

## International conventions and protocols

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# **Convention concerning the protection of the world cultural and natural heritage**

The General Conference of the United Nations Educational, Scientific and Cultural Organization meeting in Paris from 17 October to 21 November 1972, at its seventeenth session. *NOTING* that the cultural heritage and the natural heritage are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction, *CONSIDERING* that deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world, *CONSIDERING* that protection of this heritage at the national level often remains incomplete because of the scale of the resources which it requires and of the insufficient economic, scientific, and technological resources of the country where the property to be protected is situated, *RECALLING* that the Constitution of the Organization provides that it will maintain, increase, and diffuse knowledge by assuring the conservation and protection of the world's heritage, and recommending to the nations concerned the necessary international conventions, *CONSIDERING* that the existing international conventions, recommendations and resolutions concerning cultural and natural property demonstrate the importance, for all the peoples of the world, of safeguarding this unique and irreplaceable property, to whatever people it may belong, *CONSIDERING* that parts of the cultural or natural heritage are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole, *CONSIDERING* that, in view of the magnitude and gravity of the new dangers threatening them, it is incumbent on the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value, by the granting of collective assistance which, although not taking the place of action by the State concerned, will serve as an efficient complement thereto, *CONSIDERING* that it is essential for this purpose to adopt new provisions in the form of a convention establishing an effective system of collective protection of the cultural and natural heritage of outstanding universal value, organized on a permanent basis and in accordance with modern scientific methods, *HAVING DECIDED*, at its sixteenth session, that this question should be made the subject of an international convention, *ADOPTS* this sixteenth day of November 1972 this Convention.

## **I. DEFINITION OF THE CULTURAL AND NATURAL HERITAGE**

### **Article 1**

For the purpose of this Convention, the following shall be considered as "cultural heritage":

- monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of outstanding universal value from the point of view of history, art or science;
- groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science;
- sites: works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

### **Article 2**

For the purposes of this Convention, the following shall be considered as "natural heritage":

- natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view; geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation;
- natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

### **Article 3**

It is for each State Party to this Convention to identify and delineate the different properties situated on its territory mentioned in Articles 1 and 2 above.

## **II. NATIONAL PROTECTION AND INTERNATIONAL PROTECTION OF THE CULTURAL AND NATURAL HERITAGE**

### **Article 4**

Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

### **Article 5**

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavor, in so far as possible, and as appropriate for each country:

- a) to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;
- b) to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;
- c) to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;
- d) to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and
- e) to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.

### **Article 6**

1. Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated, and without prejudice to property right provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.

2. The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and presentation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request.

3. Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention.

#### **Article 7**

For the purpose of this Convention, international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international co-operation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage.

### **III. INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE**

#### **Article 8**

1. An Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Committee", is hereby established within the United Nations Educational, Scientific and Cultural Organization. It shall be composed of 15 States Parties to the Convention, elected by States Parties to the Convention meeting in general assembly during the ordinary session of the General Conference of the United Nations Educational, Scientific and Cultural Organization. The number of States members of the Committee shall be increased to 21 as from the date of the ordinary session of the General Conference following the entry into force of this Convention for at least 40 States.

2. Election of members of the Committee shall ensure an equitable representation of the different regions and cultures of the world.

3. A representative of the International Centre for the Study of the Preservation and Restoration of Cultural Property (Rome Centre), a representative of the International Council of Monuments and Sites (ICOMOS) and a representative of the International Union for Conservation of Nature and Natural Resources (IUCN), to whom may be added, at the request of States Parties to the Convention meeting in general assembly during the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization representatives of other intergovernmental or non-governmental organizations, with similar objectives, may attend the meetings of the Committee in an advisory capacity.

#### **Article 9**

1. The term of office of States members of the World Heritage Committee shall extend from the end of the ordinary session of the General Conference during which they are elected until the end of its third subsequent ordinary session.

2. The term of office of one-third of the members designated at the time of the first election shall, however, cease at the end of the first ordinary session of the General Conference following that at which they were elected; and the term of office of a further third of the members designated at the same time shall cease at the end of the second ordinary session of the General Conference following that at which they were elected. The names of these members shall be chosen by lot by the President of the General Conference of the United Nations Educational, Scientific and Cultural Organization after the first election.

3. States members of the Committee shall choose as their representatives persons qualified in the field of the cultural or natural heritage.

