article 8. Awareness-raising

1. States Parties undertake to adopt immediate, effective and appropriate measures:

(a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;

(b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;

(c) To promote awareness of the capabilities and contributions of persons with disabilities.

2. Measures to this end include:

(a) Initiating and maintaining effective public awareness campaigns designed:

(i) To nurture receptiveness to the rights of persons with disabilities;

(ii) To promote positive perceptions and greater social awareness towards persons with disabilities;

(iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;

(b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;

(c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;

(d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

Article 9. Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with

disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

(b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures:

(a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;

(b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

(c) To provide training for stakeholders on accessibility issues facing persons with disabilities;

(d) To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

(e) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;

(f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;

(g) To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

(h) To promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Article 10. Right to life

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

Article 11. Situations of risk and humanitarian emergencies

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

Article 12. Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

Article 13. Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.
2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Article 14. Liberty and security of person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:
 - (a) Enjoy the right to liberty and security of person;
 - (b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.
2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with

the objectives and principles of the present Convention, including by provision of reasonable accommodation.

Article 15. Freedom from torture or cruel, inhuman or degrading treatment or punishment

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

Article 16. Freedom from exploitation, violence and abuse

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age-, gender- and disability-sensitive.

3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

Article 17. Protecting the integrity of the person

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

Article 18. Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:

(a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;

(b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;

(c) Are free to leave any country, including their own;

(d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.

2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

Article 19. Living independently and being included in the community

States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

(a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

(b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;

(c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 20. Personal mobility

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

(a) Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;

(b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;

(c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;

(d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

Article 21. Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;

(b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;

(c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;

(d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;

(e) Recognizing and promoting the use of sign languages.

Article 22. Respect for privacy

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.

2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

Article 23. Respect for home and the family

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

(a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;

(b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information,

reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

(c) Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

Article 24. Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

(a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

(b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

(c) Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that:

(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

(c) Reasonable accommodation of the individual's requirements is provided;

(d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

(a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;

(b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

(c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

Article 25. Health

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

(a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;

(b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;

(c) Provide these health services as close as possible to people's own communities, including in rural areas;

(d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

(e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

(f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

Article 26. Habilitation and rehabilitation

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

(a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;

(b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.

2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.

3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

Article 27. Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

(a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;

(b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remunera-

tion for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;

(c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;

(d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

(e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

(f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

(g) Employ persons with disabilities in the public sector;

(h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;

(i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

(j) Promote the acquisition by persons with disabilities of work experience in the open labour market;

(k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

Article 28. Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

(a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;

(b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;

- (c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
- (d) To ensure access by persons with disabilities to public housing programmes;
- (e) To ensure equal access by persons with disabilities to retirement benefits and programmes.

Article 29. Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake:

(a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:

- (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
- (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
- (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

(b) To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:

- (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
- (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

Article 30. Participation in cultural life, recreation, leisure and sport

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

- (a) Enjoy access to cultural materials in accessible formats;
- (b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;
- (c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:

(a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

(b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;

(c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;

(d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;

(e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

Article 31. Statistics and data collection

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention. The process of collecting and maintaining this information shall:

(a) Comply with legally established safeguards, including legislation on data protection, to ensure confidentiality and respect for the privacy of persons with disabilities;

(b) Comply with internationally accepted norms to protect human rights and fundamental freedoms and ethical principles in the collection and use of statistics.

2. The information collected in accordance with this article shall be disaggregated, as appropriate, and used to help assess the implementation of States Parties' obligations under the present Convention and to identify and address the barriers faced by persons with disabilities in exercising their rights.

3. States Parties shall assume responsibility for the dissemination of these statistics and ensure their accessibility to persons with disabilities and others.

Article 32. International cooperation

1. States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:

(a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;

(b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;

(c) Facilitating cooperation in research and access to scientific and technical knowledge;

(d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.

2. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.

Article 33. National implementation and monitoring

1. States Parties, in accordance with their system of organization, shall designate one or more focal points within government for matters relating to the implementation of the present Convention, and shall give due consideration to the establishment or designation of a coordination mechanism within government to facilitate related action in different sectors and at different levels.

2. States Parties shall, in accordance with their legal and administrative systems, maintain, strengthen, designate or establish within the State Party, a framework, including one or more independent mechanisms, as appropriate, to promote, protect and monitor implementation of the present Convention. When designating or establishing such a mechanism, States Parties shall take into account the principles relating to the status and functioning of national institutions for protection and promotion of human rights.

3. Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

Article 34. Committee on the Rights of Persons with Disabilities

1. There shall be established a Committee on the Rights of Persons with Disabilities (hereafter referred to as “the Committee”), which shall carry out the functions hereinafter provided.

2. The Committee shall consist, at the time of entry into force of the present Convention, of twelve experts. After an additional sixty ratifications or accessions to the Convention, the membership of the Committee shall increase by six members, attaining a maximum number of eighteen members.

3. The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence and experience in the field covered by the present Convention. When nominating their candidates, States Parties are invited to give due consideration to the provision set out in article 4, paragraph 3, of the present Convention.

4. The members of the Committee shall be elected by States Parties, consideration being given to equitable geographical distribution, representation of the different forms of civilization and of the principal legal systems, balanced gender representation and participation of experts with disabilities.

5. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties from among their nationals at meetings of the Conference of States Parties. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

6. The initial election shall be held no later than six months after the date of entry into force of the present Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit the nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating the State Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

7. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of six of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these six members shall be chosen by lot by the chairperson of the meeting referred to in paragraph 5 of this article.

8. The election of the six additional members of the Committee shall be held on the occasion of regular elections, in accordance with the relevant provisions of this article.

9. If a member of the Committee dies or resigns or declares that for any other cause she or he can no longer perform her or his duties, the State Party which nominated the member shall appoint another expert possessing the qualifications and meeting the requirements set out in the relevant provisions of this article, to serve for the remainder of the term.

10. The Committee shall establish its own rules of procedure.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention, and shall convene its initial meeting.

12. With the approval of the General Assembly of the United Nations, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

13. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 35. Reports by States Parties

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a comprehensive report on measures taken to give effect to its obligations under the present Convention and on the progress made in that regard, within two years after the entry into force of the present Convention for the State Party concerned.

2. Thereafter, States Parties shall submit subsequent reports at least every four years and further whenever the Committee so requests.

3. The Committee shall decide any guidelines applicable to the content of the reports.

4. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports, repeat information previously provided. When preparing reports to the Committee, States Parties are invited to consider doing so in an open and transparent process and to give due consideration to the provision set out in article 4, paragraph 3, of the present Convention.

5. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 36. Consideration of reports

1. Each report shall be considered by the Committee, which shall make such suggestions and general recommendations on the report as it may consider appropriate and shall forward these to the State Party concerned. The State Party may respond with any information it chooses to the Committee. The Committee may request further information from States Parties relevant to the implementation of the present Convention.

2. If a State Party is significantly overdue in the submission of a report, the Committee may notify the State Party concerned of the need to examine the implementation of the present Convention in that State Party, on the basis of reliable information available to the Committee, if the relevant report is not submitted within three months following the notification. The Committee shall invite the State Party concerned to participate in such examination. Should the State Party respond by submitting the relevant report, the provisions of paragraph 1 of this article will apply.

3. The Secretary-General of the United Nations shall make available the reports to all States Parties.

4. States Parties shall make their reports widely available to the public in their own countries and facilitate access to the suggestions and general recommendations relating to these reports.

5. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, funds and programmes of the United Nations, and other competent bodies, reports from States Parties in order to address a request or indication of a need for technical advice or assistance contained therein, along with the Committee's observations and recommendations, if any, on these requests or indications.

Article 37. Cooperation between States Parties and the Committee

1. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate.

2. In its relationship with States Parties, the Committee shall give due consideration to ways and means of enhancing national capacities for the implementation of the present Convention, including through international cooperation.

Article 38. Relationship of the Committee with other bodies

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

(a) The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee, as it discharges its mandate, shall consult, as appropriate, other relevant bodies instituted by international human rights treaties, with a view to ensuring the consistency of their respective reporting guidelines, suggestions and general recommendations, and avoiding duplication and overlap in the performance of their functions.

Article 39. Report of the Committee

The Committee shall report every two years to the General Assembly and to the Economic and Social Council on its activities, and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

Article 40. Conference of States Parties

1. The States Parties shall meet regularly in a Conference of States Parties in order to consider any matter with regard to the implementation of the present Convention.

2. No later than six months after the entry into force of the present Convention, the Conference of States Parties shall be convened by the Secretary-General of the United Nations. The subsequent meetings shall be convened by the Secretary-General biennially or upon the decision of the Conference of States Parties.

Article 41. Depositary

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

Article 42. Signature

The present Convention shall be open for signature by all States and by regional integration organizations at United Nations Headquarters in New York as of 30 March 2007.

Article 43. Consent to be bound

The present Convention shall be subject to ratification by signatory States and to formal confirmation by signatory regional integration organizations. It shall be open for accession by any State or regional integration organization which has not signed the Convention.

Article 44. Regional integration organizations

1. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the present Convention. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the present Convention. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to “States Parties” in the present Convention shall apply to such organizations within the limits of their competence.

3. For the purposes of article 45, paragraph 1, and article 47, paragraphs 2 and 3, of the present Convention, any instrument deposited by a regional integration organization shall not be counted.

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

Article 45. Entry into force

1. The present Convention shall enter into force on the thirtieth day after the deposit of the twentieth instrument of ratification or accession.

2. For each State or regional integration organization ratifying, formally confirming or acceding to the present Convention after the deposit of the twentieth such instrument, the Convention shall enter into force on the thirtieth day after the deposit of its own such instrument.

Article 46. Reservations

1. Reservations incompatible with the object and purpose of the present Convention shall not be permitted.

2. Reservations may be withdrawn at any time.

Article 47. Amendments

1. Any State Party may propose an amendment to the present Convention and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a conference of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly of the United Nations for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

3. If so decided by the Conference of States Parties by consensus, an amendment adopted and approved in accordance with paragraph 1 of this article which relates exclusively to articles 34, 38, 39 and 40 shall enter into force for all States Parties on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

Article 48. Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

Article 49. Accessible format

The text of the present Convention shall be made available in accessible formats.

Article 50. Authentic texts

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Convention shall be equally authentic.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

3. OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF PERSONS
WITH DISABILITIES*

The States Parties to the present Protocol have agreed as follows:

Article 1

1. A State Party to the present Protocol (“State Party”) recognizes the competence of the Committee on the Rights of Persons with Disabilities (“the Committee”) to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.

2. No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

Article 2

The Committee shall consider a communication inadmissible when:

- (a) The communication is anonymous;
- (b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention;
- (c) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;
- (d) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;
- (e) It is manifestly ill-founded or not sufficiently substantiated; or when
- (f) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State Party concerned unless those facts continued after that date.

Article 3

Subject to the provisions of article 2 of the present Protocol, the Committee shall bring any communications submitted to it confidentially to the attention of the State Party. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 4

1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may

* Adopted at the seventy-sixth plenary meeting of the General Assembly by resolution 61/106 of 13 December 2006.

be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation.

2. Where the Committee exercises its discretion under paragraph 1 of this article, this does not imply a determination on admissibility or on the merits of the communication.

Article 5

The Committee shall hold closed meetings when examining communications under the present Protocol. After examining a communication, the Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

Article 6

1. If the Committee receives reliable information indicating grave or systematic violations by a State Party of rights set forth in the Convention, the Committee shall invite that State Party to cooperate in the examination of the information and to this end submit observations with regard to the information concerned.

2. Taking into account any observations that may have been submitted by the State Party concerned as well as any other reliable information available to it, the Committee may designate one or more of its members to conduct an inquiry and to report urgently to the Committee. Where warranted and with the consent of the State Party, the inquiry may include a visit to its territory.

3. After examining the findings of such an inquiry, the Committee shall transmit these findings to the State Party concerned together with any comments and recommendations.

4. The State Party concerned shall, within six months of receiving the findings, comments and recommendations transmitted by the Committee, submit its observations to the Committee.

5. Such an inquiry shall be conducted confidentially and the cooperation of the State Party shall be sought at all stages of the proceedings.

Article 7

1. The Committee may invite the State Party concerned to include in its report under article 35 of the Convention details of any measures taken in response to an inquiry conducted under article 6 of the present Protocol.

2. The Committee may, if necessary, after the end of the period of six months referred to in article 6, paragraph 4, invite the State Party concerned to inform it of the measures taken in response to such an inquiry.

Article 8

Each State Party may, at the time of signature or ratification of the present Protocol or accession thereto, declare that it does not recognize the competence of the Committee provided for in articles 6 and 7.

Article 9

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

Article 10

The present Protocol shall be open for signature by signatory States and regional integration organizations of the Convention at United Nations Headquarters in New York as of 30 March 2007.

Article 11

The present Protocol shall be subject to ratification by signatory States of the present Protocol which have ratified or acceded to the Convention. It shall be subject to formal confirmation by signatory regional integration organizations of the present Protocol which have formally confirmed or acceded to the Convention. It shall be open for accession by any State or regional integration organization which has ratified, formally confirmed or acceded to the Convention and which has not signed the Protocol.

Article 12

1. “Regional integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by the Convention and the present Protocol. Such organizations shall declare, in their instruments of formal confirmation or accession, the extent of their competence with respect to matters governed by the Convention and the present Protocol. Subsequently, they shall inform the depositary of any substantial modification in the extent of their competence.

2. References to “States Parties” in the present Protocol shall apply to such organizations within the limits of their competence.

3. For the purposes of article 13, paragraph 1, and article 15, paragraph 2, of the present Protocol, any instrument deposited by a regional integration organization shall not be counted.

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

Article 13

1. Subject to the entry into force of the Convention, the present Protocol shall enter into force on the thirtieth day after the deposit of the tenth instrument of ratification or accession.

2. For each State or regional integration organization ratifying, formally confirming or acceding to the present Protocol after the deposit of the tenth such instrument, the Protocol shall enter into force on the thirtieth day after the deposit of its own such instrument.

Article 14

1. Reservations incompatible with the object and purpose of the present Protocol shall not be permitted.
2. Reservations may be withdrawn at any time.

Article 15

1. Any State Party may propose an amendment to the present Protocol and submit it to the Secretary-General of the United Nations. The Secretary-General shall communicate any proposed amendments to States Parties, with a request to be notified whether they favour a meeting of States Parties for the purpose of considering and deciding upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a meeting, the Secretary-General shall convene the meeting under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States Parties present and voting shall be submitted by the Secretary-General to the General Assembly of the United Nations for approval and thereafter to all States Parties for acceptance.

2. An amendment adopted and approved in accordance with paragraph 1 of this article shall enter into force on the thirtieth day after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment. Thereafter, the amendment shall enter into force for any State Party on the thirtieth day following the deposit of its own instrument of acceptance. An amendment shall be binding only on those States Parties which have accepted it.

Article 16

A State Party may denounce the present Protocol by written notification to the Secretary-General of the United Nations. The denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

Article 17

The text of the present Protocol shall be made available in accessible formats.

Article 18

The Arabic, Chinese, English, French, Russian and Spanish texts of the present Protocol shall be equally authentic.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Protocol.

4. INTERNATIONAL CONVENTION FOR THE PROTECTION OF ALL PERSONS FROM
ENFORCED DISAPPEARANCE*

Preamble

The States Parties to this Convention,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms,

Having regard to the Universal Declaration of Human Rights,

Recalling the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the other relevant international instruments in the fields of human rights, humanitarian law and international criminal law,

Also recalling the Declaration on the Protection of All Persons from Enforced Disappearance adopted by the General Assembly of the United Nations in its resolution 47/133 of 18 December 1992,

Aware of the extreme seriousness of enforced disappearance, which constitutes a crime and, in certain circumstances defined in international law, a crime against humanity,

Determined to prevent enforced disappearances and to combat impunity for the crime of enforced disappearance,

Considering the right of any person not to be subjected to enforced disappearance, the right of victims to justice and to reparation,

Affirming the right of any victim to know the truth about the circumstances of an enforced disappearance and the fate of the disappeared person, and the right to freedom to seek, receive and impart information to this end,

Have agreed on the following articles:

PART I

Article 1

1. No one shall be subjected to enforced disappearance.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.

Article 2

For the purposes of this Convention, “enforced disappearance” is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.

* Adopted at the eighty-second plenary meeting of the General Assembly by resolution 61/177 of 20 December 2006.

Article 3

Each State Party shall take appropriate measures to investigate acts defined in article 2 committed by persons or groups of persons acting without the authorization, support or acquiescence of the State and to bring those responsible to justice.

Article 4

Each State Party shall take the necessary measures to ensure that enforced disappearance constitutes an offence under its criminal law.

Article 5

The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.

Article 6

1. Each State Party shall take the necessary measures to hold criminally responsible at least:

(a) Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;

(b) A superior who:

(i) Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;

(ii) Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and

(iii) Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution;

(c) Subparagraph (b) above is without prejudice to the higher standards of responsibility applicable under relevant international law to a military commander or to a person effectively acting as a military commander.

2. No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance.

Article 7

1. Each State Party shall make the offence of enforced disappearance punishable by appropriate penalties which take into account its extreme seriousness.

2. Each State Party may establish:

(a) Mitigating circumstances, in particular for persons who, having been implicated in the commission of an enforced disappearance, effectively contribute to bringing the disappeared person forward alive or make it possible to clarify cases of enforced disappearance or to identify the perpetrators of an enforced disappearance;

(b) Without prejudice to other criminal procedures, aggravating circumstances, in particular in the event of the death of the disappeared person or the commission of an enforced disappearance in respect of pregnant women, minors, persons with disabilities or other particularly vulnerable persons.

Article 8

Without prejudice to article 5,

1. A State Party which applies a statute of limitations in respect of enforced disappearance shall take the necessary measures to ensure that the term of limitation for criminal proceedings:

(a) Is of long duration and is proportionate to the extreme seriousness of this offence;

(b) Commences from the moment when the offence of enforced disappearance ceases, taking into account its continuous nature.

2. Each State Party shall guarantee the right of victims of enforced disappearance to an effective remedy during the term of limitation.

Article 9

1. Each State Party shall take the necessary measures to establish its competence to exercise jurisdiction over the offence of enforced disappearance:

(a) When the offence is committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is one of its nationals;

(c) When the disappeared person is one of its nationals and the State Party considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its competence to exercise jurisdiction over the offence of enforced disappearance when the alleged offender is present in any territory under its jurisdiction, unless it extradites or surrenders him or her to another State in accordance with its international obligations or surrenders him or her to an international criminal tribunal whose jurisdiction it has recognized.

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

Article 10

1. Upon being satisfied, after an examination of the information available to it, that the circumstances so warrant, any State Party in whose territory a person suspected of having committed an offence of enforced disappearance is present shall take him or her into custody or take such other legal measures as are necessary to ensure his or her presence. The custody and other legal measures shall be as provided for in the law of that State Party but may be maintained only for such time as is necessary to ensure the person's presence at criminal, surrender or extradition proceedings.

2. A State Party which has taken the measures referred to in paragraph 1 of this article shall immediately carry out a preliminary inquiry or investigations to establish the facts. It shall notify the States Parties referred to in article 9, paragraph 1, of the measures it has taken in pursuance of paragraph 1 of this article, including detention and the circumstances warranting detention, and of the findings of its preliminary inquiry or its investigations, indicating whether it intends to exercise its jurisdiction.

3. Any person in custody pursuant to paragraph 1 of this article may communicate immediately with the nearest appropriate representative of the State of which he or she is a national, or, if he or she is a stateless person, with the representative of the State where he or she usually resides.

Article 11

1. The State Party in the territory under whose jurisdiction a person alleged to have committed an offence of enforced disappearance is found shall, if it does not extradite that person or surrender him or her to another State in accordance with its international obligations or surrender him or her to an international criminal tribunal whose jurisdiction it has recognized, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State Party. In the cases referred to in article 9, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 9, paragraph 1.

3. Any person against whom proceedings are brought in connection with an offence of enforced disappearance shall be guaranteed fair treatment at all stages of the proceedings. Any person tried for an offence of enforced disappearance shall benefit from a fair trial before a competent, independent and impartial court or tribunal established by law.

Article 12

1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given.

2. Where there are reasonable grounds for believing that a person has been subjected to enforced disappearance, the authorities referred to in paragraph 1 of this article shall undertake an investigation, even if there has been no formal complaint.

3. Each State Party shall ensure that the authorities referred to in paragraph 1 of this article:

(a) Have the necessary powers and resources to conduct the investigation effectively, including access to the documentation and other information relevant to their investigation;

(b) Have access, if necessary with the prior authorization of a judicial authority, which shall rule promptly on the matter, to any place of detention or any other place where there are reasonable grounds to believe that the disappeared person may be present.

4. Each State Party shall take the necessary measures to prevent and sanction acts that hinder the conduct of an investigation. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation.

Article 13

1. For the purposes of extradition between States Parties, the offence of enforced disappearance shall not be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition based on such an offence may not be refused on these grounds alone.

2. The offence of enforced disappearance shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties before the entry into force of this Convention.

3. States Parties undertake to include the offence of enforced disappearance as an extraditable offence in any extradition treaty subsequently to be concluded between them.

4. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the necessary legal basis for extradition in respect of the offence of enforced disappearance.

5. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offence of enforced disappearance as an extraditable offence between themselves.

6. Extradition shall, in all cases, be subject to the conditions provided for by the law of the requested State Party or by applicable extradition treaties, including, in particular, conditions relating to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition or make it subject to certain conditions.

7. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin, political opinions or membership of a particular social group, or that compliance with the request would cause harm to that person for any one of these reasons.

Article 14

1. States Parties shall afford one another the greatest measure of mutual legal assistance in connection with criminal proceedings brought in respect of an offence of enforced disappearance, including the supply of all evidence at their disposal that is necessary for the proceedings.

2. Such mutual legal assistance shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable treaties on mutual legal assistance, including, in particular, the conditions in relation to the grounds upon which the requested State Party may refuse to grant mutual legal assistance or may make it subject to conditions.

Article 15

States Parties shall cooperate with each other and shall afford one another the greatest measure of mutual assistance with a view to assisting victims of enforced disappearance, and in searching for, locating and releasing disappeared persons and, in the event of death, in exhuming and identifying them and returning their remains.

Article 16

1. No State Party shall expel, return (“refouler”), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law.

Article 17

1. No one shall be held in secret detention.

2. Without prejudice to other international obligations of the State Party with regard to the deprivation of liberty, each State Party shall, in its legislation:

(a) Establish the conditions under which orders of deprivation of liberty may be given;

(b) Indicate those authorities authorized to order the deprivation of liberty;

(c) Guarantee that any person deprived of liberty shall be held solely in officially recognized and supervised places of deprivation of liberty;

(d) Guarantee that any person deprived of liberty shall be authorized to communicate with and be visited by his or her family, counsel or any other person of his or her choice, subject only to the conditions established by law, or, if he or she is a foreigner, to communicate with his or her consular authorities, in accordance with applicable international law;

(e) Guarantee access by the competent and legally authorized authorities and institutions to the places where persons are deprived of liberty, if necessary with prior authorization from a judicial authority;

(f) Guarantee that any person deprived of liberty or, in the case of a suspected enforced disappearance, since the person deprived of liberty is not able to exercise this right, any persons with a legitimate interest, such as relatives of the person deprived of liberty, their representatives or their counsel, shall, in all circumstances, be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of the deprivation of liberty and order the person's release if such deprivation of liberty is not lawful.

3. Each State Party shall assure the compilation and maintenance of one or more up-to-date official registers and/or records of persons deprived of liberty, which shall be made promptly available, upon request, to any judicial or other competent authority or institution authorized for that purpose by the law of the State Party concerned or any relevant international legal instrument to which the State concerned is a party. The information contained therein shall include, as a minimum:

- (a) The identity of the person deprived of liberty;
- (b) The date, time and place where the person was deprived of liberty and the identity of the authority that deprived the person of liberty;
- (c) The authority that ordered the deprivation of liberty and the grounds for the deprivation of liberty;
- (d) The authority responsible for supervising the deprivation of liberty;
- (e) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;
- (f) Elements relating to the state of health of the person deprived of liberty;
- (g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains;
- (h) The date and time of release or transfer to another place of detention, the destination and the authority responsible for the transfer.

Article 18

1. Subject to articles 19 and 20, each State Party shall guarantee to any person with a legitimate interest in this information, such as relatives of the person deprived of liberty, their representatives or their counsel, access to at least the following information:

- (a) The authority that ordered the deprivation of liberty;
- (b) The date, time and place where the person was deprived of liberty and admitted to the place of deprivation of liberty;
- (c) The authority responsible for supervising the deprivation of liberty;
- (d) The whereabouts of the person deprived of liberty, including, in the event of a transfer to another place of deprivation of liberty, the destination and the authority responsible for the transfer;
- (e) The date, time and place of release;
- (f) Elements relating to the state of health of the person deprived of liberty;
- (g) In the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains.

2. Appropriate measures shall be taken, where necessary, to protect the persons referred to in paragraph 1 of this article, as well as persons participating in the investigation, from any ill-treatment, intimidation or sanction as a result of the search for information concerning a person deprived of liberty.

Article 19

1. Personal information, including medical and genetic data, which is collected and/or transmitted within the framework of the search for a disappeared person shall not be used or made available for purposes other than the search for the disappeared person. This is without prejudice to the use of such information in criminal proceedings relating to an offence of enforced disappearance or the exercise of the right to obtain reparation.

2. The collection, processing, use and storage of personal information, including medical and genetic data, shall not infringe or have the effect of infringing the human rights, fundamental freedoms or human dignity of an individual.

Article 20

1. Only where a person is under the protection of the law and the deprivation of liberty is subject to judicial control may the right to information referred to in article 18 be restricted, on an exceptional basis, where strictly necessary and where provided for by law, and if the transmission of the information would adversely affect the privacy or safety of the person, hinder a criminal investigation, or for other equivalent reasons in accordance with the law, and in conformity with applicable international law and with the objectives of this Convention. In no case shall there be restrictions on the right to information referred to in article 18 that could constitute conduct defined in article 2 or be in violation of article 17, paragraph 1.

2. Without prejudice to consideration of the lawfulness of the deprivation of a person's liberty, States Parties shall guarantee to the persons referred to in article 18, paragraph 1, the right to a prompt and effective judicial remedy as a means of obtaining without delay the information referred to in article 18, paragraph 1. This right to a remedy may not be suspended or restricted in any circumstances.

Article 21

Each State Party shall take the necessary measures to ensure that persons deprived of liberty are released in a manner permitting reliable verification that they have actually been released. Each State Party shall also take the necessary measures to assure the physical integrity of such persons and their ability to exercise fully their rights at the time of release, without prejudice to any obligations to which such persons may be subject under national law.

Article 22

Without prejudice to article 6, each State Party shall take the necessary measures to prevent and impose sanctions for the following conduct:

(a) Delaying or obstructing the remedies referred to in article 17, paragraph 2 (f), and article 20, paragraph 2;

(b) Failure to record the deprivation of liberty of any person, or the recording of any information which the official responsible for the official register knew or should have known to be inaccurate;

(c) Refusal to provide information on the deprivation of liberty of a person, or the provision of inaccurate information, even though the legal requirements for providing such information have been met.

Article 23

1. Each State Party shall ensure that the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty includes the necessary education and information regarding the relevant provisions of this Convention, in order to:

(a) Prevent the involvement of such officials in enforced disappearances;

(b) Emphasize the importance of prevention and investigations in relation to enforced disappearances;

(c) Ensure that the urgent need to resolve cases of enforced disappearance is recognized.

2. Each State Party shall ensure that orders or instructions prescribing, authorizing or encouraging enforced disappearance are prohibited. Each State Party shall guarantee that a person who refuses to obey such an order will not be punished.

3. Each State Party shall take the necessary measures to ensure that the persons referred to in paragraph 1 of this article who have reason to believe that an enforced disappearance has occurred or is planned report the matter to their superiors and, where necessary, to the appropriate authorities or bodies vested with powers of review or remedy.

Article 24

1. For the purposes of this Convention, “victim” means the disappeared person and any individual who has suffered harm as the direct result of an enforced disappearance.

2. Each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. Each State Party shall take appropriate measures in this regard.

3. Each State Party shall take all appropriate measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains.

4. Each State Party shall ensure in its legal system that the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation.

5. The right to obtain reparation referred to in paragraph 4 of this article covers material and moral damages and, where appropriate, other forms of reparation such as:

(a) Restitution;

(b) Rehabilitation;

(c) Satisfaction, including restoration of dignity and reputation;

(d) Guarantees of non-repetition.

6. Without prejudice to the obligation to continue the investigation until the fate of the disappeared person has been clarified, each State Party shall take the appropriate steps with regard to the legal situation of disappeared persons whose fate has not been clarified and that of their relatives, in fields such as social welfare, financial matters, family law and property rights.

7. Each State Party shall guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance.

Article 25

1. Each State Party shall take the necessary measures to prevent and punish under its criminal law:

(a) The wrongful removal of children who are subjected to enforced disappearance, children whose father, mother or legal guardian is subjected to enforced disappearance or children born during the captivity of a mother subjected to enforced disappearance;

(b) The falsification, concealment or destruction of documents attesting to the true identity of the children referred to in subparagraph (a) above.

2. Each State Party shall take the necessary measures to search for and identify the children referred to in paragraph 1 (a) of this article and to return them to their families of origin, in accordance with legal procedures and applicable international agreements.

3. States Parties shall assist one another in searching for, identifying and locating the children referred to in paragraph 1 (a) of this article.

4. Given the need to protect the best interests of the children referred to in paragraph 1 (a) of this article and their right to preserve, or to have re-established, their identity, including their nationality, name and family relations as recognized by law, States Parties which recognize a system of adoption or other form of placement of children shall have legal procedures in place to review the adoption or placement procedure, and, where appropriate, to annul any adoption or placement of children that originated in an enforced disappearance.

5. In all cases, and in particular in all matters relating to this article, the best interests of the child shall be a primary consideration, and a child who is capable of forming his or her own views shall have the right to express those views freely, the views of the child being given due weight in accordance with the age and maturity of the child.

PART II

Article 26

1. A Committee on Enforced Disappearances (hereinafter referred to as “the Committee”) shall be established to carry out the functions provided for under this Convention. The Committee shall consist of ten experts of high moral character and recognized competence in the field of human rights, who shall serve in their personal capacity and be independent and impartial. The members of the Committee shall be elected by the States Parties according to equitable geographical distribution. Due account shall be taken of the

usefulness of the participation in the work of the Committee of persons having relevant legal experience and of balanced gender representation.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties from among their nationals, at biennial meetings of the States Parties convened by the Secretary-General of the United Nations for this purpose. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

3. The initial election shall be held no later than six months after the date of entry into force of this Convention. Four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the State Party which nominated each candidate, and shall submit this list to all States Parties.

4. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election once. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 2 of this article.

5. If a member of the Committee dies or resigns or for any other reason can no longer perform his or her Committee duties, the State Party which nominated him or her shall, in accordance with the criteria set out in paragraph 1 of this article, appoint another candidate from among its nationals to serve out his or her term, subject to the approval of the majority of the States Parties. Such approval shall be considered to have been obtained unless half or more of the States Parties respond negatively within six weeks of having been informed by the Secretary-General of the United Nations of the proposed appointment.

6. The Committee shall establish its own rules of procedure.

7. The Secretary-General of the United Nations shall provide the Committee with the necessary means, staff and facilities for the effective performance of its functions. The Secretary-General of the United Nations shall convene the initial meeting of the Committee.

8. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations, as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

9. Each State Party shall cooperate with the Committee and assist its members in the fulfilment of their mandate, to the extent of the Committee's functions that the State Party has accepted.

Article 27

A Conference of the States Parties will take place at the earliest four years and at the latest six years following the entry into force of this Convention to evaluate the functioning of the Committee and to decide, in accordance with the procedure described in article 44, paragraph 2, whether it is appropriate to transfer to another body—without excluding any

possibility—the monitoring of this Convention, in accordance with the functions defined in articles 28 to 36.

Article 28

1. In the framework of the competencies granted by this Convention, the Committee shall cooperate with all relevant organs, offices and specialized agencies and funds of the United Nations, with the treaty bodies instituted by international instruments, with the special procedures of the United Nations and with the relevant regional intergovernmental organizations or bodies, as well as with all relevant State institutions, agencies or offices working towards the protection of all persons against enforced disappearances.

2. As it discharges its mandate, the Committee shall consult other treaty bodies instituted by relevant international human rights instruments, in particular the Human Rights Committee instituted by the International Covenant on Civil and Political Rights, with a view to ensuring the consistency of their respective observations and recommendations.

Article 29

1. Each State Party shall submit to the Committee, through the Secretary-General of the United Nations, a report on the measures taken to give effect to its obligations under this Convention, within two years after the entry into force of this Convention for the State Party concerned.

2. The Secretary-General of the United Nations shall make this report available to all States Parties.

3. Each report shall be considered by the Committee, which shall issue such comments, observations or recommendations as it may deem appropriate. The comments, observations or recommendations shall be communicated to the State Party concerned, which may respond to them, on its own initiative or at the request of the Committee.

4. The Committee may also request States Parties to provide additional information on the implementation of this Convention.

Article 30

1. A request that a disappeared person should be sought and found may be submitted to the Committee, as a matter of urgency, by relatives of the disappeared person or their legal representatives, their counsel or any person authorized by them, as well as by any other person having a legitimate interest.

2. If the Committee considers that a request for urgent action submitted in pursuance of paragraph 1 of this article:

(a) Is not manifestly unfounded;

(b) Does not constitute an abuse of the right of submission of such requests;

(c) Has already been duly presented to the competent bodies of the State Party concerned, such as those authorized to undertake investigations, where such a possibility exists;

(d) Is not incompatible with the provisions of this Convention; and

(e) The same matter is not being examined under another procedure of international investigation or settlement of the same nature;

it shall request the State Party concerned to provide it with information on the situation of the persons sought, within a time limit set by the Committee.

3. In the light of the information provided by the State Party concerned in accordance with paragraph 2 of this article, the Committee may transmit recommendations to the State Party, including a request that the State Party should take all the necessary measures, including interim measures, to locate and protect the person concerned in accordance with this Convention and to inform the Committee, within a specified period of time, of measures taken, taking into account the urgency of the situation. The Committee shall inform the person submitting the urgent action request of its recommendations and of the information provided to it by the State as it becomes available.

4. The Committee shall continue its efforts to work with the State Party concerned for as long as the fate of the person sought remains unresolved. The person presenting the request shall be kept informed.

Article 31

1. A State Party may at the time of ratification of this Convention or at any time afterwards declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by this State Party of provisions of this Convention. The Committee shall not admit any communication concerning a State Party which has not made such a declaration.

2. The Committee shall consider a communication inadmissible where:

(a) The communication is anonymous;

(b) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of this Convention;

(c) The same matter is being examined under another procedure of international investigation or settlement of the same nature; or where

(d) All effective available domestic remedies have not been exhausted. This rule shall not apply where the application of the remedies is unreasonably prolonged.

3. If the Committee considers that the communication meets the requirements set out in paragraph 2 of this article, it shall transmit the communication to the State Party concerned, requesting it to provide observations and comments within a time limit set by the Committee.

4. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party will take such interim measures as may be necessary to avoid possible irreparable damage to the victims of the alleged violation. Where the Committee exercises its discretion, this does not imply a determination on admissibility or on the merits of the communication.

5. The Committee shall hold closed meetings when examining communications under the present article. It shall inform the author of a communication of the responses

provided by the State Party concerned. When the Committee decides to finalize the procedure, it shall communicate its views to the State Party and to the author of the communication.

Article 32

A State Party to this Convention may at any time declare that it recognizes the competence of the Committee to receive and consider communications in which a State Party claims that another State Party is not fulfilling its obligations under this Convention. The Committee shall not receive communications concerning a State Party which has not made such a declaration, nor communications from a State Party which has not made such a declaration.

Article 33

1. If the Committee receives reliable information indicating that a State Party is seriously violating the provisions of this Convention, it may, after consultation with the State Party concerned, request one or more of its members to undertake a visit and report back to it without delay.

2. The Committee shall notify the State Party concerned, in writing, of its intention to organize a visit, indicating the composition of the delegation and the purpose of the visit. The State Party shall answer the Committee within a reasonable time.

3. Upon a substantiated request by the State Party, the Committee may decide to postpone or cancel its visit.

4. If the State Party agrees to the visit, the Committee and the State Party concerned shall work together to define the modalities of the visit and the State Party shall provide the Committee with all the facilities needed for the successful completion of the visit.

5. Following its visit, the Committee shall communicate to the State Party concerned its observations and recommendations.

Article 34

If the Committee receives information which appears to it to contain well-founded indications that enforced disappearance is being practised on a widespread or systematic basis in the territory under the jurisdiction of a State Party, it may, after seeking from the State Party concerned all relevant information on the situation, urgently bring the matter to the attention of the General Assembly of the United Nations, through the Secretary-General of the United Nations.

Article 35

1. The Committee shall have competence solely in respect of enforced disappearances which commenced after the entry into force of this Convention.

2. If a State becomes a party to this Convention after its entry into force, the obligations of that State vis-à-vis the Committee shall relate only to enforced disappearances which commenced after the entry into force of this Convention for the State concerned.

Article 36

1. The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.
2. Before an observation on a State Party is published in the annual report, the State Party concerned shall be informed in advance and shall be given reasonable time to answer. This State Party may request the publication of its comments or observations in the report.

PART III

Article 37

Nothing in this Convention shall affect any provisions which are more conducive to the protection of all persons from enforced disappearance and which may be contained in:

- (a) The law of a State Party;
- (b) International law in force for that State.

Article 38

1. This Convention is open for signature by all Member States of the United Nations.
2. This Convention is subject to ratification by all Member States of the United Nations. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. This Convention is open to accession by all Member States of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General.

Article 39

1. This Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to this Convention after the deposit of the twentieth instrument of ratification or accession, this Convention shall enter into force on the thirtieth day after the date of the deposit of that State's instrument of ratification or accession.

Article 40

The Secretary-General of the United Nations shall notify all States Members of the United Nations and all States which have signed or acceded to this Convention of the following:

- (a) Signatures, ratifications and accessions under article 38;
- (b) The date of entry into force of this Convention under article 39.

Article 41

The provisions of this Convention shall apply to all parts of federal States without any limitations or exceptions.

Article 42

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

2. A State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a declaration.

3. Any State Party having made a declaration in accordance with the provisions of paragraph 2 of this article may at any time withdraw this declaration by notification to the Secretary-General of the United Nations.

Article 43

This Convention is without prejudice to the provisions of international humanitarian law, including the obligations of the High Contracting Parties to the four Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto of 8 June 1977, or to the opportunity available to any State Party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 44

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to this Convention with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations.

2. Any amendment adopted by a majority of two thirds of the States Parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all the States Parties for acceptance.

3. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have accepted it in accordance with their respective constitutional processes.

4. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendment which they have accepted.

Article 45

1. 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.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States referred to in article 38.

**B. TREATIES CONCERNING INTERNATIONAL LAW CONCLUDED
UNDER THE AUSPICES OF INTERGOVERNMENTAL ORGANIZATIONS
RELATED TO UNITED NATIONS**

1. International Labour Organization

(a) Maritime Labour Convention, 23 February 2006*

GENERAL OBLIGATIONS

Article I

1. Each Member which ratifies this Convention undertakes to give complete effect to its provisions in the manner set out in Article VI in order to secure the right of all seafarers to decent employment.

2. Members shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of this Convention.

DEFINITIONS AND SCOPE OF APPLICATION

Article II

1. For the purpose of this Convention and unless provided otherwise in particular provisions, the term:

(a) *competent authority* means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;

(b) *declaration of maritime labour compliance* means the declaration referred to in Regulation 5.1.3;

(c) *gross tonnage* means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on

* Adopted by the General Conference of the International Labour Organization on 23 February 2003, during the ninety-fourth (Maritime) Session of the International Labour Conference, held in Geneva from 7 to 23 February 2006.

Tonnage Measurement of Ships, 1969, or any successor Convention; for ships covered by the tonnage measurement interim scheme adopted by the International Maritime Organization, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969);

(d) *maritime labour certificate* means the certificate referred to in Regulation 5.1.3;

(e) *requirements of this Convention* refers to the requirements in these Articles and in the Regulations and Part A of the Code of this Convention;

(f) *seafarer* means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies;

(g) *seafarers' employment agreement* includes both a contract of employment and articles of agreement;

(h) *seafarer recruitment and placement service* means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;

(i) *ship* means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;

(j) *shipowner* means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.

2. Except as expressly provided otherwise, this Convention applies to all seafarers.

3. In the event of doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned with this question.

4. Except as expressly provided otherwise, this Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks. This Convention does not apply to warships or naval auxiliaries.

5. In the event of doubt as to whether this Convention applies to a ship or particular category of ships, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned.

6. Where the competent authority determines that it would not be reasonable or practicable at the present time to apply certain details of the Code referred to in Article VI, paragraph 1, to a ship or particular categories of ships flying the flag of the Member, the relevant provisions of the Code shall not apply to the extent that the subject matter is dealt with differently by national laws or regulations or collective bargaining agreements or other measures. Such a determination may only be made in consultation with the shipowners' and seafarers' organizations concerned and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages.

7. Any determinations made by a Member under paragraph 3 or 5 or 6 of this Article shall be communicated to the Director-General of the International Labour Office, who shall notify the Members of the Organization.

8. Unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to the Regulations and the Code.

FUNDAMENTAL RIGHTS AND PRINCIPLES

Article III

Each Member shall satisfy itself that the provisions of its law and regulations respect, in the context of this Convention, the fundamental rights to:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

SEAFARERS' EMPLOYMENT AND SOCIAL RIGHTS

Article IV

1. Every seafarer has the right to a safe and secure workplace that complies with safety standards.

2. Every seafarer has a right to fair terms of employment.

3. Every seafarer has a right to decent working and living conditions on board ship.

4. Every seafarer has a right to health protection, medical care, welfare measures and other forms of social protection.

5. Each Member shall ensure, within the limits of its jurisdiction, that the seafarers' employment and social rights set out in the preceding paragraphs of this Article are fully implemented in accordance with the requirements of this Convention. Unless specified otherwise in the Convention, such implementation may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice.

IMPLEMENTATION AND ENFORCEMENT RESPONSIBILITIES

Article V

1. Each Member shall implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to ships and seafarers under its jurisdiction.

2. Each Member shall effectively exercise its jurisdiction and control over ships that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws.

3. Each Member shall ensure that ships that fly its flag carry a maritime labour certificate and a declaration of maritime labour compliance as required by this Convention.