#### **Article 10**

1. The World Heritage Committee shall adopt its Rules of Procedure.

2. The Committee may at any time invite public or private organizations or individuals to participate in its

meetings for consultation on particular problems.

3. The Committee may create such consultative bodies as it deems necessary for the performance of its functions.

### **Article 11**

1. Every State Party to this Convention shall, in so far as possible, submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the list provided for in paragraph 2 of this Article. This inventory, which shall not be considered exhaustive, shall include documentation about the location of the property in question and its significance.

2. On the basis of the inventories submitted by States in accordance with paragraph 1, the Committee shall establish, keep up to date and publish, under the title of "World Heritage List," a list of properties forming part of the cultural heritage and natural heritage, as defined in Articles 1 and 2 of this Convention, which it considers as having outstanding universal value in terms of such criteria as it shall have established. An updated list shall be distributed at least every two years.

3. The inclusion of a property in the World Heritage List requires the consent of the State concerned. The inclusion of a property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State shall in no way prejudice the rights of the parties to the dispute.

4. The Committee shall establish, keep up to date and publish, whenever circumstances shall so require, under the title of "list of World Heritage in Danger", a list of the property appearing in the World Heritage List for the conservation of which major operations are necessary and for which assistance has been requested under this Convention. This list shall contain an estimate of the cost of such operations. The list may include only such property forming part of the cultural and natural heritage as is threatened by serious and specific dangers, such as the threat of disappearance caused by accelerated deterioration, large-scale public or private projects or rapid urban or tourist development projects; destruction caused by changes in the use or ownership of the land; major alterations due to unknown causes; abandonment for any reason whatsoever; the outbreak or the threat of an armed conflict; calamities and cataclysms; serious fires, earthquakes, landslides; volcanic eruptions; changes in water level, floods and tidal waves. The Committee may at any time, in case of urgent need, make a new entry in the List of World Heritage in Danger and publicize such entry immediately.

5. The Committee shall define the criteria on the basis of which a property belonging to the cultural or natural heritage may be included in either of the lists mentioned in paragraphs 2 and 4 of this article.

6. Before refusing a request for inclusion in one of the two lists mentioned in paragraphs 2 and 4 of this article, the Committee shall consult the State Party in whose territory the cultural or natural property in question is situated.

7. The Committee shall, with the agreement of the States concerned, co-ordinate and encourages the studies and research needed for the drawing up of the lists referred to in paragraphs 2 and 4 of this article.

### **Article 12**

The fact that a property belonging to the cultural or natural heritage has not been included in either of the two lists mentioned in paragraphs 2 and 4 of Article 11 shall in no way be construed to mean that it does not have an outstanding universal value for purposes other than those resulting from inclusion in these lists.

### **Article 13**

1. The World Heritage Committee shall receive and study requests for international assistance formulated by States Parties to this Convention with respect to property forming part of the cultural or natural heritage, situated in their territories, and included or potentially suitable for inclusion in the lists mentioned referred to in paragraphs 2

and 4 of Article 11. The purpose of such requests may be to secure the protection, conservation, presentation or rehabilitation of such property.

2. Requests for international assistance under paragraph 1 of this article may also be concerned with identification of cultural or natural property defined in Articles 1 and 2, when preliminary investigations have shown that further inquiries would be justified.

3. The Committee shall decide on the action to be taken with regard to these requests, determine where appropriate, the nature and extent of its assistance, and authorize the conclusion, on its behalf, of the necessary arrangements with the government concerned.

4. The Committee shall determine an order of priorities for its operations. It shall in so doing bear in mind the respective importance for the world cultural and natural heritage of the property requiring protection, the need to give international assistance to the property most representative of a natural environment or of the genius and the history of the peoples of the world, the urgency of the work to be done, the resources available to the States on whose territory the threatened property is situated and in particular the extent to which they are able to safeguard such property by their own means.

5. The Committee shall draw up, keep up to date and publicize a list of property for which international assistance has been granted.

6. The Committee shall decide on the use of the resources of the Fund established under Article 15 of this Convention. It shall seek ways of increasing these resources and shall take all useful steps to this end.

7. The Committee shall co-operate with international and national governmental and non-governmental organizations having objectives similar to those of this Convention. For the implementation of its programmes and projects, the Committee may call on such organizations, particularly the International Centre for the Study of the Preservation and Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN), as well as on public and private bodies and individuals.

8. Decisions of the Committee shall be taken by a majority of two-thirds of its members present and voting. A majority of the members of the Committee shall constitute a quorum.