4. A ship to which this Convention applies may, in accordance with international law, be inspected by a Member other than the flag State, when the ship is in one of its ports, to determine whether the ship is in compliance with the requirements of this Convention.

5. Each Member shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory.

6. Each Member shall prohibit violations of the requirements of this Convention and shall, in accordance with international law, establish sanctions or require the adoption of corrective measures under its laws which are adequate to discourage such violations.

7. Each Member shall implement its responsibilities under this Convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.

REGULATIONS AND PARTS A AND B OF THE CODE

Article VI

1. The Regulations and the provisions of Part A of the Code are mandatory. The provisions of Part B of the Code are not mandatory.

2. Each Member undertakes to respect the rights and principles set out in the Regulations and to implement each Regulation in the manner set out in the corresponding provisions of Part A of the Code. In addition, the Member shall give due consideration to implementing its responsibilities in the manner provided for in Part B of the Code.

3. A Member which is not in a position to implement the rights and principles in the manner set out in Part A of the Code may, unless expressly provided otherwise in this Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.

4. For the sole purpose of paragraph 3 of this Article, any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of this Convention, if the Member satisfies itself that:

(a) it is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned; and

(b) it gives effect to the provision or provisions of Part A of the Code concerned.

CONSULTATION WITH SHIPOWNERS' AND SEAFARERS' ORGANIZATIONS

Article VII

Any derogation, exemption or other flexible application of this Convention for which the Convention requires consultation with shipowners' and seafarers' organizations may, in cases where representative organizations of shipowners or of seafarers do not exist within a Member, only be decided by that Member through consultation with the Committee referred to in Article XIII.

ENTRY INTO FORCE

Article VIII

1. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.
2. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered by the Director-General.
3. This Convention shall come into force 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of 33 per cent.
4. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

DENUNCIATION

Article IX

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which does not, within the year following the expiration of the period of ten years mentioned in paragraph 1 of this Article, exercise the right of denunciation provided for in this Article, shall be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each new period of ten years under the terms provided for in this Article.

EFFECT OF ENTRY INTO FORCE

Article X

This Convention revises the following Conventions:

- Minimum Age (Sea) Convention, 1920 (No. 7)
- Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)
- Placing of Seamen Convention, 1920 (No. 9)
- Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
- Seamen's Articles of Agreement Convention, 1926 (No. 22)
- Repatriation of Seamen Convention, 1926 (No. 23)
- Officers' Competency Certificates Convention, 1936 (No. 53)
- Holidays with Pay (Sea) Convention, 1936 (No. 54)
- Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
- Sickness Insurance (Sea) Convention, 1936 (No. 56)
- Hours of Work and Manning (Sea) Convention, 1936 (No. 57)
- Minimum Age (Sea) Convention (Revised), 1936 (No. 58)

- Food and Catering (Ships' Crews) Convention, 1946 (No. 68)
- Certification of Ships' Cooks Convention, 1946 (No. 69)
- Social Security (Seafarers) Convention, 1946 (No. 70)
- Paid Vacations (Seafarers) Convention, 1946 (No. 72)
- Medical Examination (Seafarers) Convention, 1946 (No. 73)
- Certification of Able Seamen Convention, 1946 (No. 74)
- Accommodation of Crews Convention, 1946 (No. 75)
- Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)
- Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
- Accommodation of Crews Convention (Revised), 1949 (No. 92)
- Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)
- Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)
- Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
- Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
- Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
- Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)
- Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
- Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
- Seafarers' Welfare Convention, 1987 (No. 163)
- Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
- Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
- Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
- Labour Inspection (Seafarers) Convention, 1996 (No. 178)
- Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
- Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

DEPOSITARY FUNCTIONS

Article XI

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, acceptances and denunciations under this Convention.

2. When the conditions provided for in paragraph 3 of Article VIII have been fulfilled, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article XII

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102

of the Charter of the United Nations full particulars of all ratifications, acceptances and denunciations registered under this Convention.

SPECIAL TRIPARTITE COMMITTEE

Article XIII

1. The Governing Body of the International Labour Office shall keep the working of this Convention under continuous review through a committee established by it with special competence in the area of maritime labour standards.

2. For matters dealt with in accordance with this Convention, the Committee shall consist of two representatives nominated by the Government of each Member which has ratified this Convention, and the representatives of Shipowners and Seafarers appointed by the Governing Body after consultation with the Joint Maritime Commission.

3. The Government representatives of Members which have not yet ratified this Convention may participate in the Committee but shall have no right to vote on any matter dealt with in accordance with this Convention. The Governing Body may invite other organizations or entities to be represented on the Committee by observers.

4. The votes of each Shipowner and Seafarer representative in the Committee shall be weighted so as to ensure that the Shipowners' group and the Seafarers' group each have half the voting power of the total number of governments which are represented at the meeting concerned and entitled to vote.

AMENDMENT OF THIS CONVENTION

Article XIV

1. Amendments to any of the provisions of this Convention may be adopted by the General Conference of the International Labour Organization in the framework of article 19 of the Constitution of the International Labour Organisation and the rules and procedures of the Organization for the adoption of Conventions. Amendments to the Code may also be adopted following the procedures in Article XV.

2. In the case of Members whose ratifications of this Convention were registered before the adoption of the amendment, the text of the amendment shall be communicated to them for ratification.

3. In the case of other Members of the Organization, the text of the Convention as amended shall be communicated to them for ratification in accordance with article 19 of the Constitution.

4. An amendment shall be deemed to have been accepted on the date when there have been registered ratifications, of the amendment or of the Convention as amended, as the case may be, by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent.

5. An amendment adopted in the framework of article 19 of the Constitution shall be binding only upon those Members of the Organization whose ratifications have been registered by the Director-General of the International Labour Office.

6. For any Member referred to in paragraph 2 of this Article, an amendment shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which its ratification of the amendment has been registered, whichever date is later.

7. Subject to paragraph 9 of this Article, for Members referred to in paragraph 3 of this Article, the Convention as amended shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which their ratifications of the Convention have been registered, whichever date is later.

8. For those Members whose ratification of this Convention was registered before the adoption of an amendment but which have not ratified the amendment, this Convention shall remain in force without the amendment concerned.

9. Any Member whose ratification of this Convention is registered after the adoption of the amendment but before the date referred to in paragraph 4 of this Article may, in a declaration accompanying the instrument of ratification, specify that its ratification relates to the Convention without the amendment concerned. In the case of a ratification with such a declaration, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered. Where an instrument of ratification is not accompanied by such a declaration, or where the ratification is registered on or after the date referred to in paragraph 4, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered and, upon its entry into force in accordance with paragraph 7 of this Article, the amendment shall be binding on the Member concerned unless the amendment provides otherwise.

AMENDMENTS TO THE CODE

Article XV

1. The Code may be amended either by the procedure set out in Article XIV or, unless expressly provided otherwise, in accordance with the procedure set out in the present Article.

2. An amendment to the Code may be proposed to the Director-General of the International Labour Office by the government of any Member of the Organization or by the group of Shipowner representatives or the group of Seafarer representatives who have been appointed to the Committee referred to in Article XIII. An amendment proposed by a government must have been proposed by, or be supported by, at least five governments of Members that have ratified the Convention or by the group of Shipowner or Seafarer representatives referred to in this paragraph.

3. Having verified that the proposal for amendment meets the requirements of paragraph 2 of this Article, the Director-General shall promptly communicate the proposal, accompanied by any comments or suggestions deemed appropriate, to all Members of the Organization, with an invitation to them to transmit their observations or suggestions concerning the proposal within a period of six months or such other period (which shall not be less than three months nor more than nine months) prescribed by the Governing Body.

4. At the end of the period referred to in paragraph 3 of this Article, the proposal, accompanied by a summary of any observations or suggestions made under that para-

graph, shall be transmitted to the Committee for consideration at a meeting. An amendment shall be considered adopted by the Committee if:

(a) at least half the governments of Members that have ratified this Convention are represented in the meeting at which the proposal is considered; and

(b) a majority of at least two-thirds of the Committee members vote in favour of the amendment; and

(c) this majority comprises the votes in favour of at least half the government voting power, half the Shipowner voting power and half the Seafarer voting power of the Committee members registered at the meeting when the proposal is put to the vote.

5. Amendments adopted in accordance with paragraph 4 of this Article shall be submitted to the next session of the Conference for approval. Such approval shall require a majority of two-thirds of the votes cast by the delegates present. If such majority is not obtained, the proposed amendment shall be referred back to the Committee for reconsideration should the Committee so wish.

6. Amendments approved by the Conference shall be notified by the Director-General to each of the Members whose ratifications of this Convention were registered before the date of such approval by the Conference. These Members are referred to below as the ratifying Members. The notification shall contain a reference to the present Article and shall prescribe the period for the communication of any formal disagreement. This period shall be two years from the date of the notification unless, at the time of approval, the Conference has set a different period, which shall be a period of at least one year. A copy of the notification shall be communicated to the other Members of the Organization for their information.

7. An amendment approved by the Conference shall be deemed to have been accepted unless, by the end of the prescribed period, formal expressions of disagreement have been received by the Director-General from more than 40 per cent of the Members which have ratified the Convention and which represent not less than 40 per cent of the gross tonnage of the ships of the Members which have ratified the Convention.

8. An amendment deemed to have been accepted shall come into force six months after the end of the prescribed period for all the ratifying Members except those which had formally expressed their disagreement in accordance with paragraph 7 of this Article and have not withdrawn such disagreement in accordance with paragraph 11. However:

(a) before the end of the prescribed period, any ratifying Member may give notice to the Director-General that it shall be bound by the amendment only after a subsequent express notification of its acceptance; and

(b) before the date of entry into force of the amendment, any ratifying Member may give notice to the Director-General that it will not give effect to that amendment for a specified period.

9. An amendment which is the subject of a notice referred to in paragraph 8 (a) of this Article shall enter into force for the Member giving such notice six months after the Member has notified the Director-General of its acceptance of the amendment or on the date on which the amendment first comes into force, whichever date is later.

10. The period referred to in paragraph 8 (b) of this Article shall not go beyond one year from the date of entry into force of the amendment or beyond any longer period determined by the Conference at the time of approval of the amendment.

11. A Member that has formally expressed disagreement with an amendment may withdraw its disagreement at any time. If notice of such withdrawal is received by the Director-General after the amendment has entered into force, the amendment shall enter into force for the Member six months after the date on which the notice was registered.

12. After entry into force of an amendment, the Convention may only be ratified in its amended form.

13. To the extent that a maritime labour certificate relates to matters covered by an amendment to the Convention which has entered into force:

(a) a Member that has accepted that amendment shall not be obliged to extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member which:

- (i) pursuant to paragraph 7 of this Article, has formally expressed disagreement to the amendment and has not withdrawn such disagreement; or
- (ii) pursuant to paragraph 8 (a) of this Article, has given notice that its acceptance is subject to its subsequent express notification and has not accepted the amendment; and

(b) a Member that has accepted the amendment shall extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member that has given notice, pursuant to paragraph 8 (b) of this Article, that it will not give effect to that amendment for the period specified in accordance with paragraph 10 of this Article.

AUTHORITATIVE LANGUAGES

Article XVI

The English and French versions of the text of this Convention are equally authoritative.

(b) Promotional Framework for Occupational Safety and Health Convention, 15 June 2006*

I. DEFINITIONS

Article 1

For the purpose of this Convention:

* Adopted by the General Conference of the International Labour Organization on 15 June 2006, during the Ninety-fifth Session of the International Labour Conference, held in Geneva from 31 May to 16 June 2006.

(a) the term *national policy* refers to the national policy on occupational safety and health and the working environment developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155);

(b) the term *national system for occupational safety and health* or *national system* refers to the infrastructure which provides the main framework for implementing the national policy and national programmes on occupational safety and health;

(c) the term *national programme on occupational safety and health* or *national programme* refers to any national programme that includes objectives to be achieved in a predetermined time frame, priorities and means of action formulated to improve occupational safety and health, and means to assess progress;

(d) the term *a national preventative safety and health culture* refers to a culture in which the right to a safe and healthy working environment is respected at all levels, where government, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.

II. OBJECTIVE

Article 2

1. Each Member which ratifies this Convention shall promote continuous improvement of occupational safety and health to prevent occupational injuries, diseases and deaths, by the development, in consultation with the most representative organizations of employers and workers, of a national policy, national system and national programme.

2. Each Member shall take active steps towards achieving progressively a safe and healthy working environment through a national system and national programmes on occupational safety and health by taking into account the principles set out in instruments of the International Labour Organization (ILO) relevant to the promotional framework for occupational safety and health.

3. Each Member, in consultation with the most representative organizations of employers and workers, shall periodically consider what measures could be taken to ratify relevant occupational safety and health Conventions of the ILO.

III. NATIONAL POLICY

Article 3

1. Each Member shall promote a safe and healthy working environment by formulating a national policy.

2. Each Member shall promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment.

3. In formulating its national policy, each Member, in light of national conditions and practice and in consultation with the most representative organizations of employers and workers, shall promote basic principles such as assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture that includes information, consultation and training.

IV. NATIONAL SYSTEM

Article 4

1. Each Member shall establish, maintain, progressively develop and periodically review a national system for occupational safety and health, in consultation with the most representative organizations of employers and workers.

2. The national system for occupational safety and health shall include among others:

(a) laws and regulations, collective agreements where appropriate, and any other relevant instruments on occupational safety and health;

(b) an authority or body, or authorities or bodies, responsible for occupational safety and health, designated in accordance with national law and practice;

(c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection; and

(d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.

3. The national system for occupational safety and health shall include, where appropriate:

(a) a national tripartite advisory body, or bodies, addressing occupational safety and health issues;

(b) information and advisory services on occupational safety and health;

(c) the provision of occupational safety and health training;

(d) occupational health services in accordance with national law and practice;

(e) research on occupational safety and health;

(f) a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments;

(g) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and

(h) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.

V. NATIONAL PROGRAMME

Article 5

1. Each Member shall formulate, implement, monitor, evaluate and periodically review a national programme on occupational safety and health in consultation with the most representative organizations of employers and workers.

2. The national programme shall:

(a) promote the development of a national preventative safety and health culture;

(b) contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in accordance with national law

and practice, in order to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace;

(c) be formulated and reviewed on the basis of analysis of the national situation regarding occupational safety and health, including analysis of the national system for occupational safety and health;

(d) include objectives, targets and indicators of progress; and

(e) be supported, where possible, by other complementary national programmes and plans which will assist in achieving progressively a safe and healthy working environment.

3. The national programme shall be widely publicized and, to the extent possible, endorsed and launched by the highest national authorities.

FINAL VI. FINAL PROVISIONS

Article 6

This Convention does not revise any international labour Conventions or Recommendations.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification is registered.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention within the first year of each new period of ten years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification that has been communicated, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and denunciations that have been registered.

Article 12

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision.

Article 13

1. Should the Conference adopt a new Convention revising this Convention, then, unless the new Convention otherwise provides:

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

2. Food and Agriculture Organization

(a) Southern Indian Ocean Fisheries Agreement, 7 July 2006*

The Contracting Parties

Having a mutual interest in the proper management, long-term conservation and sustainable use of fishery resources in the Southern Indian Ocean, and desiring to further the attainment of their objectives through international cooperation;

Taking into consideration that the coastal States have waters under national jurisdiction in accordance with the United Nations Convention on the Law of the Sea of 10 December 1982 and general principles of international law, within which they exercise their sovereign rights for the purpose of exploring and exploiting, conserving and managing fishery resources and conserving living marine resources upon which fishing has an impact;

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, and the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 and taking into account the Code of Conduct for Responsible Fisheries adopted by the 28th Session of the Conference of the Food and Agriculture Organization of the United Nations on 31 October 1995;

Recalling further Article 17 of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks 1995, and the need for non-Contracting Parties to this Southern Indian Ocean Fisheries Agreement to apply the conservation and management measures adopted hereunder and not to authorise vessels flying their flag to engage in fishing activities inconsistent with the conservation and sustainable use of the fishery resources to which this Agreement applies;

Recognizing economic and geographical considerations and the special requirements of developing States, in particular the least-developed among them and small island developing States and their coastal communities, for equitable benefit from fishery resources;

Desiring cooperation between coastal States and all other States, organizations and fishing entities having an interest in the fishery resources of the Southern Indian Ocean to ensure compatible conservation and management measures;

Bearing in mind that the achievement of the above will contribute to the realization of a just and equitable economic order in the interests of all humankind, and in particular the special interests and needs of developing States, in particular the least-developed among them and small island developing States;

* Adopted at the Conference for the Adoption of the Southern Indian Ocean Fisheries Agreement on 7 July 2006 at the Headquarters of the Food and Agriculture Organization of the United Nations in Rome, Italy.

Convinced that the conclusion of a multilateral agreement for the long-term conservation and sustainable use of fishery resources in waters beyond national jurisdiction in the Southern Indian Ocean would best serve these objectives;

Agree as follows:

Article 1. Definitions

For the purposes of this Agreement:

(a) "1982 Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "1995 Agreement" means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995;

(c) "Area" means the area to which this Agreement applies, as prescribed in Article 3;

(d) "Code of Conduct" means the Code of Conduct for Responsible Fisheries adopted by the 28th Session of the Conference of the Food and Agriculture Organization of the United Nations on 31 October 1995;

(e) "Contracting Party" means any State or regional economic integration organization which has consented to be bound by this Agreement and for which the Agreement is in force;

(f) "fishery resources" means resources of fish, molluscs, crustaceans and other sedentary species within the Area, but excluding:

(i) sedentary species subject to the fishery jurisdiction of coastal States pursuant to Article 77 (4) of the 1982 Convention; and

(ii) highly migratory species listed in Annex I of the 1982 Convention;

(g) "fishing" means:

(i) the actual or attempted searching for, catching, taking or harvesting of fishery resources;

(ii) engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fishery resources for any purpose including scientific research;

(iii) placing, searching for or recovering any aggregating device for fishery resources or associated equipment including radio beacons;

(iv) any operation at sea in support of, or in preparation for, any activity described in this definition, except for any operation in emergencies involving the health or safety of crew members or the safety of a vessel; or

(v) the use of an aircraft in relation to any activity described in this definition except for flights in emergencies involving the health or safety of crew members or the safety of a vessel;

(h) "fishing entity" means a fishing entity as referred to in Article 1 (3) of the 1995 Agreement;

(i) “fishing vessel” means any vessel used or intended for fishing, including a mother ship, any other vessel directly engaged in fishing operations, and any vessel engaged in transshipment;

(j) “nationals” includes both natural and legal persons;

(k) “regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;

(l) “transshipment” means the unloading of all or any of the fishery resources on board a fishing vessel onto another vessel whether at sea or in port.

Article 2. Objectives

The objectives of this Agreement are to ensure the long-term conservation and sustainable use of the fishery resources in the Area through cooperation among the Contracting Parties, and to promote the sustainable development of fisheries in the Area, taking into account the needs of developing States bordering the Area that are Contracting Parties to this Agreement, and in particular the least-developed among them and small island developing States.

Article 3. Area of application

1. This Agreement applies to the Area bounded by a line joining the following points along parallels of latitude and meridians of longitude, excluding waters under national jurisdiction:

Commencing at the landfall on the continent of Africa of the parallel of 10° North; from there east along that parallel to its intersection with the meridian of 65° East; from there south along that meridian to its intersection with the equator; from there east along the equator to its intersection with the meridian of 80° East; from there south along that meridian to its intersection with the parallel of 20° South; from there east along that parallel to its landfall on the continent of Australia; from there south and then east along the coast of Australia to its intersection with the meridian of 120° East; from there south along that meridian to its intersection with the parallel of 55° South; from there west along that parallel to its intersection with the meridian of 80° East; from there north along that meridian to its intersection with the parallel of 45° South; from there west along that parallel to its intersection with the meridian of 30° East; from there north along that meridian to its landfall on the continent of Africa.

2. Where for the purpose of this Agreement it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to the International Terrestrial Reference System maintained by the International Earth Rotation Service, which for most practical purposes is equivalent to the World Geodetic System 1984 (WGS84).

Article 4. General principles

In giving effect to the duty to cooperate in accordance with the 1982 Convention and international law, the Contracting Parties shall apply, in particular, the following principles:

(a) measures shall be adopted on the basis of the best scientific evidence available to ensure the long-term conservation of fishery resources, taking into account the sustainable use of such resources and implementing an ecosystem approach to their management;

(b) measures shall be taken to ensure that the level of fishing activity is commensurate with the sustainable use of the fishery resources;

(c) the precautionary approach shall be applied in accordance with the Code of Conduct and the 1995 Agreement, whereby the absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures;

(d) the fishery resources shall be managed so that they are maintained at levels that are capable of producing the maximum sustainable yield, and depleted stocks of fishery resources are rebuilt to the said levels;

(e) fishing practices and management measures shall take due account of the need to minimize the harmful impact that fishing activities may have on the marine environment;

(f) biodiversity in the marine environment shall be protected; and

(g) the special requirements of developing States bordering the Area that are Contracting Parties to this Agreement, and in particular the least-developed among them and small island developing States, shall be given full recognition.

Article 5. Meeting of the Parties

1. The Contracting Parties shall meet periodically to consider matters pertaining to the implementation of this Agreement and to make all decisions relevant thereto.

2. The ordinary Meeting of the Parties shall, unless the Meeting otherwise decides, take place at least once a year and, to the extent practicable, back-to-back with meetings of the South West Indian Ocean Fisheries Commission. The Contracting Parties may also hold extraordinary meetings when deemed necessary.

3. The Meeting of the Parties shall, by consensus, adopt and amend its own Rules of Procedure and those of its subsidiary bodies.

4. The Contracting Parties, at their first meeting, shall consider the adoption of a budget to fund the conduct of the Meeting of the Parties and the exercise of its functions and accompanying financial regulations. The financial regulations shall set out the criteria governing the determination of the amount of each Contracting Party's contribution to the budget, giving due consideration to the economic status of Contracting Parties which are developing States, and in particular the least-developed among them and small island developing States, and ensuring that an adequate share of the budget is borne by Contracting Parties that benefit from fishing in the Area.

Article 6. Functions of the meeting of the Parties

1. The Meeting of the Parties shall:

(a) review the state of fishery resources, including their abundance and the level of their exploitation;

(b) promote and, as appropriate, co-ordinate research activities as required on the fishery resources and on straddling stocks occurring in waters under national jurisdiction adjacent to the Area, including discarded catch and the impact of fishing on the marine environment;

(c) evaluate the impact of fishing on the fishery resources and on the marine environment, taking into account the environmental and oceanographic characteristics of the Area, other human activities and environmental factors;

(d) formulate and adopt conservation and management measures necessary for ensuring the long-term sustainability of the fishery resources, taking into account the need to protect marine biodiversity, based on the best scientific evidence available;

(e) adopt generally recommended international minimum standards for the responsible conduct of fishing operations;

(f) develop rules for the collection and verification of scientific and statistical data, as well as for the submission, publication, dissemination and use of such data;

(g) promote cooperation and coordination among Contracting Parties to ensure that conservation and management measures for straddling stocks occurring in waters under national jurisdiction adjacent to the Area and measures adopted by the Meeting of the Parties for the fishery resources are compatible;

(h) develop rules and procedures for the monitoring, control and surveillance of fishing activities in order to ensure compliance with conservation and management measures adopted by the Meeting of the Parties including, where appropriate, a system of verification incorporating vessel monitoring and observation, and rules concerning the boarding and inspection of vessels operating in the Area;

(i) develop and monitor measures to prevent, deter and eliminate illegal, unreported and unregulated fishing;

(j) in accordance with international law and any applicable instruments, draw the attention of any non-Contracting Parties to any activities which undermine the attainment of the objectives of this Agreement;

(k) establish the criteria for and rules governing participation in fishing; and

(l) carry out any other tasks and functions necessary to achieve the objectives of this Agreement.

2. In determining criteria for participation in fishing, including allocation of total allowable catch or total level of fishing effort, the Contracting Parties shall take into account, *inter alia*, international principles such as those contained in the 1995 Agreement.

3. In applying the provisions of paragraph 2, the Contracting Parties may, *inter alia*:

(a) designate annual quota allocations or fishing effort limitations for Contracting Parties;

- (b) allocate catch quantities for exploration and scientific research; and
- (c) set aside fishing opportunities for non-Contracting Parties to this Agreement, if necessary.

4. The Meeting of Parties shall, subject to agreed rules, review quota allocations and fishing effort limitations of Contracting Parties and participation in fishing opportunities of non-Contracting Parties taking into account, inter alia, information on the implementation by Contracting and non-Contracting Parties of the conservation and management measures adopted by the Meeting of the Parties.

Article 7. Subsidiary bodies

1. The Meeting of the Parties shall establish a permanent Scientific Committee, which shall meet, unless the Meeting of the Parties otherwise decides, at least once a year, and preferably prior to the Meeting of the Parties, in accordance with the following provisions:

- (a) the functions of the Scientific Committee shall be:
 - (i) to conduct the scientific assessment of the fishery resources and the impact of fishing on the marine environment, taking into account the environmental and oceanographic characteristics of the Area, and the results of relevant scientific research;
 - (ii) to encourage and promote cooperation in scientific research in order to improve knowledge of the state of the fishery resources;
 - (iii) to provide scientific advice and recommendations to the Meeting of the Parties for the formulation of the conservation and management measures referred to in Article 6 (1)(d);
 - (iv) to provide scientific advice and recommendations to the Meeting of the Parties for the formulation of measures regarding the monitoring of fishing activities;
 - (v) to provide scientific advice and recommendations to the Meeting of the Parties on appropriate standards and format for fishery data collection and exchange; and
 - (vi) any other scientific function that the Meeting of the Parties may decide;
- (b) in developing advice and recommendations the Scientific Committee shall take into consideration the work of the South West Indian Ocean Fisheries Commission as well as that of other relevant research organizations and regional fisheries management organizations.

2. Once the measures referred to in Article 6 are taken, the Meeting of the Parties shall establish a Compliance Committee, to verify the implementation of and compliance with such measures. The Compliance Committee shall meet, in conjunction with the Meeting of the Parties, as provided for in the Rules of Procedure and shall report, advise and make recommendations to the Meeting of the Parties.

3. The Meeting of the Parties may also establish such temporary, special or standing committees as may be required, to study and report on matters pertaining to the implementation of the objectives of this Agreement, and working groups to study, and submit recommendations on, specific technical problems.

Article 8. Decision making

1. Unless otherwise provided in this Agreement, decisions of the Meeting of the Parties and its subsidiary bodies on matters of substance shall be taken by the consensus of the Contracting Parties present, where consensus means the absence of any formal objection made at the time a decision is taken. The question of whether a matter is one of substance shall be treated as a matter of substance.

2. Decisions on matters other than those referred to in paragraph 1 shall be taken by a simple majority of the Contracting Parties present and voting.

3. Decisions adopted by the Meeting of the Parties shall be binding on all Contracting Parties.

Article 9. Secretariat

The Meeting of the Parties shall decide on arrangements for the carrying out of secretariat services, or the establishment of a Secretariat, to perform the following functions:

(a) implementing and coordinating the administrative provisions of this Agreement, including the compilation and distribution of the official report of the Meeting of the Parties;

(b) maintaining a complete record of the proceedings of the Meeting of the Parties and its subsidiary bodies, as well as a complete archive of any other official documents pertaining to the implementation of this Agreement; and

(c) any other function that the Meeting of the Parties may decide.

Article 10. Contracting Party duties

1. Each Contracting Party shall, in respect of its activities within the Area:

(a) promptly implement this Agreement and any conservation, management and other measures or matters which may be agreed by the Meeting of the Parties;

(b) take appropriate measures in order to ensure the effectiveness of the measures adopted by the Meeting of the Parties;

(c) collect and exchange scientific, technical and statistical data with respect to the fishery resources and ensure that:

(i) data is collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements set forth in the rules adopted by the Meeting of the Parties;

(ii) appropriate measures are taken to verify the accuracy of such data;

(iii) such statistical, biological and other data and information as the Meeting of the Parties may decide is provided annually; and

(iv) information on steps taken to implement the conservation and management measures adopted by the Meeting of the Parties is provided in a timely manner.

2. Each Contracting Party shall make available to the Meeting of the Parties a statement of implementing and compliance measures, including imposition of sanctions for any violations, it has taken in accordance with this Article and, in the case of coastal States that are Contracting Parties to this Agreement, as regards the conservation and

management measures they have taken for straddling stocks occurring in waters under their jurisdiction adjacent to the Area.

3. Without prejudice to the primacy of the responsibility of the flag State, each Contracting Party shall, to the greatest extent possible, take measures, or cooperate, to ensure that its nationals and fishing vessels owned or operated by its nationals fishing in the Area comply with the provisions of this Agreement and with the conservation and management measures adopted by the Meeting of the Parties.

4. Each Contracting Party shall, to the greatest extent possible, at the request of any other Contracting Party, and when provided with the relevant information, investigate any alleged serious violation within the meaning of the 1995 Agreement by its nationals, or fishing vessels owned or operated by its nationals, of the provisions of this Agreement or any conservation and management measure adopted by the Meeting of the Parties. A reply, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to all Contracting Parties as soon as practicable and in any case within two (2) months of such request. A report on the outcome of the investigation shall be provided to the Meeting of the Parties when the investigation is completed.

Article 11. Flag State duties

1. Each Contracting Party shall take such measures as may be necessary to ensure that:

(a) fishing vessels flying its flag operating in the Area comply with the provisions of this Agreement and the conservation and management measures adopted by the Meeting of the Parties and that such vessels do not engage in any activity which undermines the effectiveness of such measures;

(b) fishing vessels flying its flag do not conduct unauthorized fishing within waters under national jurisdiction adjacent to the Area; and

(c) it develops and implements a satellite vessel monitoring system for fishing vessels flying its flag and fishing in the Area.

2. No Contracting Party shall allow any fishing vessel entitled to fly its flag to be used for fishing in the Area unless it has been authorised to do so by the appropriate authority or authorities of that Contracting Party.

3. Each Contracting Party shall:

(a) authorize the use of vessels flying its flag for fishing in waters beyond national jurisdiction only where it is able to exercise effectively its responsibilities in respect of such vessels under this Agreement and in accordance with international law;

(b) maintain a record of fishing vessels entitled to fly its flag and authorized to fish for the fishery resources, and ensure that, for all such vessels, such information as may be specified by the Meeting of the Parties is entered in that record. Contracting Parties shall exchange this information in accordance with such procedures as may be agreed by the Meeting of the Parties;

(c) in conformity with the rules determined by the Meeting of the Parties, make available to each annual Meeting of the Parties a report on its fishing activities in the Area;

(d) collect and share in a timely manner, complete and accurate data concerning fishing activities by vessels flying its flag operating in the area, in particular on vessel position, retained catch, discarded catch and fishing effort, where appropriate maintaining confidentiality of data as it relates to the application of relevant national legislation; and

(e) to the greatest extent possible, at the request of any other Contracting Party, and when provided with the relevant information, investigate any alleged serious violation within the meaning of the 1995 Agreement by fishing vessels flying its flag of the provisions of this Agreement or any conservation and management measure adopted by the Meeting of the Parties. A reply, including details of any action taken or proposed to be taken in relation to such alleged violation, shall be provided to all Contracting Parties as soon as practicable and in any case within two (2) months of such request. A report on the outcome of the investigation shall be provided to the Meeting of the Parties when the investigation is completed.

Article 12. Port State Duties

1. Measures taken by a port State Contracting Party in accordance with this Agreement shall take full account of the right and the duty of a port State to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures, a port State Contracting Party shall not discriminate in form or in fact against the fishing vessels of any State.

2. Each port State Contracting Party shall:

(a) in accordance with the conservation and management measures adopted by the Meeting of the Parties, *inter alia*, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals;

(b) not permit landings, transshipment, or supply services in relation to fishing vessels unless they are satisfied that fish on board the vessel have been caught in a manner consistent with the conservation and management measures adopted by the Meeting of the Parties; and

(c) provide assistance to flag State Contracting Parties, as reasonably practical and in accordance with its national law and international law, when a fishing vessel is voluntarily in its ports or at its offshore terminals and the flag State of the vessel requests it to provide assistance in ensuring compliance with the provisions of this Agreement and with the conservation and management measures adopted by the Meeting of the Parties.

3. In the event that a port State Contracting Party considers that a vessel of another Contracting Party making use of its ports or offshore terminals has violated a provision of this Agreement or a conservation and management measure adopted by the Meeting of the Parties, it shall draw this to the attention of the flag State concerned and of the Meeting of the Parties. The port State Contracting Party shall provide the flag State and the Meeting of the Parties with full documentation of the matter, including any record of inspection.

4. Nothing in this Article affects the exercise by Contracting Parties of their sovereignty over ports in their territory in accordance with international law.

Article 13. Special requirements of developing states

1. The Contracting Parties shall give full recognition to the special requirements of developing States bordering the Area, in particular the least-developed among them and small island developing States, in relation to the conservation and management of fishery resources and the sustainable development of such resources.

2. The Contracting Parties recognize, in particular:

(a) the vulnerability of developing States bordering the Area, in particular the least-developed among them and small island developing States, that are dependent on the exploitation of fishery resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and fishworkers; and

(c) the need to ensure that conservation and management measures adopted by the Meeting of the Parties do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States bordering the Area, in particular the least-developed among them and small island developing States.

3. Cooperation by the Contracting Parties under the provisions of this Agreement and through other subregional or regional organizations involved in the management of marine living resources should include action for the purposes of:

(a) enhancing the ability of developing States bordering the Area, in particular the least-developed among them and small island developing States, to conserve and manage fishery resources and to develop their own fisheries for such resources; and

(b) assisting developing States bordering the Area, in particular the least-developed among them and small island developing States, to enable them to participate in fisheries for such resources, including facilitating access in accordance with this Agreement.

4. Cooperation with developing States bordering the Area, in particular the least-developed among them and small island developing States, for the purposes set out in this Article should include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, and activities directed specifically towards:

(a) improved conservation and management of the fishery resources and of straddling stocks occurring in waters under national jurisdiction adjacent to the Area, which can include the collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) improved information collection and management of the impact of fishing activities on the marine environment;

(c) stock assessment and scientific research;

(d) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology; and

(e) participation in the Meeting of the Parties and meetings of its subsidiary bodies as well as in the settlement of disputes.

Article 14. Transparency

1. The Contracting Parties shall promote transparency in decision making processes and other activities carried out under this Agreement.

2. Coastal States with waters under national jurisdiction adjacent to the Area that are not Contracting Parties to this Agreement shall be entitled to participate as observers in the Meeting of the Parties and meetings of its subsidiary bodies.

3. Non-Contracting Parties to this Agreement shall be entitled to participate as observers in the Meeting of the Parties and meetings of its subsidiary bodies.

4. Intergovernmental organizations concerned with matters relevant to the implementation of this Agreement, in particular the Food and Agriculture Organization of the United Nations, the South West Indian Ocean Fisheries Commission, and regional fisheries management organizations with competence over high seas waters adjacent to the Area, shall be entitled to participate as observers in the Meeting of the Parties and meetings of its subsidiary bodies.

5. Representatives from non-governmental organizations concerned with matters relevant to the implementation of this Agreement shall be afforded the opportunity to participate in the Meeting of the Parties and meetings of its subsidiary bodies as observers or otherwise as determined by the Meeting of the Parties. The Rules of Procedure of the Meeting of the Parties and its subsidiary bodies shall provide for such participation. The procedures shall not be unduly restrictive in this respect.

6. Observers shall be given timely access to pertinent information subject to the Rules of Procedure, including those concerning confidentiality requirements, which the Meeting of the Parties may adopt.

Article 15. Fishing entities

1. After the entry into force of this Agreement any fishing entity whose vessels have fished or intend to fish for fishery resources in the Area may, by a written instrument delivered to the Chairperson of the Meeting of the Parties, in accordance with such procedures as may be established by the Meeting of the Parties, express its firm commitment to be bound by the terms of this Agreement. Such commitment shall become effective thirty (30) days from the date of receipt of the instrument. Any such fishing entity may withdraw such commitment by written notification addressed to the Chairperson of the Meeting of the Parties. Notice of withdrawal shall become effective ninety (90) days from the date of its receipt by the Chairperson of the Meeting of the Parties.

2. A fishing entity which has expressed its commitment to be bound by the terms of this Agreement may participate in the Meeting of the Parties and its subsidiary bodies, and partake in decision making, in accordance with the Rules of Procedure adopted by the Meeting of the Parties. Articles 1 to 18 and 20.2 apply, *mutatis mutandis*, to such a fishing entity.

Article 16. Cooperation with other organizations

The Contracting Parties, acting jointly under this Agreement, shall cooperate closely with other international fisheries and related organizations in matters of mutual interest, in particular with the South West Indian Ocean Fisheries Commission and any other

regional fisheries management organization with competence over high seas waters adjacent to the Area.

Article 17. Non-contracting Parties

1. Contracting Parties shall take measures consistent with this Agreement, the 1995 Agreement and international law to deter the activities of vessels flying the flags of non-Contracting Parties to this Agreement which undermine the effectiveness of conservation and management measures adopted by the Meeting of the Parties or the attainment of the objectives of this Agreement.

2. Contracting Parties shall exchange information on the activities of fishing vessels flying the flags of non-Contracting Parties to this Agreement which are engaged in fishing operations in the Area.

3. Contracting Parties shall draw the attention of any non-Contracting Party to this Agreement to any activity undertaken by its nationals or vessels flying its flag which, in the opinion of the Contracting Party, undermines the effectiveness of conservation and management measures adopted by the Meeting of the Parties or the attainment of the objectives of this Agreement.

4. Contracting Parties shall, individually or jointly, request non-Contracting Parties to this Agreement whose vessels fish in the Area to cooperate fully in the implementation of conservation and management measures adopted by the Meeting of the Parties with a view to ensuring that such measures are applied to all fishing activities in the Area. Such cooperating non-Contracting Parties to this Agreement shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with, and their record of compliance with, conservation and management measures in respect of the relevant stocks of fishery resources.

Article 18. Good faith and abuse of right

Each Contracting Party shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not constitute an abuse of right.

Article 19. Relation to other agreements

Nothing in this Agreement shall prejudice the rights and obligations of States under the 1982 Convention or the 1995 Agreement.

Article 20. Interpretation and settlement of disputes

1. Contracting Parties shall use their best endeavours to resolve their disputes by amicable means. At the request of any Contracting Party a dispute may be submitted for binding decision in accordance with the procedures for the settlement of disputes provided in Section II of Part XV of the 1982 Convention or, where the dispute concerns one or more straddling stocks, the procedures set out in Part VIII of the 1995 Agreement. The relevant part of the 1982 Convention and the 1995 Agreement shall apply whether or not the parties to the dispute are also parties to either of these instruments.

2. If a dispute involves a fishing entity which has expressed its commitment to be bound by the terms of this Agreement and cannot be settled by amicable means, the dispute shall, at the request of any party to the dispute, be submitted to final and binding arbitration in accordance with the relevant rules of the Permanent Court of Arbitration.

Article 21. Amendments

1. Any Contracting Party may propose an amendment to the Agreement by providing to the Depositary the text of a proposed amendment at least sixty (60) days in advance of an ordinary Meeting of the Parties. The Depositary shall circulate a copy of this text to all other Contracting Parties promptly.

2. Amendments to the Agreement shall be adopted by consensus of all Contracting Parties.

3. Amendments to the Agreement shall enter into force ninety (90) days after all Contracting Parties which held this status at the time the amendments were approved have deposited their instruments of ratification, acceptance, or approval of such amendments with the Depositary.

Article 22. Signature, ratification, acceptance and approval

1. This Agreement shall be open for signature by:

(a) the States and regional economic integration organization participating in the Inter-Governmental Consultation on the Southern Indian Ocean Fisheries Agreement; and

(b) any other State having jurisdiction over waters adjacent to the Area;

and shall remain open for signature for twelve (12) months from 7 July 2006 (the date of opening for signature).

2. This Agreement is subject to ratification, acceptance or approval by the signatories.

3. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

Article 23. Accession

1. This Agreement shall be open for accession, after its closure for signature, by any State or regional economic integration organization referred to in Article 22.1, and by any other State or regional economic integration organization interested in fishing activities in relation to the fishery resources.

2. Instruments of accession shall be deposited with the Depositary.

Article 24. Entry into force

1. This Agreement shall enter into force ninety (90) days from the date of receipt by the Depositary of the fourth instrument of ratification, acceptance or approval, at least two of which have been deposited by coastal States bordering the Area.

2. For each signatory which ratifies, accepts or approves this Agreement after its entry into force, this Agreement shall enter into force for that signatory thirty (30) days after the deposit of its instrument of ratification, acceptance or approval.

3. For each State or regional economic integration organization which accedes to this Agreement after its entry into force, this Agreement shall enter into force for that State or regional economic integration organization thirty (30) days after the deposit of its instrument of accession.

Article 25. The depositary

1. The Director-General of the Food and Agriculture Organization of the United Nations shall be the Depositary of this Agreement and of any amendments thereto. The Depositary shall transmit certified copies of this Agreement to all signatories and shall register this Agreement with the Secretary-General of the United Nations pursuant to Article 102 of the Charter of the United Nations.

2. The Depositary shall inform all signatories of and Contracting Parties to this Agreement of signatures and of instruments of ratification, accession, acceptance or approval deposited under Articles 22 and 23 and of the date of entry into force of the Agreement under Article 24.

Article 26. Withdrawal

Any Contracting Party may withdraw from this Agreement at any time after the expiration of two years from the date upon which the Agreement entered into force with respect to that Contracting Party, by giving written notice of such withdrawal to the Depositary who shall immediately inform all the Contracting Parties of such withdrawal. Notice of withdrawal shall become effective ninety (90) days from the date of its receipt by the Depositary.

Article 27. Termination

This Agreement shall be automatically terminated if and when, as the result of withdrawals, the number of Contracting Parties drops below three.

Article 28. Reservations

1. Ratification, acceptance or approval of this Agreement may be made subject to reservations which shall become effective only upon unanimous acceptance by all Contracting Parties to this Agreement. The Depositary shall notify forthwith all Contracting Parties of any reservation. Contracting Parties not having replied within three (3) months from the date of notification shall be deemed to have accepted the reservation. Failing such acceptance, the State or regional economic integration organization making the reservation shall not become a Contracting Party to this Agreement.

2. Nothing in paragraph 1 shall prevent a State or a regional economic integration organization on behalf of a State from making a reservation with regard to membership acquired through territories and surrounding maritime areas over which the State asserts its rights to exercise sovereignty or territorial and maritime jurisdiction.