#### **Article 14**

1. The World Heritage Committee shall be assisted by a Secretariat appointed by the Director-General of the United Nations Educational, Scientific and Cultural Organization.

2. The Director-General of the United Nations Educational, Scientific and Cultural Organization, utilizing to the fullest extent possible the services of the International Centre for the Study of the Preservation and Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN) in their respective areas of competence and capability, shall prepare the Committee's documentation and the agenda of its meetings and shall have the responsibility for the implementation of its decisions.

### **IV. FUND FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE**

#### **Article 15**

1. A Fund for the Protection of the World Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Fund", is hereby established.

2. The Fund shall constitute a trust fund, in conformity with the provisions of the Financial Regulations of the United Nations Educational, Scientific and Cultural Organization.

3. The resources of the Fund shall consist of:
  - a) compulsory and voluntary contributions made by States Parties to this

### **Article 16**

Convention,

- b) Contributions, gifts or bequests which may be made by:
  - i) other States;
  - ii) the United Nations Educational, Scientific and Cultural Organization, other organizations of the United Nations system, particularly the United Nations Development Programme or other intergovernmental organizations;
  - iii) public or private bodies or individuals;
- (c) any interest due on the resources of the Fund;
  - a) funds raised by collections and receipts from events organized for the benefit of the fund; and
  - b) all other resources authorized by the Fund's regulations, as drawn up by the World Heritage Committee.

4. Contributions to the Fund and other forms of assistance made available to the Committee may be used only for such purposes as the Committee shall define. The Committee may accept contributions to be used only for a certain programme or project, provided that the Committee shall have decided on the implementation of such programme or project. No political conditions may be attached to contributions made to the Fund.

1. Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay regularly, every two years, to the World Heritage Fund, contributions, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly of States Parties to the Convention, meeting during the sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization. This decision of the General Assembly requires the majority of the States Parties present and voting, which have not made the declaration referred to in paragraph 2 of this Article. In no case shall the compulsory contribution of States Parties to the Convention exceed 1% of the contribution to the regular budget of the United Nations Educational, Scientific and Cultural Organization.

2. However, each State referred to in Article 31 or in Article 32 of this Convention may declare, at the time of the deposit of its instrument of ratification, acceptance or accession, that it shall not be bound by the provisions of paragraph 1 of this Article.

3. A State Party to the Convention which has made the declaration referred to in paragraph 2 of this Article may at any time withdraw the said declaration by notifying the Director-General of the United Nations Educational, Scientific and Cultural Organization. However, the withdrawal of the declaration shall not take effect in regard to the compulsory contribution due by the State until the date of the subsequent General Assembly of States parties to the Convention.

4. In order that the Committee may be able to plan its operations effectively, the contributions of States Parties to this Convention which have made the declaration referred to in paragraph 2 of this Article, shall be paid on a regular basis, at least every two years, and should not be less than the contributions which they should have paid if they had been bound by the provisions of paragraph 1 of this Article.

5. Any State Party to the Convention which is in arrears with the payment of its compulsory or voluntary contribution for the current year and the calendar year immediately preceding it shall not be eligible as a Member of the World Heritage Committee, although this provision shall not apply to the first election.

The terms of office of any such State which is already a member of the Committee shall terminate at the time of the elections provided for in Article 8, paragraph 1 of this Convention.

### **Article 17**

The States Parties to this Convention shall consider or encourage the establishment of national public and private foundations or associations whose purpose is to invite donations for the protection of the cultural and natural heritage as defined in Articles 1 and 2 of this Convention.**Article 18**



The States Parties to this Convention shall give their assistance to international fund-raising campaigns organized for the World Heritage Fund under the auspices of the United Nations Educational, Scientific and Cultural Organization. They shall facilitate collections made by the bodies mentioned in paragraph 3 of Article 15 for this purpose.

## **V. CONDITIONS AND ARRANGEMENTS FOR INTERNATIONAL ASSISTANCE**

### **Article 19**

Any State Party to this Convention may request international assistance for property forming part of the cultural or natural heritage of outstanding universal value situated within its territory. It shall submit with its request such information and documentation provided for in Article 21 as it has in its possession and as will enable the Committee to come to a decision.

### **Article 20**

Subject to the provisions of paragraph 2 of Article 13, sub-paragraph (c) of Article 22 and Article 23, international assistance provided for by this Convention may be granted only to property forming part of the cultural and natural heritage which the World Heritage Committee has decided, or may decide, to enter in one of the lists mentioned in paragraphs 2 and 4 of Article 11.