In witness whereof, the undersigned Plenipotentiaries, having been duly authorized by their respective Governments, have signed this Agreement.

Done in Rome on this Seventh day of July 2006 in English and French, both texts being equally authoritative.

3. International Atomic Energy Agency

AGREEMENT ON THE ESTABLISHMENT OF ITER INTERNATIONAL FUSION ENERGY ORGANIZATION FOR THE JOINT IMPLEMENTATION OF THE ITER PROJECT

Preamble

The European Atomic Energy Community (hereinafter “EURATOM”), the Government of the People’s Republic of China, the Government of the Republic of India, the Government of Japan, the Government of the Republic of Korea, the Government of the Russian Federation and the Government of the United States of America,

Recalling that the successful completion of the ITER Engineering Design Activities under the auspices of the International Atomic Energy Agency (hereinafter “the IAEA”) has placed at the disposal of the Parties a detailed, complete and fully integrated engineering design of a research facility aimed to demonstrate the feasibility of fusion as an energy source;

Emphasizing the long term potential of fusion energy as a virtually limitless, environmentally acceptable and economically competitive source of energy;

Convinced that ITER is the next important step on the path to develop fusion energy and that now is the appropriate time to initiate the implementation of ITER on the basis of progress of research and development in the field of fusion energy;

Having regard to the joint declaration by the Representatives of the Parties to the ITER negotiations, on the occasion of the ministerial meeting for ITER on 28 June 2005 in Moscow;

Recognizing that the World Summit on Sustainable Development of 2002 called upon governments to promote increased research and development in the field of various energy technologies, including renewable energy, energy efficiency and advanced energy technologies;

Emphasizing the importance of the joint implementation of ITER to demonstrate the scientific and technological feasibility of fusion energy for peaceful purposes and to stimulate the interest of young generations in fusion;

Determined that ITER’s overall programmatic objective will be pursued by the ITER Organization through a common international research programme organized around scientific and technological goals, developed and executed with participation of leading researchers from all Parties;

Emphasizing the importance of safe and reliable implementation of construction, operation, exploitation, de-activation and decommissioning of the ITER facilities with a view to demonstrating safety and promoting social acceptability of fusion as an energy source;

Affirming the importance of genuine partnership in implementing this long term and large scale project for the purpose of fusion energy research and development;

Recognizing that while scientific and technological benefits will be shared equally among the Parties for fusion energy research purposes, other benefits associated with the implementation of the Project will be shared on an equitable basis;

Desiring to continue the fruitful cooperation with the IAEA in this endeavour;

Have agreed as follows:

Article 1. Establishment of the ITER Organization

1. The ITER International Fusion Energy Organization (hereinafter “the ITER Organization”) is hereby established.

2. The headquarters of the ITER Organization (hereinafter “the Headquarters”) shall be at St Paul-lez-Durance, (Bouches-du-Rhône, France). For the purposes of this Agreement, EURATOM shall be referred to as “the Host Party” and France as “the Host State”.

Article 2. Purpose of the ITER Organization

The purpose of the ITER Organization shall be to provide for and to promote cooperation among the Members referred to in Article 4 (hereinafter “the Members”) on the ITER Project, an international project that aims to demonstrate the scientific and technological feasibility of fusion energy for peaceful purposes, an essential feature of which would be achieving sustained fusion power generation.

Article 3. Functions of the ITER Organization

1. The ITER Organization shall:

a) construct, operate, exploit, and de-activate the ITER facilities in accordance with the technical objectives and the general design presented in the Final Report of the ITER Engineering Design Activities (ITER EDA Documentation Series No. 21) and such supplemental technical documents as may be adopted, as necessary, in accordance with this Agreement, and provide for the decommissioning of the ITER facilities;

b) encourage the exploitation of the ITER facilities by the laboratories, other institutions and personnel participating in the fusion energy research and development programmes of the Members;

c) promote public understanding and acceptance of fusion energy; and

d) undertake, in accordance with this Agreement, any other activities that are necessary to achieve its purpose.

2. In the performance of its functions, the ITER Organization shall give special regard to the maintenance of good relations with local communities.

Article 4. Members of the ITER Organization

The Parties to this Agreement shall be the Members of the ITER Organization.

Article 5. Legal Personality

1. The ITER Organization shall have international legal personality, including the capacity to conclude agreements with States and/or international organizations.

2. The ITER Organization shall have legal personality and enjoy, in the territories of the Members, the legal capacity it requires, including to:

- a) conclude contracts;
- b) acquire, hold and dispose of property;
- c) obtain licenses; and
- d) institute legal proceedings.

Article 6. Council

1. The Council shall be the principal organ of the ITER Organization and shall be composed of Representatives of the Members. Each Member shall appoint up to four Representatives to the Council.

2. The Depositary shall convene the first session of the Council no later than three months after the entry into force of this Agreement, provided that the notifications referred to in Article 12(5) have been received from all Parties.

3. The Council shall elect from among its members a Chair and a Vice-Chair who shall each serve for a term of one year and who may be re-elected up to three times for a maximum period of four years.

4. The Council shall adopt its rules of procedure by unanimity.

5. The Council shall meet twice a year, unless it decides otherwise. The Council may decide to hold an extraordinary session at the request of a Member or of the Director General. Sessions of the Council shall take place at the Headquarters, unless the Council decides otherwise.

6. When appropriate, the Council may decide to hold a session at the ministerial level.

7. The Council shall be responsible, in accordance with this Agreement, for the promotion, overall direction and supervision of the activities of the ITER Organization in pursuit of its purpose. The Council may take decisions and make recommendations on any questions, matters or issues in accordance with this Agreement. In particular, the Council shall:

a) decide on the appointment, replacement and extension of the term of office of the Director-General;

b) adopt and amend where necessary, on the proposal of the Director-General, the Staff Regulations and the Project Resource Management Regulations of the ITER Organization;

c) decide, on the proposal of the Director-General, the main management structure of the ITER Organization and complement of the Staff;

d) appoint senior Staff on the proposal of the Director-General;

e) appoint the members of the Financial Audit Board as referred to in Article 17;

- f) decide, in accordance with Article 18, on the terms of reference for the undertaking of an assessment of the management of the ITER Organization and appoint a Management Assessor for that purpose;
- g) decide, on the proposal of the Director-General, the total budget for the various phases of the ITER Project and allowable ranges for adjustment for the purpose of the annual updates referred to in subparagraph j), and approve the initial ITER Project Plan and Resource Estimates;
- h) approve changes to the overall cost sharing;
- i) approve, with the consent of the Members concerned, modifications to the procurement allocation without changing the overall cost sharing ;
- j) approve the annual updates of the ITER Project Plan and Resource Estimates and, correspondingly, approve the annual programme and adopt the annual budget of the ITER Organization;
- k) approve the annual accounts of the ITER Organization;
- l) adopt the annual reports;
- m) adopt, as necessary, the supplemental technical documents referred to in Article 3 (1) (a);
- n) establish such subsidiary bodies of the Council as may be necessary;
- o) approve the conclusion of agreements or arrangements for international cooperation in accordance with Article 19;
- p) decide on acquisition, sale and mortgaging of land and other titles of real property;
- q) adopt the rules on Intellectual Property Rights management and the dissemination of information in accordance with Article 10 on the proposal of the Director-General;
- r) approve, on the proposal of the Director-General, the details of setting up of Field Teams with consent of the Members concerned, in accordance with Article 13. The Council shall review, on a periodic basis, the continuation of any Field Teams established;
- s) approve, on the proposal of the Director-General, agreements/arrangements governing relations between the ITER Organization and the Members or States on whose territory the Headquarters and Field Teams of the ITER Organization are located;
- t) approve, on the proposal of the Director-General, efforts to promote collaboration among the relevant domestic fusion research programmes of the Members and between such programmes and the ITER Organization;
- u) decide on the accession of States or international organizations to this Agreement in accordance with Article 23;
- v) recommend to the Parties, in accordance with Article 28, amendments to this Agreement;
- w) decide on the taking or granting of loans, provision of assurances and guarantees and furnishing collateral and security in respect thereto;

x) decide whether to propose material, equipment and technology for consideration by international export control fora for inclusion on their control lists, and establish a policy supporting peaceful uses and non-proliferation in accordance with Article 20;

y) approve compensation arrangements referred to in Article 15; and

z) decide on waivers of immunity in accordance with Article 12 (3) and have such other powers as may be necessary to fulfill the purpose and to carry out the functions of the ITER Organization, consistent with this Agreement.

8. The Council shall decide issues under subparagraphs a), b), c), g), h), o), u), v), w), x), y) and z) of paragraph 7, and on the weighted voting system referred to in paragraph 10, by unanimity.

9. On all issues other than as specified in paragraph 8, the Members shall use their best efforts to achieve consensus. Failing consensus, the Council shall decide the issue in accordance with the weighted voting system referred to in paragraph 10. Decisions on issues related to Article 14 shall require the concurrence of the Host Party.

10. The respective weights of the votes of the Members shall reflect their contributions to the ITER Organization. The weighted voting system, which shall include both the distribution of votes and the decision making rules, shall be set out in the Council Rules of Procedure.

Article 7. The Director-General and the Staff

1. The Director-General shall be the chief executive officer and the representative of the ITER Organization in the exercise of its legal capacity. The Director-General shall act in a manner consistent with this Agreement and decisions of the Council, and shall be responsible to the Council for the execution of his/her duties.

2. The Director-General shall be assisted by the Staff. The Staff shall consist of direct employees of the ITER Organization and personnel seconded by the Members.

3. The Director-General shall be appointed for a term of five years. The appointment of the Director-General may be extended once for an additional period of up to five years.

4. The Director-General shall take all measures necessary for the management of the ITER Organization, the execution of its activities, the implementation of its policies and the fulfillment of its purpose. In particular, the Director-General shall:

- a) prepare and submit to the Council:
 - the total budget for the various phases of the ITER Project and allowable ranges for adjustment;
 - the ITER Project Plan and Resource Estimates and their annual updates;
 - the annual budget within the agreed total budget, including the annual contributions, and annual accounts;
 - proposals on senior Staff appointments and main management structure of the ITER Organization;
 - the Staff Regulations;
 - the Project Resource Management Regulations; and

- the annual reports;
 - b) appoint, direct and supervise the Staff;
 - c) be responsible for safety and undertake all organizational measures needed to observe the laws and regulations referred to in Article 14;
 - d) undertake, where necessary in conjunction with the Host State, to obtain the permits and licenses required for the construction, operation and exploitation of the ITER facilities;
 - e) promote collaboration among the relevant domestic fusion research programmes of the Members and between such programmes and the ITER Organization;
 - f) ensure the quality and fitness of components and systems procured for use by the ITER Organization;
 - g) submit to the Council, as necessary, the supplemental technical documents referred to in Article 3 (1) (a);
 - h) conclude, subject to prior approval of the Council, agreements or arrangements for international cooperation in accordance with Article 19 and supervise their implementation;
 - i) make arrangements for the sessions of the Council;
 - j) as requested by the Council, assist subsidiary bodies of the Council in the performance of their tasks; and
 - k) monitor and control the execution of the annual programmes with respect to timing, results and quality, and accept the completion of the tasks.
5. The Director-General shall attend meetings of the Council unless the Council decides otherwise.
6. Without prejudice to Article 14, the responsibilities of the Director-General and the Staff in respect of the ITER Organization shall be exclusively international in character. In the discharge of their duties they shall not seek or receive instructions from any government or from any authority external to the ITER Organization. Each Member shall respect the international character of the responsibilities of the Director-General and the Staff, and shall not seek to influence them in the discharge of their duties.
7. The Staff shall support the Director-General in the performance of his/her duties and shall be under his/her management authority.
8. The Director-General shall appoint the Staff in accordance with the Staff Regulations.
9. The term of the appointment of each member of the Staff shall be up to five years.
10. The Staff of the ITER Organization shall consist of such qualified scientific, technical and administrative personnel as shall be required for the implementation of the activities of the ITER Organization.
11. The Staff shall be appointed on the basis of their qualifications, taking into account an adequate distribution of posts among the Members in relation to their contributions.

12. In accordance with this Agreement and the relevant regulations, the Members may second personnel and send visiting researchers to the ITER Organization.

Article 8. Resources of the ITER Organization

1. The resources of the ITER Organization shall comprise:

a) Contributions in kind, as referred to in the document “Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions”, comprising: i) specific components, equipment, materials and other goods and services in accordance with the agreed technical specifications and ii) staff seconded by the Members;

b) Financial contributions to the budget of the ITER Organization by the Members (hereinafter “contributions in cash”), as referred to in the document “Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions”;

c) Additional resources received either in cash or in kind within limits and under terms approved by the Council.

2. The respective Members’ contributions over the duration of this Agreement shall be as referred to in the documents “Value Estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions” and “Cost Sharing for all Phases of the ITER Project” and may be updated by unanimous decision of the Council.

3. The resources of the ITER Organization shall be solely used to promote the purpose and to exercise the functions of the ITER Organization in accordance with Articles 2 and 3.

4. Each Member shall provide its contributions to the ITER Organization through an appropriate legal entity, hereinafter “the Domestic Agency” of that Member, except where otherwise agreed by the Council. The approval of the Council shall not be required for Members to provide cash contributions directly to the ITER Organization.

Article 9. Project Resource Management Regulations

1. The purpose of the Project Resource Management Regulations is to ensure the sound financial management of the ITER Organization. These Regulations shall include, *inter alia*, the principal rules relating to:

a) the Financial Year;

b) the unit of account and the currency that the ITER Organization shall use for accounting, budget and resource evaluation purposes;

c) the presentation and structure of the ITER Project Plan and Resource Estimates;

d) the procedure for the preparation and adoption of the annual budget, the implementation of the annual budget and internal financial control;

e) the contributions by the Members;

f) the awarding of contracts;

- g) the management of contributions; and
- h) the management of the decommissioning fund.

2. The Director-General shall prepare each year, and submit to the Council, an update of the ITER Project Plan and Resource Estimates.

3. The ITER Project Plan shall specify the plan for the execution of all functions of the ITER Organization and shall cover the duration of this Agreement. It shall:

a) outline an overall plan including time schedule and major milestones, for the fulfilment of the purpose of the ITER Organization and summarise the progress of the ITER Project in relation to the overall plan;

b) present specific objectives and schedules of the programme of activities of the ITER Organization for the coming five years or for the period of construction, whichever will last longer; and

c) provide appropriate commentaries, including assessment of the risks to the ITER Project and descriptions of risk avoidance or mitigation measures.

4. The ITER Resource Estimates shall provide a comprehensive analysis of the resources already expended and required in the future to undertake the ITER Project Plan and of the plans for the provision of the resources.

Article 10. Information and Intellectual Property

1. Subject to this Agreement and the Annex on Information and Intellectual Property, the ITER Organization and the Members shall support the widest appropriate dissemination of information and intellectual property they generate in the execution of this Agreement. The implementation of this Article and the Annex on Information and Intellectual Property shall be equal and non-discriminatory for all Members and the ITER Organization.

2. In carrying out its activities, the ITER Organization shall ensure that any scientific results shall be published or otherwise made widely available after a reasonable period of time to allow for the obtaining of appropriate protection. Any copyright on works based on those results shall be owned by the ITER Organization unless otherwise provided in specific provisions of this Agreement and the Annex on Information and Intellectual Property.

3. When placing contracts for work to be performed pursuant to this Agreement, the ITER Organization and the Members shall include provisions in such contracts on any resulting intellectual property. These provisions shall address, inter alia, rights of access to, as well as disclosure and use of, such intellectual property, and shall be consistent with this Agreement and the Annex on Information and Intellectual Property.

4. Intellectual property generated or incorporated pursuant to this Agreement shall be treated in accordance with the provisions of the Annex on Information and Intellectual Property.

Article 11. Site Support

1. The Host Party shall make available or cause to be made available to the ITER Organization the site support required for the implementation of the ITER Project as sum-

marized and under the terms outlined in the Annex on Site Support. The Host Party may designate an entity to act on its behalf for this purpose. Such designation shall not affect the obligations of the Host Party under this Article.

2. Subject to the approval of the Council, the details of and the procedures for cooperation on site support between the ITER Organization and the Host Party or its designated entity shall be covered by a Site Support Agreement to be concluded between them.

Article 12. Privileges and Immunities

1. The ITER Organization, its property and assets, shall enjoy in the territory of each Member such privileges and immunities as are necessary for the exercise of its functions.

2. The Director-General and the Staff of the ITER Organization and the representatives of the Members in the Council and subsidiary bodies, together with their alternates and experts, shall enjoy in the territory of each of the Members such privileges and immunities as are necessary for the exercise of their functions in connection with the ITER Organization.

3. The privileges and immunities set out in paragraphs 1 and 2 shall be waived in cases where the authority competent to waive the immunities considers that such immunities would impede the course of justice and where, in the case of the ITER Organization, the Director-General, and the Staff, the Council determines that such a waiver would not be contrary to the interests of the ITER Organization and its Members.

4. The privileges and immunities conferred in accordance with this Agreement shall not diminish or affect the duty of the ITER Organization, the Director-General or the Staff to comply with the laws and regulations referred to in Article 14.

5. Each Party shall notify the Depositary in writing upon having given effect to paragraphs 1 and 2.

6. The Depositary shall notify the Parties when notifications have been received from all the Parties in accordance with paragraph 5.

7. A Headquarters Agreement shall be concluded between the ITER Organization and the Host State.

Article 13. Field Teams

Each Member shall host a Field Team established and operated by the ITER Organization as required for the exercise of the ITER Organization's functions and the fulfillment of its purpose. A Field Team Agreement shall be concluded between the ITER Organization and each Member.

Article 14. Public Health, Safety, Licensing and Environmental Protection

The ITER Organization shall observe applicable national laws and regulations of the Host State in the fields of public and occupational health and safety, nuclear safety, radiation protection, licensing, nuclear substances, environmental protection and protection from acts of malevolence.

Article 15. Liability

1. The contractual liability of the ITER Organization shall be governed by the relevant contractual provisions, which shall be construed in accordance with the law applicable to the contract.

2. In the case of non-contractual liability, the ITER Organization shall compensate appropriately or provide other remedies for any damage caused by it, to such extent as the ITER Organization is subject to a legal liability under the relevant law, with the details of compensation arrangements to be approved by the Council. This paragraph shall not be construed as a waiver of immunity by the ITER Organization.

3. Any payment by the ITER Organization to compensate for the liability referred to in paragraphs 1 and 2 and any costs and expenses incurred in connection therewith shall be considered as 'operational cost' as defined in the Project Resource Management Regulations.

4. In case the costs of compensation for damage referred to in paragraph 2 exceed funds available to the ITER Organization in the annual budget for operations and/or through insurance, the Members shall consult, through the Council, so that the ITER Organization can compensate, according to paragraph 2 by seeking to increase the overall budget by unanimous decision of the Council in accordance with Article 6 (8).

5. Membership in the ITER Organization shall not result in liability for Members for acts, omissions, or obligations of the ITER Organization.

6. Nothing in this Agreement shall impair, or shall be construed as a waiver of, immunity that Members enjoy in the territory of other States or in their territory.

Article 16. Decommissioning

1. During the period of operation of ITER, the ITER Organization shall generate a Fund (hereinafter "the Fund") to provide for the decommissioning of the ITER facilities. The modalities for the generation of the Fund, its estimation and updating, the conditions for changes and for its transfer to the Host State shall be set out in the Project Resource Management Regulations referred to in Article 9.

2. Following the final phase of experimental operations of ITER, the ITER Organization shall, within a period of five years, or shorter if agreed with the Host State, bring the ITER facilities into such conditions as are to be agreed and updated as necessary between the ITER Organization and the Host State, following which the ITER Organization shall hand over to the Host State the Fund and the ITER facilities for their decommissioning.

3. Following the acceptance by the Host State of the Fund together with the ITER facilities, the ITER Organization shall bear no responsibilities or liabilities for the ITER facilities, except when otherwise agreed between the ITER Organization and Host State.

4. The respective rights and obligations of the ITER Organization and the Host State and the modalities of their interactions in respect of ITER decommissioning shall be set out in the Headquarters Agreement referred to in Article 12, under which the ITER Organization and the Host State shall, *inter alia*, agree that:

a) after the handing over of the ITER facilities, the Host State shall continue to be bound by the provisions of Article 20; and

b) the Host State shall make regular reports to all Members that have contributed to the Fund on the progress of the decommissioning and on the procedures and technologies that have been used or generated for the decommissioning.

Article 17. Financial Audit

1. A Financial Audit Board (hereinafter “the Board”) shall be established to undertake the audit of the annual accounts of the ITER Organization in accordance with this Article and the Project Resource Management Regulations.

2. Each Member shall be represented on the Board by one member. The members of the Board shall be appointed by the Council on the recommendation of the respective Members for a period of three years. The appointment may be extended once for an additional period of three years. The Council shall appoint from among the members the Chair of the Board, who shall serve for a period of two years.

3. The members of the Board shall be independent and shall not seek or take instructions from any Member or any other person and shall report only to the Council.

4. The purposes of the Audit shall be to:

a) determine whether all income/expenditure has been received/incurred in a lawful and regular manner and has been accounted for;

b) determine whether the financial management has been sound;

c) provide a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions;

d) determine whether expenditures are in conformity with the budget; and

e) examine any matter having potential financial implications for the ITER Organization.

5. The Audit shall be based on recognized international principles and standards for accounting.

Article 18. Management Assessment

1. Every two years, the Council shall appoint a Management Assessor who shall assess the management of the activities of the ITER Organization. The scope of the assessment shall be decided by the Council.

2. The Director-General may also call for such assessments following consultation with the Council.

3. The Management Assessor shall be independent and shall not seek or take instructions from any Member or any person and shall report only to the Council.

4. The purpose of the assessment shall be to determine whether the management of the ITER Organization has been sound, in particular with respect to management effectiveness and efficiency in terms of scale of staff.

5. The assessment shall be based on records of the ITER Organization. The Management Assessor shall be granted full access to personnel, books and records as he/she may deem appropriate for this purpose.

6. The ITER Organization shall ensure that the Management Assessor shall abide by its requirements relating to the treatment of sensitive and/or business confidential information, in particular its policies concerning Intellectual Property, Peaceful Uses and Non-Proliferation.

Article 19. International Cooperation

Consistent with this Agreement and upon a unanimous decision of the Council, the ITER Organization may, in furtherance of its purpose, cooperate with other international organizations and institutions, non-Parties, and with organizations and institutions of non-Parties, and conclude agreements or arrangements with them to this effect. The detailed arrangements for such cooperation shall be determined in each case by the Council.

Article 20. Peaceful Uses and Non-Proliferation

1. The ITER Organization and the Members shall use any material, equipment or technology generated or received pursuant to this Agreement solely for peaceful purposes. Nothing in this paragraph shall be interpreted as affecting the rights of the Members to use material, equipment or technology acquired or developed by them independent of this Agreement for their own purposes.

2. Material, equipment or technology received or generated pursuant to this Agreement by the ITER Organization and the Members shall not be transferred to any third party to be used to manufacture or otherwise to acquire nuclear weapons or other nuclear explosive devices or for any non-peaceful purposes.

3. The ITER Organization and the Members shall take appropriate measures to implement this Article in an efficient and transparent manner. To this end, the Council shall interface with appropriate international fora and establish a policy supporting peaceful uses and non-proliferation.

4. In order to support the success of the ITER Project and its non-proliferation policy, the Parties agree to consult on any issues associated with the implementation of this Article.

5. Nothing in this Agreement shall require the Members to transfer material, equipment or technology contrary to national export control or related laws and regulations.

6. Nothing in this Agreement shall affect the rights and obligations of the Parties that arise from other international agreements concerning non-proliferation of nuclear weapons or other nuclear explosive devices.

Article 21. Application with regard to EURATOM

In accordance with the Treaty establishing EURATOM, this Agreement shall apply to the territories covered by that Treaty. In accordance with that Treaty and other relevant agreements, it shall also apply to the Republic of Bulgaria, the Republic of Romania and the Swiss Confederation, participating in the EURATOM fusion programme as fully associated third States.

Article 22. Entry into Force

1. This Agreement is subject to ratification, acceptance or approval in accordance with the procedures of each Signatory.
2. This Agreement shall enter into force thirty days after the deposit of instruments of ratification, acceptance or approval of this Agreement by the People's Republic of China, EURATOM, the Republic of India, Japan, the Republic of Korea, the Russian Federation and the United States of America.
3. If this Agreement has not entered into force within one year after signature, a meeting of the Signatories shall be convened by the Depositary to decide what course of action shall be undertaken to facilitate its entering into force.

Article 23. Accession

1. After the entry into force of this Agreement, any State or international organization may accede to and become a Party to this Agreement following a unanimous decision of the Council.
2. Any State or international organization that wishes to accede to this Agreement shall notify the Director-General, who shall inform the Members of this request at least six months before it is submitted to the Council for decision.
3. The Council shall determine the conditions of accession of any State or international organization.
4. Accession to this Agreement by a State or international organization shall take effect 30 days after the Depositary has received both the instrument of accession and the notification referred to in Article 12(5).

Article 24. Duration and Termination

1. This Agreement shall have an initial duration of 35 years. The last five years of this period, or shorter if agreed with the Host State, shall be dedicated to the de-activation of the ITER facilities.
2. The Council shall, at least eight years before the expiry of this Agreement, establish a Special Committee, chaired by the Director-General, that shall advise it on whether the duration of this Agreement should be extended having regard to the progress of the ITER Project. The Special Committee shall assess the technical and scientific state of the ITER facilities and reasons for the possible extension of this Agreement and, before recommending to extend this Agreement, the financial aspects in terms of required budget and impact on the de-activation and decommissioning costs. The Special Committee shall submit its report to the Council within one year after its establishment.
3. On the basis of the report, the Council shall decide by unanimity at least six years before the expiry whether to extend the duration of this Agreement.
4. The Council may not extend the duration of this Agreement for a period of more than ten years in total, nor may the Council extend this Agreement if such extension would alter the nature of the activities of the ITER Organization or the framework of financial contribution of the Members.

5. At least six years before the expiry of this Agreement, the Council shall confirm the foreseen end of this Agreement and decide the arrangements for the de-activation phase and the dissolution of the ITER Organization.

6. This Agreement may be terminated by agreement of all Parties, allowing the necessary time for de-activation and ensuring the necessary funds for decommissioning.

Article 25. Settlement of Disputes

1. Any issue arising among the Parties or between one or more Parties and the ITER Organization out of or in connection with this Agreement shall be settled by consultation, mediation or other procedures to be agreed, such as arbitration. The parties concerned shall meet to discuss the nature of any such issue with a view to an early resolution.

2. If the parties concerned are unable to resolve their dispute in consultation, either party may request the Chair of the Council (or if the Chair has been elected from a Member that is a party to the dispute, a member of the Council representing a Member that is not a party to the dispute) to act as a mediator at a meeting to attempt to resolve the dispute. Such meeting shall be convened within thirty days following a request by a party for mediation and concluded within sixty days thereafter, immediately following which the mediator shall provide a report of the mediation, which report shall be prepared in consultation with the Members other than the parties to the dispute with a recommendation for resolution of the dispute.

3. If the parties concerned are unable to resolve their dispute through consultations or mediation, they may agree to submit the dispute to an agreed form of dispute resolution in accordance with procedures to be agreed.

Article 26. Withdrawal

1. After this Agreement has been in force for ten years, any Party other than the Host Party may notify the Depositary of its intention to withdraw.

2. Withdrawal shall not affect the withdrawing Party's contribution to the construction cost of the ITER facilities. If a Party withdraws during the period of operation of ITER, it shall also contribute its agreed share of the cost of decommissioning the ITER facilities.

3. Withdrawal shall not affect any continuing right, obligation, or legal situation of a Party created through the execution of this Agreement prior to its withdrawal.

4. The withdrawal shall take effect at the end of the Financial Year following the year the notification referred to in paragraph 1 is given.

5. The details of withdrawal shall be documented by the ITER Organization in consultation with the withdrawing Party.

Article 27. Annexes

The Annex on Information and Intellectual Property and the Annex on Site Support shall form integral parts of this Agreement.

Article 28. Amendments

1. Any Party may propose an amendment to this Agreement.
2. Proposed amendments shall be considered by the Council, for recommendation to the Parties by unanimity.
3. Amendments are subject to ratification, acceptance or approval in accordance with the procedures of each Party and shall enter into force thirty days after the deposit of the instruments of ratification, acceptance or approval by all the Parties.

Article 29. Depositary

1. The Director General of the IAEA shall be the Depositary of this Agreement.
2. The original of this Agreement shall be deposited with the Depositary, who shall send certified copies thereof to the Signatories, and to the Secretary General of the United Nations for registration and publication pursuant to Article 102 of the Charter of the United Nations.
3. The Depositary shall notify all Signatory and acceding States and international organizations of:
 - a) the date of deposit of each instrument of ratification, acceptance, approval or accession;
 - b) the date of deposit of each notification received in accordance with Article 12 (5);
 - c) the date of entry into force of this Agreement and of amendments as provided for under Article 28;
 - d) any notification by a Party of its intention to withdraw from this Agreement; and
 - e) the termination of this Agreement.

Done in Paris, on the 21 November 2006.

4. World Intellectual Property Organization

(a) Singapore Treaty on the Law of Trademarks, 27 March 2006

Article 1. Abbreviated Expressions

For the purposes of this Treaty, unless expressly stated otherwise:

- (i) “Office” means the agency entrusted by a Contracting Party with the registration of marks;
- (ii) “registration” means the registration of a mark by an Office;
- (iii) “application” means an application for registration;
- (iv) “communication” means any application, or any request, declaration, correspondence or other information relating to an application or a registration, which is filed with the Office;

- (v) references to a “person” shall be construed as references to both a natural person and a legal entity;
- (vi) “holder” means the person whom the register of marks shows as the holder of the registration;
- (vii) “register of marks” means the collection of data maintained by an Office, which includes the contents of all registrations and all data recorded in respect of all registrations, irrespective of the medium in which such data are stored;
- (viii) “procedure before the Office” means any procedure in proceedings before the Office with respect to an application or a registration;
- (ix) “Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed at Paris on March 20, 1883, as revised and amended;
- (x) “Nice Classification” means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;
- (xi) “license” means a license for the use of a mark under the law of a Contracting Party;
- (xii) “licensee” means the person to whom a license has been granted;
- (xiii) “Contracting Party” means any State or intergovernmental organization party to this Treaty;
- (xiv) “Diplomatic Conference” means the convocation of Contracting Parties for the purpose of revising or amending the Treaty;
- (xv) “Assembly” means the Assembly referred to in Article 23;
- (xvi) references to an “instrument of ratification” shall be construed as including references to instruments of acceptance and approval;
- (xvii) “Organization” means the World Intellectual Property Organization;
- (xviii) “International Bureau” means the International Bureau of the Organization;
- (xix) “Director General” means the Director General of the Organization;
- (xx) “Regulations” means the Regulations under this Treaty that are referred to in Article 22;
- (xxi) references to an “Article” or to a “paragraph”, “subparagraph” or “item” of an Article shall be construed as including references to the corresponding rule(s) under the Regulations;
- xxii) “TLT 1994” means the Trademark Law Treaty done at Geneva on October 27, 1994.

Article 2. Marks to Which the Treaty Applies

- (1) *Nature of Marks*—Any Contracting Party shall apply this Treaty to marks consisting of signs that can be registered as marks under its law.
- (2) *Kinds of Marks*

(a) This Treaty shall apply to marks relating to goods (trademarks) or services (service marks) or both goods and services.

(b) This Treaty shall not apply to collective marks, certification marks and guarantee marks.

Article 3. Application

(1) *Indications or Elements Contained in or Accompanying an Application; Fee*

(a) Any Contracting Party may require that an application contain some or all of the following indications or elements:

- (i) a request for registration;
- (ii) the name and address of the applicant;
- (iii) the name of a State of which the applicant is a national if he/she is the national of any State, the name of a State in which the applicant has his/her domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;
- (iv) where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
- (v) where the applicant has a representative, the name and address of that representative;
- (vi) where an address for service is required under Article 4 (2)(b), such address;
- (vii) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together with indications and evidence in support of the declaration of priority that may be required pursuant to Article 4 of the Paris Convention;
- (viii) where the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition, a declaration to that effect, together with indications in support of that declaration, as required by the law of the Contracting Party;
- (ix) at least one representation of the mark, as prescribed in the Regulations;
- (x) where applicable, a statement, as prescribed in the Regulations, indicating the type of mark as well as any specific requirements applicable to that type of mark;
- (xi) where applicable, a statement, as prescribed in the Regulations, indicating that the applicant wishes that the mark be registered and published in the standard characters used by the Office;
- (xii) where applicable, a statement, as prescribed in the Regulations, indicating that the applicant wishes to claim color as a distinctive feature of the mark;
- (xiii) a transliteration of the mark or of certain parts of the mark;
- (xiv) a translation of the mark or of certain parts of the mark;
- (xv) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification, each group preceded

by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

(xvi) a declaration of intention to use the mark, as required by the law of the Contracting Party.

(b) The applicant may file, instead of or in addition to the declaration of intention to use the mark referred to in subparagraph (a)(xvi), a declaration of actual use of the mark and evidence to that effect, as required by the law of the Contracting Party.

(c) Any Contracting Party may require that, in respect of the application, fees be paid to the Office.

(2) *Single Application for Goods and/or Services in Several Classes*—One and the same application may relate to several goods and/or services, irrespective of whether they belong to one class or to several classes of the Nice Classification.

(3) *Actual Use*—Any Contracting Party may require that, where a declaration of intention to use has been filed under paragraph (1) (a)(xvi), the applicant furnish to the Office within a time limit fixed in its law, subject to the minimum time limit prescribed in the Regulations, evidence of the actual use of the mark, as required by the said law.

(4) *Prohibition of Other Requirements*—No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (3) and in Article 8 be complied with in respect of the application. In particular, the following may not be required in respect of the application throughout its pendency:

- (i) the furnishing of any certificate of, or extract from, a register of commerce;
- (ii) an indication of the applicant's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;
- (iii) an indication of the applicant's carrying on of an activity corresponding to the goods and/or services listed in the application, as well as the furnishing of evidence to that effect;
- (iv) the furnishing of evidence to the effect that the mark has been registered in the register of marks of another Contracting Party or of a State party to the Paris Convention which is not a Contracting Party, except where the applicant claims the application of Article 6quinquies of the Paris Convention.

(5) [*Evidence*] Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the application where the Office may reasonably doubt the veracity of any indication or element contained in the application.

Article 4. Representation; Address for Service

(1) *Representatives Admitted to Practice*

(a) Any Contracting Party may require that a representative appointed for the purposes of any procedure before the Office

- (i) have the right, under the applicable law, to practice before the Office in respect of applications and registrations and, where applicable, be admitted to practice before the Office;

(ii) provide, as its address, an address on a territory prescribed by the Contracting Party.

(b) An act, with respect to any procedure before the Office, by or in relation to a representative who complies with the requirements applied by the Contracting Party under subparagraph (a), shall have the effect of an act by or in relation to the applicant, holder or other interested person who appointed that representative.

(2) *Mandatory Representation; Address for Service*

(a) Any Contracting Party may require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory be represented by a representative.

(b) Any Contracting Party may, to the extent that it does not require representation in accordance with subparagraph (a), require that, for the purposes of any procedure before the Office, an applicant, holder or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory have an address for service on that territory.

(3) *Power of Attorney*

(a) Whenever a Contracting Party allows or requires an applicant, a holder or any other interested person to be represented by a representative before the Office, it may require that the representative be appointed in a separate communication (hereinafter referred to as “power of attorney”) indicating the name of the applicant, the holder or the other person, as the case may be.

(b) The power of attorney may relate to one or more applications and/or registrations identified in the power of attorney or, subject to any exception indicated by the appointing person, to all existing and future applications and/or registrations of that person.

(c) The power of attorney may limit the powers of the representative to certain acts. Any Contracting Party may require that any power of attorney under which the representative has the right to withdraw an application or to surrender a registration contain an express indication to that effect.

(d) Where a communication is submitted to the Office by a person who refers to itself in the communication as a representative but where the Office is, at the time of the receipt of the communication, not in possession of the required power of attorney, the Contracting Party may require that the power of attorney be submitted to the Office within the time limit fixed by the Contracting Party, subject to the minimum time limit prescribed in the Regulations. Any Contracting Party may provide that, where the power of attorney has not been submitted to the Office within the time limit fixed by the Contracting Party, the communication by the said person shall have no effect.

(4) *Reference to Power of Attorney*—Any Contracting Party may require that any communication made to the Office by a representative for the purposes of a procedure before the Office contain a reference to the power of attorney on the basis of which the representative acts.

(5) *Prohibition of Other Requirements*—No Contracting Party may demand that requirements other than those referred to in paragraphs (3) and (4) and in Article 8 be complied with in respect of the matters dealt with in those paragraphs.

(6) *Evidence*—Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in any communication referred to in paragraphs (3) and (4).

Article 5. Filing Date

(1) *Permitted Requirements*

(a) Subject to subparagraph (b) and paragraph (2), a Contracting Party shall accord as the filing date of an application the date on which the Office received the following indications and elements in the language required under Article 8(2):

- (i) an express or implicit indication that the registration of a mark is sought;
- (ii) indications allowing the identity of the applicant to be established;
- (iii) indications allowing the applicant or its representative, if any, to be contacted by the Office;
- (iv) a sufficiently clear representation of the mark whose registration is sought;
- (v) the list of the goods and/or services for which the registration is sought;
- (vi) where Article 3(1)(a)(xvi) or (b) applies, the declaration referred to in Article 3(1)(a)(xvi) or the declaration and evidence referred to in Article 3(1)(b), respectively, as required by the law of the Contracting Party.

(b) Any Contracting Party may accord as the filing date of the application the date on which the Office received only some, rather than all, of the indications and elements referred to in subparagraph (a) or received them in a language other than the language required under Article 8(2).

(2) *Permitted Additional Requirement*

(a) A Contracting Party may provide that no filing date shall be accorded until the required fees are paid.

(b) A Contracting Party may apply the requirement referred to in subparagraph (a) only if it applied such requirement at the time of becoming party to this Treaty.

(3) *Corrections and Time Limits*—The modalities of, and time limits for, corrections under paragraphs (1) and (2) shall be fixed in the Regulations.

(4) *Prohibition of Other Requirements*—No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) be complied with in respect of the filing date.

Article 6. Single Registration for Goods and/or Services in Several Classes

Where goods and/or services belonging to several classes of the Nice Classification have been included in one and the same application, such an application shall result in one and the same registration.

Article 7. Division of Application and Registration

(1) *Division of Application*

(a) Any application listing several goods and/or services (hereinafter referred to as “initial application”) may,

- (i) at least until the decision by the Office on the registration of the mark,
- (ii) during any opposition proceedings against the decision of the Office to register the mark,
- (iii) during any appeal proceedings against the decision on the registration of the mark, be divided by the applicant or at its request into two or more applications (hereinafter referred to as “divisional applications”) by distributing among the latter the goods and/or services listed in the initial application. The divisional applications shall preserve the filing date of the initial application and the benefit of the right of priority, if any.

(b) Any Contracting Party shall, subject to subparagraph (a), be free to establish requirements for the division of an application, including the payment of fees.

(2) *Division of Registration*—Paragraph (1) shall apply, *mutatis mutandis*, with respect to a division of a registration. Such a division shall be permitted

- (i) during any proceedings in which the validity of the registration is challenged before the Office by a third party,
- (ii) during any appeal proceedings against a decision taken by the Office during the former proceedings, provided that a Contracting Party may exclude the possibility of the division of registrations if its law allows third parties to oppose the registration of a mark before the mark is registered.

Article 8. *Communications*

(1) *Means of Transmittal and Form of Communications*—Any Contracting Party may choose the means of transmittal of communications and whether it accepts communications on paper, communications in electronic form or any other form of communication.

(2) *Language of Communications*

(a) Any Contracting Party may require that any communication be in a language admitted by the Office. Where the Office admits more than one language, the applicant, holder or other interested person may be required to comply with any other language requirement applicable with respect to the Office, provided that no indication or element of the communication may be required to be in more than one language.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or any other certification of any translation of a communication other than as provided under this Treaty.

(c) Where a Contracting Party does not require a communication to be in a language admitted by its Office, the Office may require that a translation of that communication by an official translator or a representative, into a language admitted by the Office, be supplied within a reasonable time limit.

(3) *Signature of Communications on Paper*

(a) Any Contracting Party may require that a communication on paper be signed by the applicant, holder or other interested person. Where a Contracting Party requires a communication on paper to be signed, that Contracting Party shall accept any signature that complies with the requirements prescribed in the Regulations.

(b) No Contracting Party may require the attestation, notarization, authentication, legalization or other certification of any signature except, where the law of the Contracting Party so provides, if the signature concerns the surrender of a registration.

(c) Notwithstanding subparagraph (b), a Contracting Party may require that evidence be filed with the Office where the Office may reasonably doubt the authenticity of any signature of a communication on paper.

(4) *Communications Filed in Electronic Form or by Electronic Means of Transmittal*—Where a Contracting Party permits the filing of communications in electronic form or by electronic means of transmittal, it may require that any such communications comply with the requirements prescribed in the Regulations.

(5) *Presentation of a Communication*—Any Contracting Party shall accept the presentation of a communication the content of which corresponds to the relevant Model International Form, if any, provided for in the Regulations.

(6) *Prohibition of Other Requirements*—No Contracting Party may demand that, in respect of paragraphs (1) to (5), requirements other than those referred to in this Article be complied with.

(7) *Means of Communication with Representative*—Nothing in this Article regulates the means of communication between an applicant, holder or other interested person and its representative.

Article 9. Classification of Goods and/or Services

(1) *Indications of Goods and/or Services*—Each registration and any publication effected by an Office which concerns an application or registration and which indicates goods and/or services shall indicate the goods and/or services by their names, grouped according to the classes of the Nice Classification, and each group shall be preceded by the number of the class of that Classification to which that group of goods or services belongs and shall be presented in the order of the classes of the said Classification.

(2) Goods or Services in the Same Class or in Different Classes

(a) Goods or services may not be considered as being similar to each other on the ground that, in any registration or publication by the Office, they appear in the same class of the Nice Classification.

(b) Goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication by the Office, they appear in different classes of the Nice Classification.

Article 10. Changes in Names or Addresses

(1) Changes in the Name or Address of the Holder

(a) Where there is no change in the person of the holder but there is a change in its name and/or address, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Any Contracting Party may require that the request indicate

- (i) the name and address of the holder;
- (ii) where the holder has a representative, the name and address of that representative;
- (iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the change relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request.