### **Article 21**

1. The World Heritage Committee shall define the procedure by which requests to it for international assistance shall be considered and shall specify the content of the request, which should define the operation contemplated, the work that is necessary, the expected cost thereof, the degree of urgency and the reasons why the resources of the State requesting assistance do not allow it to meet all the expenses. Such requests must be supported by experts' reports whenever possible.
2. Requests based upon disasters or natural calamities should, by reasons of the urgent work which they may involve, be given immediate, priority consideration by the Committee, which should have a reserve fund at its disposal against such contingencies.
3. Before coming to a decision, the Committee shall carry out such studies and consultations as it deems necessary.

### **Article 22**

Assistance granted by the World Heritage Fund may take the following forms:

- a) studies concerning the artistic, scientific and technical problems raised by the protection, conservation, presentation and rehabilitation of the cultural and natural heritage, as defined in paragraphs 2 and 4 of Article 11 of this Convention;
- b) provisions of experts, technicians and skilled labour to ensure that the approved work is correctly carried out;
- c) training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage;
- d) supply of equipment which the State concerned does not possess or is not in a position to acquire;
- e) low-interest or interest-free loans which might be repayable on a long-term basis;
- f) the granting, in exceptional cases and for special reasons, of non-repayable subsidies.

### **Article 23**

The World Heritage Committee may also provide international assistance to national or regional centres for

the training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage.

#### **Article 24**

International assistance on a large scale shall be preceded by detailed scientific, economic and technical studies. These studies shall draw upon the most advanced techniques for the protection, conservation, presentation and rehabilitation of the natural and cultural heritage and shall be consistent with the objectives of this Convention. The studies shall also seek means of making rational use of the resources available in the State concerned.

#### **Article 25**

As a general rule, only part of the cost of work necessary shall be borne by the international community. The contribution of the State benefiting from international assistance shall constitute a substantial share of the resources devoted to each programme or project, unless its resources do not permit this.

#### **Article 26**

The World Heritage Committee and the recipient State shall define in the agreement they conclude the conditions in which a programme or project for which international assistance under the terms of this Convention is provided, shall be carried out. It shall be the responsibility of the State receiving such international assistance to continue to protect, conserve and present the property so safeguarded, in observance of the conditions laid down by the agreement.

### **VI.**

### **EDUCATIONAL**

#### **PROGRAMMES**

### **VII.**

#### **Article 27**

1. The States Parties to this Convention shall endeavor by all appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect by their peoples of the cultural and natural heritage defined in Articles 1 and 2 of the Convention.
2. They shall undertake to keep the public broadly informed of the dangers threatening this heritage and of the activities carried on in pursuance of this Convention.

#### **Article 28**

States Parties to this Convention which receive international assistance under the Convention shall take appropriate measures to make known the importance of the property for which assistance has been received and the role played by such assistance.

### **VIII.**

### **REPORT**

#### **S Article 29**

1. The States Parties to this Convention shall, in the reports which they submit to the General Conference of the United Nations Educational, Scientific and Cultural Organization on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action

which they have taken for the application of this Convention, together with details of the experience acquired in this field.

2. These reports shall be brought to the attention of the World Heritage Committee.

3. The Committee shall submit a report on its activities at each of the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organization.

## **VIII FINAL CLAUSES**

### **Article 30**

This Convention is drawn up in Arabic, English, French, Russian and Spanish, the five texts being equally authoritative.

### **Article 31**

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organization in accordance with their respective constitutional procedures.

2. The instruments of ratification or acceptance shall be deposited with the Director- General of the United Nations Educational, Scientific and Cultural Organization.

### **Article 32**

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organization which are invited by the General Conference of the Organization to accede to it.

2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

### **Article 33**

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments of ratification, acceptance or accession on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

### **Article 34**

The following provisions shall apply to those States Parties to this Convention which have a federal or non-unitary constitutional system:

a) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the obligations of the federal or central government shall be the same as for those States parties which are not federal States;

b) with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of individual constituent States, countries, provinces or cantons that are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States, countries, provinces or cantons of the said provisions, with its recommendation for their adoption.

### **Article 35**

1. Each State Party to this Convention may denounce the Convention.

2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organization.

3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall not affect the financial obligations of the denouncing State until the date on which the withdrawal takes effect.