(2) *Change in the Name or Address of the Applicant*—Paragraph (1) shall apply, *mutatis mutandis*, where the change concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) *Change in the Name or Address of the Representative or in the Address for Service*—Paragraph (1) shall apply, *mutatis mutandis*, to any change in the name or address of the representative, if any, and to any change relating to the address for service, if any.

(4) *Prohibition of Other Requirements*—No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the furnishing of any certificate concerning the change may not be required.

(5) *Evidence*—Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request.

Article 11. Change in Ownership

(1) Change in the Ownership of a Registration

(a) Where there is a change in the person of the holder, each Contracting Party shall accept that a request for the recordal of the change by the Office in its register of marks be made by the holder or by the person who acquired the ownership (hereinafter referred to as “new owner”) in a communication indicating the registration number of the registration concerned and the change to be recorded.

(b) Where the change in ownership results from a contract, any Contracting Party may require that the request indicate that fact and be accompanied, at the option of the requesting party, by one of the following:

- (i) a copy of the contract, which copy may be required to be certified, by a notary public or any other competent public authority, as being in conformity with the original contract;
- (ii) an extract of the contract showing the change in ownership, which extract may be required to be certified, by a notary public or any other competent public authority, as being a true extract of the contract;

- (iii) an uncertified certificate of transfer drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner;
- (iv) an uncertified transfer document drawn up in the form and with the content as prescribed in the Regulations and signed by both the holder and the new owner.

(c) Where the change in ownership results from a merger, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document, which document originates from the competent authority and evidences the merger, such as a copy of an extract from a register of commerce, and that that copy be certified by the authority which issued the document or by a notary public or any other competent public authority, as being in conformity with the original document.

(d) Where there is a change in the person of one or more but not all of several co-holders and such change in ownership results from a contract or a merger, any Contracting Party may require that any co-holder in respect of which there is no change in ownership give its express consent to the change in ownership in a document signed by it.

(e) Where the change in ownership does not result from a contract or a merger but from another ground, for example, from operation of law or a court decision, any Contracting Party may require that the request indicate that fact and be accompanied by a copy of a document evidencing the change and that that copy be certified as being in conformity with the original document by the authority which issued the document or by a notary public or any other competent public authority.

- (f) Any Contracting Party may require that the request indicate
 - (i) the name and address of the holder;
 - (ii) the name and address of the new owner;
 - (iii) the name of a State of which the new owner is a national if he/she is the national of any State, the name of a State in which the new owner has his/her domicile, if any, and the name of a State in which the new owner has a real and effective industrial or commercial establishment, if any;
 - (iv) where the new owner is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
 - (v) where the holder has a representative, the name and address of that representative;
 - (vi) where the holder has an address for service, such address;
 - (vii) where the new owner has a representative, the name and address of that representative;
 - (viii) where the new owner is required to have an address for service under Article 4(2) (b), such address.

(g) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(h) A single request shall be sufficient even where the change relates to more than one registration, provided that the holder and the new owner are the same for each reg-

istration and that the registration numbers of all registrations concerned are indicated in the request.

(i) Where the change of ownership does not affect all the goods and/or services listed in the holder's registration, and the applicable law allows the recording of such change, the Office shall create a separate registration referring to the goods and/or services in respect of which the ownership has changed.

(2) *Change in the Ownership of an Application*—Paragraph (1) shall apply, *mutatis mutandis*, where the change in ownership concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) *Prohibition of Other Requirements*—No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article. In particular, the following may not be required:

- (i) subject to paragraph (1)(c), the furnishing of any certificate of, or extract from, a register of commerce;
- (ii) an indication of the new owner's carrying on of an industrial or commercial activity, as well as the furnishing of evidence to that effect;
- (iii) an indication of the new owner's carrying on of an activity corresponding to the goods and/or services affected by the change in ownership, as well as the furnishing of evidence to either effect;
- (iv) an indication that the holder transferred, entirely or in part, its business or the relevant goodwill to the new owner, as well as the furnishing of evidence to either effect.

(4) *Evidence*—Any Contracting Party may require that evidence, or further evidence where paragraph (1)(c) or (e) applies, be furnished to the Office where that Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the present Article.

Article 12. Correction of a Mistake

(1) Correction of a Mistake in Respect of a Registration

(a) Each Contracting Party shall accept that the request for the correction of a mistake which was made in the application or other request communicated to the Office and which mistake is reflected in its register of marks and/or any publication by the Office be made by the holder in a communication indicating the registration number of the registration concerned, the mistake to be corrected and the correction to be entered.

(b) Any Contracting Party may require that the request indicate

- (i) the name and address of the holder;
- (ii) where the holder has a representative, the name and address of that representative;
- (iii) where the holder has an address for service, such address.

(c) Any Contracting Party may require that, in respect of the request, a fee be paid to the Office.

(d) A single request shall be sufficient even where the correction relates to more than one registration of the same person, provided that the mistake and the requested correction are the same for each registration and that the registration numbers of all registrations concerned are indicated in the request.

(2) *Correction of a Mistake in Respect of an Application*—Paragraph (1) shall apply, *mutatis mutandis*, where the mistake concerns an application or applications, or both an application or applications and a registration or registrations, provided that, where the application number of any application concerned has not yet been issued or is not known to the applicant or its representative, the request otherwise identifies that application as prescribed in the Regulations.

(3) *Prohibition of Other Requirements*—No Contracting Party may demand that requirements other than those referred to in paragraphs (1) and (2) and in Article 8 be complied with in respect of the request referred to in this Article.

(4) *Evidence*—Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt that the alleged mistake is in fact a mistake.

(5) *Mistakes Made by the Office*—The Office of a Contracting Party shall correct its own mistakes, *ex officio* or upon request, for no fee.

(6) *Uncorrectable Mistakes*—No Contracting Party shall be obliged to apply paragraphs (1), (2) and (5) to any mistake which cannot be corrected under its law.

Article 13. Duration and Renewal of Registration

(1) *Indications or Elements Contained in or Accompanying a Request for Renewal; Fee*

(a) Any Contracting Party may require that the renewal of a registration be subject to the filing of a request and that such request contain some or all of the following indications:

- (i) an indication that renewal is sought;
- (ii) the name and address of the holder;
- (iii) the registration number of the registration concerned;
- (iv) at the option of the Contracting Party, the filing date of the application which resulted in the registration concerned or the registration date of the registration concerned;
- (v) where the holder has a representative, the name and address of that representative;
- (vi) where the holder has an address for service, such address;
- (vii) where the Contracting Party allows the renewal of a registration to be made for some only of the goods and/or services which are recorded in the register of marks and such a renewal is requested, the names of the recorded goods and/or services for which the renewal is requested or the names of the recorded goods

and/or services for which the renewal is not requested, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;

- (viii) where a Contracting Party allows a request for renewal to be filed by a person other than the holder or its representative and the request is filed by such a person, the name and address of that person.

(b) Any Contracting Party may require that, in respect of the request for renewal, a fee be paid to the Office. Once the fee has been paid in respect of the initial period of the registration or of any renewal period, no further payment may be required for the maintenance of the registration in respect of that period. Fees associated with the furnishing of a declaration and/or evidence of use shall not be regarded, for the purposes of this subparagraph, as payments required for the maintenance of the registration and shall not be affected by this subparagraph.

(c) Any Contracting Party may require that the request for renewal be presented, and the corresponding fee referred to in subparagraph (b) be paid, to the Office within the period fixed by the law of the Contracting Party, subject to the minimum periods prescribed in the Regulations.

(2) *Prohibition of Other Requirements*—No Contracting Party may demand that requirements other than those referred to in paragraph (1) and in Article 8 be complied with in respect of the request for renewal. In particular, the following may not be required:

- (i) any representation or other identification of the mark;
- (ii) the furnishing of evidence to the effect that the mark has been registered, or that its registration has been renewed, in any other register of marks;
- (iii) the furnishing of a declaration and/or evidence concerning use of the mark.

(3) *Evidence*—Any Contracting Party may require that evidence be furnished to the Office in the course of the examination of the request for renewal where the Office may reasonably doubt the veracity of any indication or element contained in the request for renewal.

(4) *Prohibition of Substantive Examination*—No Office of a Contracting Party may, for the purposes of effecting the renewal, examine the registration as to substance.

(5) *Duration*—The duration of the initial period of the registration, and the duration of each renewal period, shall be 10 years.

Article 14. Relief Measures in Case of Failure to Comply with Time Limits

(1) *Relief Measure Before the Expiry of a Time Limit*—A Contracting Party may provide for the extension of a time limit for an action in a procedure before the Office in respect of an application or a registration, if a request to that effect is filed with the Office prior to the expiry of the time limit.

(2) *Relief Measures After the Expiry of a Time Limit*—Where an applicant, holder or other interested person has failed to comply with a time limit (“the time limit concerned”) for an action in a procedure before the Office of a Contracting Party in respect of an application or a registration, the Contracting Party shall provide for one or more of the follow-

ing relief measures, in accordance with the requirements prescribed in the Regulations, if a request to that effect is filed with the Office:

- (i) extension of the time limit concerned for the period prescribed in the Regulations;
- (ii) continued processing with respect to the application or registration;
- (iii) reinstatement of the rights of the applicant, holder or other interested person with respect to the application or registration if the Office finds that the failure to comply with the time limit concerned occurred in spite of due care required by the circumstances having been taken or, at the option of the Contracting Party, that the failure was unintentional.

(3) *Exceptions*—No Contracting Party shall be required to provide for any of the relief measures referred to in paragraph (2) with respect to the exceptions prescribed in the Regulations.

(4) *Fee*—Any Contracting Party may require that a fee be paid in respect of any of the relief measures referred to in paragraphs (1) and (2).

(5) *Prohibition of Other Requirements*—No Contracting Party may demand that requirements other than those referred to in this Article and in Article 8 be complied with in respect of any of the relief measures referred to in paragraph (2).

Article 15. Obligation to Comply with the Paris Convention

Any Contracting Party shall comply with the provisions of the Paris Convention which concern marks.

Article 16. Service Marks

Any Contracting Party shall register service marks and apply to such marks the provisions of the Paris Convention which concern trademarks.

Article 17. Request for Recordal of a License

(1) *Requirements Concerning the Request for Recordal*—Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for recordal

- (i) be filed in accordance with the requirements prescribed in the Regulations, and
- (ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) *Fee*—Any Contracting Party may require that, in respect of the recordal of a license, a fee be paid to the Office.

(3) *Single Request Relating to Several Registrations*—A single request shall be sufficient even where the license relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request, the holder and the licensee are the same for all registrations, and the request indicates the scope of the license in accordance with the Regulations with respect to all registrations.

- (4) *Prohibition of Other Requirements*

(a) No Contracting Party may demand that requirements other than those referred to in paragraphs (1) to (3) and in Article 8 be complied with in respect of the recordal of a license with its Office. In particular, the following may not be required:

- (i) the furnishing of the registration certificate of the mark which is the subject of the license;
- (ii) the furnishing of the license contract or a translation of it;
- (iii) an indication of the financial terms of the license contract.

(b) Subparagraph (a) is without prejudice to any obligations existing under the law of a Contracting Party concerning the disclosure of information for purposes other than the recording of the license in the register of marks.

(5) *Evidence*—Any Contracting Party may require that evidence be furnished to the Office where the Office may reasonably doubt the veracity of any indication contained in the request or in any document referred to in the Regulations.

(6) *Requests Relating to Applications*—Paragraphs (1) to (5) shall apply, *mutatis mutandis*, to requests for recordal of a license for an application, where the law of a Contracting Party provides for such recordal.

Article 18. Request for Amendment or Cancellation of the Recordal of a License

(1) *Requirements Concerning the Request*—Where the law of a Contracting Party provides for the recordal of a license with its Office, that Contracting Party may require that the request for amendment or cancellation of the recordal of a license

- (i) be filed in accordance with the requirements prescribed in the Regulations, and
- (ii) be accompanied by the supporting documents prescribed in the Regulations.

(2) *Other Requirements*—Article 17(2) to (6) shall apply, *mutatis mutandis*, to requests for amendment or cancellation of the recordal of a license.

Article 19. Effects of the Non-Recordal of a License

(1) *Validity of the Registration and Protection of the Mark*—The non-recordal of a license with the Office or with any other authority of the Contracting Party shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark.

(2) *Certain Rights of the Licensee*—A Contracting Party may not require the recordal of a license as a condition for any right that the licensee may have under the law of that Contracting Party to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(3) *Use of a Mark Where License Is Not Recorded*—A Contracting Party may not require the recordal of a license as a condition for the use of a mark by a licensee to be deemed to constitute use by the holder in proceedings relating to the acquisition, maintenance and enforcement of marks.

Article 20. Indication of the License

Where the law of a Contracting Party requires an indication that the mark is used under a license, full or partial non-compliance with that requirement shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark, and shall not affect the application of Article 19 (3).

Article 21. Observations in Case of Intended Refusal

An application under Article 3 or a request under Articles 7, 10 to 14, 17 and 18 may not be refused totally or in part by an Office without giving the applicant or the requesting party, as the case may be, an opportunity to make observations on the intended refusal within a reasonable time limit. In respect of Article 14, no Office shall be required to give an opportunity to make observations where the person requesting the relief measure has already had an opportunity to present an observation on the facts on which the decision is to be based.

Article 22. Regulations

(1) *Content*

(a) The Regulations annexed to this Treaty provide rules concerning

- (i) matters which this Treaty expressly provides to be “prescribed in the Regulations”;
- (ii) any details useful in the implementation of the provisions of this Treaty;
- (iii) any administrative requirements, matters or procedures.

(b) The Regulations also contain Model International Forms.

(2) [*Amending the Regulations*] Subject to paragraph (3), any amendment of the Regulations shall require three-fourths of the votes cast.

(3) [*Requirement of Unanimity*]

(a) The Regulations may specify provisions of the Regulations which may be amended only by unanimity.

(b) Any amendment of the Regulations resulting in the addition of provisions to, or the deletion of provisions from, the provisions specified in the Regulations pursuant to subparagraph (a) shall require unanimity.

(c) In determining whether unanimity is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(4) *Conflict Between the Treaty and the Regulations*—In the case of conflict between the provisions of this Treaty and those of the Regulations, the former shall prevail.

Article 23. Assembly

(1) *Composition*

(a) The Contracting Parties shall have an Assembly.

(b) Each Contracting Party shall be represented in the Assembly by one delegate, who may be assisted by alternate delegates, advisors and experts. Each delegate may represent only one Contracting Party.

(2) *Tasks*—The Assembly shall

- (i) deal with matters concerning the development of this Treaty;
- (ii) amend the Regulations, including the Model International Forms;
- (iii) determine the conditions for the date of application of each amendment referred to in item (ii);
- (iv) perform such other functions as are appropriate to implementing the provisions of this Treaty.

(3) *Quorum*

(a) One-half of the members of the Assembly which are States shall constitute a quorum.

(b) Notwithstanding subparagraph (a), if, in any session, the number of the members of the Assembly which are States and are represented is less than one-half but equal to or more than one-third of the members of the Assembly which are States, the Assembly may make decisions but, with the exception of decisions concerning its own procedure, all such decisions shall take effect only if the conditions set forth hereinafter are fulfilled. The International Bureau shall communicate the said decisions to the members of the Assembly which are States and were not represented and shall invite them to express in writing their vote or abstention within a period of three months from the date of the communication. If, at the expiration of this period, the number of such members having thus expressed their vote or abstention attains the number of the members which was lacking for attaining the quorum in the session itself, such decisions shall take effect, provided that at the same time the required majority still obtains.

(4) *Taking Decisions in the Assembly*

(a) The Assembly shall endeavor to take its decisions by consensus.

(b) Where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. In such a case,

- (i) each Contracting Party that is a State shall have one vote and shall vote only in its own name; and
- (ii) any Contracting Party that is an intergovernmental organization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa. In addition, no such intergovernmental organization shall participate in the vote if any one of its Member States party to this Treaty is a Member State of another such intergovernmental organization and that other intergovernmental organization participates in that vote.

(5) *Majorities*

(a) Subject to Articles 22(2) and (3), the decisions of the Assembly shall require two-thirds of the votes cast.

(b) In determining whether the required majority is attained, only votes actually cast shall be taken into consideration. Abstentions shall not be considered as votes.

(6) *Sessions*—The Assembly shall meet upon convocation by the Director General and, in the absence of exceptional circumstances, during the same period and at the same place as the General Assembly of the Organization.

(7) *Rules of Procedure*—The Assembly shall establish its own rules of procedure, including rules for the convocation of extraordinary sessions.

Article 24. International Bureau

(1) *Administrative Tasks*

(a) The International Bureau shall perform the administrative tasks concerning this Treaty.

(b) In particular, the International Bureau shall prepare the meetings and provide the secretariat of the Assembly and of such committees of experts and working groups as may be established by the Assembly.

(2) *Meetings Other than Sessions of the Assembly*—The Director General shall convene any committee and working group established by the Assembly.

(3) *Role of the International Bureau in the Assembly and Other Meetings*

(a) The Director General and persons designated by the Director General shall participate, without the right to vote, in all meetings of the Assembly, the committees and working groups established by the Assembly.

(b) The Director General or a staff member designated by the Director General shall be *ex officio* secretary of the Assembly, and of the committees and working groups referred to in subparagraph (a).

(4) *Conferences*

(a) The International Bureau shall, in accordance with the directions of the Assembly, make the preparations for any revision conferences.

(b) The International Bureau may consult with Member States of the Organization, intergovernmental organizations and international and national non-governmental organizations concerning the said preparations.

(c) The Director General and persons designated by the Director General shall take part, without the right to vote, in the discussions at revision conferences.

(5) *Other Tasks*—The International Bureau shall carry out any other tasks assigned to it in relation to this Treaty.

Article 25. Revision or Amendment

This Treaty may only be revised or amended by a diplomatic conference. The convocation of any diplomatic conference shall be decided by the Assembly.

Article 26. Becoming Party to the Treaty

(1) *Eligibility*—The following entities may sign and, subject to paragraphs (2) and (3) and Article 28(1) and (3), become party to this Treaty:

- (i) any State member of the Organization in respect of which marks may be registered with its own Office;

- (ii) any intergovernmental organization which maintains an Office in which marks may be registered with effect in the territory in which the constituting treaty of the intergovernmental organization applies, in all its Member States or in those of its member States which are designated for such purpose in the relevant application, provided that all the Member States of the intergovernmental organization are members of the Organization;
 - (iii) any State member of the Organization in respect of which marks may be registered only through the Office of another specified State that is a member of the Organization;
 - (iv) any State member of the Organization in respect of which marks may be registered only through the Office maintained by an intergovernmental organization of which that State is a member;
 - (v) any State member of the Organization in respect of which marks may be registered only through an Office common to a group of States members of the Organization.
- (2) *Ratification or Accession*—Any entity referred to in paragraph (1) may deposit
- (i) an instrument of ratification, if it has signed this Treaty,
 - (ii) an instrument of accession, if it has not signed this Treaty.
- (3) *Effective Date of Deposit*—The effective date of the deposit of an instrument of ratification or accession shall be,
- (i) in the case of a State referred to in paragraph (1)(i), the date on which the instrument of that State is deposited;
 - (ii) in the case of an intergovernmental organization, the date on which the instrument of that intergovernmental organization is deposited;
 - (iii) in the case of a State referred to in paragraph (1)(iii), the date on which the following condition is fulfilled: the instrument of that State has been deposited and the instrument of the other, specified State has been deposited;
 - (iv) in the case of a State referred to in paragraph (1)(iv), the date applicable under item (ii), above;
 - (v) in the case of a State member of a group of States referred to in paragraph (1)(v), the date on which the instruments of all the States members of the group have been deposited.

Article 27. Application of the TLT 1994 and This Treaty

(1) *Relations Between Contracting Parties to Both This Treaty and the TLT 1994*—This Treaty alone shall be applicable as regards the mutual relations of Contracting Parties to both this Treaty and the TLT 1994.

(2) *Relations Between Contracting Parties to This Treaty and Contracting Parties to the TLT 1994 That Are Not Party to This Treaty*—Any Contracting Party to both this Treaty and the TLT 1994 shall continue to apply the TLT 1994 in its relations with Contracting Parties to the TLT 1994 that are not party to this Treaty.

Article 28. Entry into Force;

Effective Date of Ratifications and Accessions

(1) *Instruments to Be Taken into Consideration*—For the purposes of this Article, only instruments of ratification or accession that are deposited by entities referred to in Article 26(1) and that have an effective date according to Article 26(3) shall be taken into consideration.

(2) *Entry into Force of the Treaty*—This Treaty shall enter into force three months after ten States or intergovernmental organizations referred to in Article 26 (1)(ii) have deposited their instruments of ratification or accession.

(3) *Entry into Force of Ratifications and Accessions Subsequent to the Entry into Force of the Treaty*—Any entity not covered by paragraph (2) shall become bound by this Treaty three months after the date on which it has deposited its instrument of ratification or accession.

Article 29. Reservations

(1) *Special Kinds of Marks*—Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 2(1) and (2)(a), any of the provisions of Articles 3(1), 5, 7, 8(5), 11 and 13 shall not apply to associated marks, defensive marks or derivative marks. Such reservation shall specify those of the aforementioned provisions to which the reservation relates.

(2) *Multiple-class Registration*—Any State or intergovernmental organization, whose legislation at the date of adoption of this Treaty provides for a multiple-class registration for goods and for a multiple-class registration for services may, when acceding to this Treaty, declare through a reservation that the provisions of Article 6 shall not apply.

(3) *Substantive Examination on the Occasion of Renewal*—Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 13(4), the Office may, on the occasion of the first renewal of a registration covering services, examine such registration as to substance, provided that such examination shall be limited to the elimination of multiple registrations based on applications filed during a period of six months following the entry into force of the law of such State or organization that introduced, before the entry into force of this Treaty, the possibility of registering service marks.

(4) *Certain Rights of the Licensee*—Any State or intergovernmental organization may declare through a reservation that, notwithstanding Article 19(2), it requires the recordal of a license as a condition for any right that the licensee may have under the law of that State or intergovernmental organization to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

(5) *Modalities*—Any reservation under paragraphs (1), (2), (3) or (4) shall be made in a declaration accompanying the instrument of ratification of, or accession to, this Treaty of the State or intergovernmental organization making the reservation.

(6) *Withdrawal*—Any reservation under paragraphs (1), (2), (3) or (4) may be withdrawn at any time.

(7) *Prohibition of Other Reservations*—No reservation to this Treaty other than the reservations allowed under paragraphs (1), (2), (3) and (4) shall be permitted.

Article 30. Denunciation of the Treaty

(1) *Notification*—Any Contracting Party may denounce this Treaty by notification addressed to the Director General.

(2) *Effective Date*—Denunciation shall take effect one year from the date on which the Director General has received the notification. It shall not affect the application of this Treaty to any application pending or any mark registered in respect of the denouncing Contracting Party at the time of the expiration of the said one-year period, provided that the denouncing Contracting Party may, after the expiration of the said one-year period, discontinue applying this Treaty to any registration as from the date on which that registration is due for renewal.

Article 31. Languages of the Treaty; Signature

(1) *Original Texts; Official Texts*

(a) This Treaty shall be signed in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic.

(b) An official text in a language not referred to in subparagraph (a) that is an official language of a Contracting Party shall be established by the Director General after consultation with the said Contracting Party and any other interested Contracting Party.

(2) *Time Limit for Signature*—This Treaty shall remain open for signature at the headquarters of the Organization for one year after its adoption.

Article 32. Depositary

The Director General shall be the depositary of this Treaty.

(b) Regulations under the Singapore Treaty on the Law of Trademarks

Rule 1. Abbreviated Expressions

(1) *Abbreviated Expressions Defined in the Regulations*—For the purposes of these Regulations, unless expressly stated otherwise:

- (i) “Treaty” means the Singapore Treaty on the Law of Trademarks;
- (ii) “Article” refers to the specified Article of the Treaty;
- (iii) “exclusive license” means a license which is only granted to one licensee and which excludes the holder from using the mark and from granting licenses to any other person;
- (iv) “sole license” means a license which is only granted to one licensee and which excludes the holder from granting licenses to any other person but does not exclude the holder from using the mark;
- (v) “non-exclusive license” means a license which does not exclude the holder from using the mark or from granting licenses to any other person.

(2) *Abbreviated Expressions Defined in the Treaty*—The abbreviated expressions defined in Article 1 for the purposes of the Treaty shall have the same meaning for the purposes of these Regulations.

Rule 2. Manner of Indicating Names and Addresses

(1) *Names*

(a) Where the name of a person is to be indicated, any Contracting Party may require,

- (i) where the person is a natural person, that the name to be indicated be the family or principal name and the given or secondary name or names of that person or that the name to be indicated be, at that person's option, the name or names customarily used by the said person;
- ii) where the person is a legal entity, that the name to be indicated be the full official designation of the legal entity.

(b) Where the name of a representative which is a firm or partnership is to be indicated, any Contracting Party shall accept as indication of the name the indication that the firm or partnership customarily uses.

(2) *Addresses*

(a) Where the address of a person is to be indicated, any Contracting Party may require that the address be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, consist of all the relevant administrative units up to, and including, the house or building number, if any.

(b) Where a communication to the Office of a Contracting Party is in the name of two or more persons with different addresses, that Contracting Party may require that such communication indicate a single address as the address for correspondence.

(c) The indication of an address may contain a telephone number, a telefacsimile number and an e-mail address and, for the purposes of correspondence, an address different from the address indicated under subparagraph (a).

(d) Subparagraphs (a) and (c) shall apply, *mutatis mutandis*, to addresses for service.

(3) *Other Means of Identification*—Any Contracting Party may require that a communication to the Office indicate the number or other means of identification, if any, with which the applicant, holder, representative or interested person is registered with its Office. No Contracting Party may refuse a communication on grounds of failure to comply with any such requirement, except for applications filed in electronic form.

(4) *Script to Be Used*—Any Contracting Party may require that any indication referred to in paragraphs (1) to (3) be in the script used by the Office.

Rule 3. Details Concerning the Application

(1) *Standard Characters*—Where the Office of a Contracting Party uses characters (letters and numbers) that it considers as being standard, and where the application contains a statement to the effect that the applicant wishes that the mark be registered and published in the standard characters used by the Office, the Office shall register and publish that mark in such standard characters.

(2) *Mark Claiming Color*—Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, the Office may require that the application indicate the name or code of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color.

(3) *Number of Reproductions*

(a) Where the application does not contain a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than

- (i) five reproductions of the mark in black and white where the application may not, under the law of that Contracting Party, or does not contain a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of the said Contracting Party;
- (ii) one reproduction of the mark in black and white where the application contains a statement to the effect that the applicant wishes the mark to be registered and published in the standard characters used by the Office of that Contracting Party.

(b) Where the application contains a statement to the effect that the applicant wishes to claim color as a distinctive feature of the mark, a Contracting Party may not require more than five reproductions of the mark in black and white and five reproductions of the mark in color.

(4) *Three-Dimensional Mark*

(a) Where the application contains a statement to the effect that the mark is a three-dimensional mark, the reproduction of the mark shall consist of a two-dimensional graphic or photographic reproduction.

(b) The reproduction furnished under subparagraph (a) may, at the option of the applicant, consist of one single view of the mark or of several different views of the mark.

(c) Where the Office considers that the reproduction of the mark furnished by the applicant under subparagraph (a) does not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, up to six different views of the mark and/or a description by words of that mark.

(d) Where the Office considers that the different views and/or the description of the mark referred to in subparagraph (c) still do not sufficiently show the particulars of the three-dimensional mark, it may invite the applicant to furnish, within a reasonable time limit fixed in the invitation, a specimen of the mark.

(e) Paragraph (3)(a)(i) and (b) shall apply *mutatis mutandis*.

(5) *Hologram Mark, Motion Mark, Color Mark, Position Mark*—Where the application contains a statement to the effect that the mark is a hologram mark, a motion mark, a color mark or a position mark, a Contracting Party may require one or more reproductions of the mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(6) *Mark Consisting of a Non-Visible Sign*—Where the application contains a statement to the effect that the mark consists of a non-visible sign, a Contracting Party may

require one or more representations of the mark, an indication of the type of mark and details concerning the mark, as prescribed by the law of that Contracting Party.

(7) *Transliteration of the Mark*—For the purposes of Article 3(1)(a)(xiii), where the mark consists of or contains matter in script other than the script used by the Office or numbers expressed in numerals other than numerals used by the Office, a transliteration of such matter in the script and numerals used by the Office may be required.

(8) *Translation of the Mark*—For the purposes of Article 3(1)(a)(xiv), where the mark consists of or contains a word or words in a language other than the language, or one of the languages, admitted by the Office, a translation of that word or those words into that language or one of those languages may be required.

(9) *Time Limit for Furnishing Evidence of Actual Use of the Mark*—The time limit referred to in Article 3(3) shall not be shorter than six months counted from the date of allowance of the application by the Office of the Contracting Party where that application was filed. The applicant or holder shall have the right to an extension of that time limit, subject to the conditions provided for by the law of that Contracting Party, by periods of at least six months each, up to a total extension of at least two years and a half.

Rule 4. Details Concerning Representation and Address for Service

(1) *Address Where a Representative Is Appointed*—Where a representative is appointed, a Contracting Party shall consider the address of that representative to be the address for service.

(2) *Address Where No Representative Is Appointed*—Where no representative is appointed and an applicant, holder or other interested person has provided as its address an address on the territory of the Contracting Party, that Contracting Party shall consider that address to be the address for service.

(3) *Time Limit*—The time limit referred to in Article 4(3)(d) shall be counted from the date of receipt of the communication referred to in that Article by the Office of the Contracting Party concerned and shall not be less than one month where the address of the person on whose behalf the communication is made is on the territory of that Contracting Party and not less than two months where such an address is outside the territory of that Contracting Party.

Rule 5. Details Concerning the Filing Date

(1) *Procedure in Case of Non-Compliance with Requirements*—If the application does not, at the time of its receipt by the Office, comply with any of the applicable requirements of Article 5(1)(a) or (2)(a), the Office shall promptly invite the applicant to comply with such requirements within a time limit indicated in the invitation, which time limit shall be at least one month from the date of the invitation where the applicant's address is on the territory of the Contracting Party concerned and at least two months where the applicant's address is outside the territory of the Contracting Party concerned. Compliance with the invitation may be subject to the payment of a special fee. Even if the Office fails to send the said invitation, the said requirements remain unaffected.

(2) *Filing Date in Case of Correction*—If, within the time limit indicated in the invitation, the applicant complies with the invitation referred to in paragraph (1) and pays any

required special fee, the filing date shall be the date on which all the required indications and elements referred to in Article 5(1)(a) have been received by the Office and, where applicable, the required fees referred to in Article 5(2)(a) have been paid to the Office. Otherwise, the application shall be treated as if it had not been filed.

Rule 6. Details Concerning Communications

(1) *Indications Accompanying Signature of Communications on Paper*—Any Contracting Party may require that the signature of the natural person who signs be accompanied by

- (i) an indication in letters of the family or principal name and the given or secondary name or names of that person or, at the option of that person, of the name or names customarily used by the said person;
- (ii) an indication of the capacity in which that person signed, where such capacity is not obvious from reading the communication.

(2) *Date of Signing*—Any Contracting Party may require that a signature be accompanied by an indication of the date on which the signing was effected. Where that indication is required but is not supplied, the date on which the signing is deemed to have been effected shall be the date on which the communication bearing the signature was received by the Office or, if the Contracting Party so allows, a date earlier than the latter date.

(3) *Signature of Communications on Paper*—Where a communication to the Office of a Contracting Party is on paper and a signature is required, that Contracting Party

- (i) shall, subject to item (iii), accept a handwritten signature;
- (ii) may permit, instead of a handwritten signature, the use of other forms of signature, such as a printed or stamped signature, or the use of a seal or of a bar-coded label;
- (iii) may, where the natural person who signs the communication is a national of the Contracting Party and such person's address is on its territory, or where the legal entity on behalf of which the communication is signed is organized under its law and has either a domicile or a real and effective industrial or commercial establishment on its territory, require that a seal be used instead of a handwritten signature.

(4) *Signature of Communications on Paper Filed by Electronic Means of Transmittal*—A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal shall consider any such communication signed if a graphic representation of a signature accepted by that Contracting Party under paragraph (3) appears on the communication as received.

(5) *Original of a Communication on Paper Filed by Electronic Means of Transmittal*—A Contracting Party that provides for communications on paper to be filed by electronic means of transmittal may require that the original of any such communication be filed

- (i) with the Office accompanied by a letter identifying that earlier transmission and
- (ii) within a time limit which shall be at least one month from the date on which the Office received the communication by electronic means of transmittal.

(6) *Authentication of Communications in Electronic Form*—A Contracting Party that permits the filing of communications in electronic form may require that any such communication be authenticated through a system of electronic authentication as prescribed by that Contracting Party.

(7) *Date of Receipt*—Each Contracting Party shall be free to determine the circumstances in which the receipt of a document or the payment of a fee shall be deemed to constitute receipt by or payment to the Office in cases in which the document was actually received by or payment was actually made to

- (i) a branch or sub-office of the Office,
- (ii) a national Office on behalf of the Office of the Contracting Party, where the Contracting Party is an intergovernmental organization referred to in Article 26(1)(ii),
- (iii) an official postal service,
- (iv) a delivery service, or an agency, specified by the Contracting Party,
- (v) an address other than the nominated addresses of the Office.

(8) *Electronic Filing*—Subject to paragraph (7), where a Contracting Party provides for the filing of a communication in electronic form or by electronic means of transmittal and the communication is so filed, the date on which the Office of that Contracting Party receives the communication in such form or by such means shall constitute the date of receipt of the communication.

Rule 7. Manner of Identification of an Application Without Its Application Number

(1) *Manner of Identification*—Where it is required that an application be identified by its application number but where such a number has not yet been issued or is not known to the applicant or its representative, that application shall be considered identified if the following is supplied:

- (i) the provisional application number, if any, given by the Office, or
- (ii) a copy of the application, or
- (iii) a representation of the mark, accompanied by an indication of the date on which, to the best knowledge of the applicant or the representative, the application was received by the Office and an identification number given to the application by the applicant or the representative.

(2) *Prohibition of Other Requirements*—No Contracting Party may demand that requirements other than those referred to in paragraph (1) be complied with in order for an application to be identified where its application number has not yet been issued or is not known to the applicant or its representative.

Rule 8. Details Concerning Duration and Renewal

For the purposes of Article 13 (1)(c), the period during which the request for renewal may be presented and the renewal fee may be paid shall start at least six months before the date on which the renewal is due and shall end at the earliest six months after that date. If the request for renewal is presented and/or the renewal fees are paid after the date on

which the renewal is due, any Contracting Party may subject the acceptance of the request for renewal to the payment of a surcharge.

Rule 9. Relief Measures in Case of Failure to Comply with Time Limits

(1) *Requirements Concerning Extension of Time Limits Under Article 14 (2)(i)*—A Contracting Party that provides for the extension of a time limit under Article 14 (2)(i) shall extend the time limit for a reasonable period of time from the date of filing the request for extension and may require that the request

- (i) contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and
- (ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned.

(2) *Requirements Concerning Continued Processing Under Article 14 (2)(ii)*—A Contracting Party may require that the request for continued processing under Article 14 (2)(ii)

- (i) contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and
- (ii) be filed within a time limit which shall not be less than two months from the date of expiry of the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(3) [*Requirements Concerning Reinstatement of Rights Under Article 14 (2)(iii)*]

(a) A Contracting Party may require that the request for reinstatement of rights under Article 14 (2)(iii)

- (i) contain an identification of the requesting party, the relevant application or registration number and the time limit concerned, and
- (ii) set out the facts and evidence in support of the reasons for the failure to comply with the time limit concerned.

(b) The request for reinstatement of rights shall be filed with the Office within a reasonable time limit, the duration of which shall be determined by the Contracting Party from the date of the removal of the cause of failure to comply with the time limit concerned. The omitted act shall be completed within the same period or, where the Contracting Party so provides, together with the request.

(c) A Contracting Party may provide for a maximum time limit for complying with the requirements under subparagraphs (a) and (b) of not less than six months from the date of expiry of the time limit concerned.

(4) *Exceptions Under Article 14(3)*—The exceptions referred to in Article 14(3) are the cases of failure to comply with a time limit

- (i) for which a relief measure has already been granted under Article 14(2),
- (ii) for filing a request for a relief measure under Article 14,
- (iii) for payment of a renewal fee,
- (iv) for an action before a board of appeal or other review body constituted in the framework of the Office,

- (v) for an action in *inter partes* proceedings,
- (vi) for filing the declaration referred to in Article 3(1)(a)(vii) or the declaration referred to in Article 3(1)(a)(viii),
- (vii) for filing a declaration which, under the law of the Contracting Party, may establish a new filing date for a pending application, and
- (viii) for the correction or addition of a priority claim.

Rule 10. Requirements Concerning the Request for Recordal of a License or for Amendment or Cancellation of the Recordal of a License

(1) *Content of Request*

(a) A Contracting Party may require that the request for recordal of a license under Article 17(1) contain some or all of the following indications or elements:

- (i) the name and address of the holder;
- (ii) where the holder has a representative, the name and address of that representative;
- (iii) where the holder has an address for service, such address;
- (iv) the name and address of the licensee;
- (v) where the licensee has a representative, the name and address of that representative;
- (vi) where the licensee has an address for service, such address;
- (vii) the name of a State of which the licensee is a national if he/she is a national of any State, the name of a State in which the licensee has his/her domicile, if any, and the name of a State in which the licensee has a real and effective industrial or commercial establishment, if any;
- (viii) where the holder or the licensee is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
- (ix) the registration number of the mark which is the subject of the license;
- (x) the names of the goods and/or services for which the license is granted, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;
- (xi) whether the license is an exclusive license, a non-exclusive license or a sole license;
- (xii) where applicable, that the license concerns only a part of the territory covered by the registration, together with an explicit indication of that part of the territory;
- (xiii) the duration of the license.

(b) A Contracting Party may require that the request for amendment or cancellation of the recordal of a license under Article 18(1) contain some or all of the following indications or elements:

- (i) the indications specified in items (i) to (ix) of subparagraph (a);
- (ii) where the amendment or cancellation concerns any of the indications or elements specified under subparagraph (a), the nature and scope of the amendment or cancellation to be recorded.

(2) *Supporting Documents for Recordal of a License*

(a) A Contracting Party may require that the request for recordal of a license be accompanied, at the option of the requesting party, by one of the following:

- (i) an extract of the license contract indicating the parties and the rights being licensed, certified by a notary public or any other competent public authority as being a true extract of the contract; or
- (ii) an uncertified statement of license, the content of which corresponds to the statement of license Form provided for in the Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give its express consent to the license in a document signed by it.

(3) *Supporting Documents for Amendment of Recordal of a License*

(a) A Contracting Party may require that the request for amendment of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

- (i) documents substantiating the requested amendment of the recordal of the license; or
- (ii) an uncertified statement of amendment of license, the content of which corresponds to the statement of amendment of license Form provided for in these Regulations, and signed by both the holder and the licensee.

(b) Any Contracting Party may require that any co-holder who is not a party to the license contract give its express consent to the amendment of the license in a document signed by it.

(4) *Supporting Documents for Cancellation of Recordal of a License*—A Contracting Party may require that the request for cancellation of the recordal of a license be accompanied, at the option of the requesting party, by one of the following:

- (i) documents substantiating the requested cancellation of the recordal of the license; or
- (ii) an uncertified statement of cancellation of license, the content of which corresponds to the statement of cancellation of license Form provided for in these Regulations, and signed by both the holder and the licensee.

(c) Resolution by the Diplomatic Conference supplementary to the Singapore Treaty on the Law of Trademarks and the Regulations Thereunder

1. The Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty, held in Singapore in March 2006, agreed that the Treaty adopted by the Conference would be named “Singapore Treaty on the Law of Trademarks” (hereinafter referred to as “the Treaty”).

2. When adopting the Treaty, the Diplomatic Conference agreed that the words “procedure before the Office” in Article 1(viii) would not cover judicial procedures under the contracting Parties’ legislation.

3. Acknowledging the fact that the Treaty provides for effective and efficient trademark formality procedures for Contracting Parties, the Diplomatic Conference understood that Articles 2 and 8, respectively, did not impose any obligations on Contracting Parties to:

- (i) register new types of marks, as referred to in Rule 3, paragraphs (4), (5) and (6) of the Regulations; or
- (ii) implement electronic filing systems or other automation systems.

Each Contracting Party shall have the option to decide whether and when to provide for the registration of new types of marks, as referred to above.

4. With a view to facilitating the implementation of the Treaty in Developing and Least Developed Countries (LDCs), the Diplomatic Conference requested the World Intellectual Property Organization (WIPO) and the Contracting Parties to provide additional and adequate technical assistance comprising technological, legal and other forms of support to strengthen the institutional capacity of those countries to implement the Treaty and enable those countries to take full advantage of the provisions of the Treaty.

5. Such assistance should take into account the level of technological and economic development of beneficiary countries. Technological support would help improve the information and communication technology infrastructure of those countries, thus contributing to narrowing the technological gap between Contracting Parties. The Diplomatic Conference noted that some countries underlined the importance of the Digital Solidarity Fund (DSF) as being relevant to narrowing the digital divide.

6. Furthermore, upon entry into force of the Treaty, Contracting Parties will undertake to exchange and share, on a multilateral basis, information and experience on legal, technical and institutional aspects regarding the implementation of the Treaty and how to take full advantage of opportunities and benefits resulting therefrom.

7. The Diplomatic Conference, acknowledging the special situation and needs of LDCs, agreed that LDCs shall be accorded special and differential treatment for the implementation of the Treaty, as follows:

- (a) LDCs shall be the primary and main beneficiaries of technical assistance by the Contracting Parties and the World Intellectual Property Organization (WIPO);
- (b) such technical assistance includes the following:
 - (i) assistance in establishing the legal framework for the implementation of the Treaty,
 - (ii) information, education and awareness raising as regards the impact of acceding to the Treaty,
 - (iii) assistance in revising administrative practices and procedures of national trademark registration authorities,
 - (iv) assistance in building up the necessary trained manpower and facilities of the IP Offices, including information and communication technology capacity to effectively implement the Treaty and its Regulations.

8. The Diplomatic Conference requested the Assembly to monitor and evaluate, at every ordinary session, the progress of the assistance related to implementation efforts and the benefits resulting from such implementation.

9. The Diplomatic Conference agreed that any dispute that may arise between two or more Contracting Parties with respect to the interpretation or the application of this Treaty should be settled amicably through consultation and mediation under the auspices of the Director General.