### **Article 36**

The Director-General of the United Nations Educational, Scientific and Cultural Organization shall inform the States members of the Organization, the States not members of the Organization which are referred to in Article 32, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, or accession provided for in Articles 31 and 32, and of the denunciations provided for in Article 35.

### **Article 37**

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organization. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.
2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

### **Article 38**

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organization.

*DONE* in Paris, this twenty-third day of November 1972, in two authentic copies bearing the *SIGNATURE* of the President of the seventeenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organization, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organization, and *CERTIFIED* true copies of which shall be delivered to all the States *REFERRED* to in Articles 31 and 32 as well as to the United Nations.

## **Kyoto protocol to the united nations framework convention on climate change**

The Parties to this Protocol, *BEING* Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as "the Convention", *IN PURSUIT* of the ultimate objective of the Convention as stated in its Article 2, *RECALLING* the provisions of the Convention, *BEING GUIDED* by Article 3 of the Convention, *PURSUANT TO* the Berlin Mandate adopted by decision 1/CP. 1 of the Conference of the Parties to the Convention at its first session, *HAVE AGREED* as follows:

### **Article 1**

For the purposes of this Protocol, the definitions contained in Article 1 of the Convention shall apply. In addition:

1. "Conference of the Parties" means the Conference of the Parties to the Convention.
2. "Convention" means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992.
3. "Intergovernmental Panel on Climate Change" means the Intergovernmental Panel on Climate Change established in 1988 jointly by the World Meteorological Organization and the United Nations Environment Programme.
4. "Montreal Protocol" means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Montreal on 16 September 1987 and as subsequently adjusted and amended.
5. "Parties present and voting" means Parties present and casting an affirmative or negative vote.
6. "Party" means, unless the context otherwise indicates, a Party to this Protocol.
7. "Party included in Annex I" means a Party included in Annex I to the Convention, as may be amended, or a Party which has made a notification under Article 4, paragraph 2(g), of the Convention.

### **Article 2**

1. Each Party included in Annex I, in achieving its quantified emission limitation and reduction commitments under Article 3, in order to promote sustainable development, shall:

- a) Implement and/or further elaborate policies and measures in accordance with its national circumstances, such as:
  - a) Enhancement of energy efficiency in relevant sectors of the national economy;
  - ii) Protection and enhancement of sinks and reservoirs of greenhouse gases not controlled by the Montreal Protocol, taking into account its commitments under relevant international environmental agreements; promotion of sustainable forest management practices, afforestation and reforestation;
  - iii) Promotion of sustainable forms of agriculture in light of climate change considerations;
  - iv) Research on, and promotion, development and increased use of, new and renewable forms of energy, of carbon dioxide sequestration technologies and of advanced and innovative environmentally sound technologies;
  - v) Progressive reduction or phasing out of market imperfections, fiscal incentives, tax and duty exemptions and subsidies in all greenhouse gas emitting sectors that run counter to the objective of the Convention and application of market instruments;
  - vi) Encouragement of appropriate reforms in relevant sectors aimed at promoting policies and measures which limit or reduce emissions of greenhouse gases not controlled by the Montreal Protocol;
  - vii) Measures to limit and/or reduce emissions of greenhouse gases not controlled by the Montreal Protocol in the transport sector,
  - viii) Limitation and/or reduction of methane emissions through recovery and use in waste management, as well as in the production, transport and distribution of energy;

b) Cooperate with other such Parties to enhance the individual and combined effectiveness of their policies and measures adopted under this Article, pursuant to Article 4, paragraph 2(e) (i), of the Convention. To this end, these Parties shall take steps to share their experience and exchange information on such policies and measures, including developing ways of improving their comparability, transparency and effectiveness. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session or as soon as practicable thereafter, consider ways to facilitate such cooperation, taking into account all relevant information.

2. The Parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively.

3. The Parties included in Annex I shall strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in Article 4, paragraphs 8 and 9, of the Convention, taking into account Article 3 of the Convention. The Conference of the Parties serving as the meeting of the Parties to this Protocol may take further action, as appropriate, to promote the implementation of the provisions of this paragraph.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol, if it decides that it would be beneficial to coordinate any of the policies and measures in paragraph 1(a) above, taking into account different national circumstances and potential effects, shall consider ways and means to elaborate the coordination of such policies and measures.

### **Article 3**

1. The Parties included in Annex I shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B and in accordance with the provisions of this Article, with a view to reducing their overall emissions of such gases by at least 5 per cent below 1990 levels in the commitment period 2008 to 2012.

2. Each Party included in Annex I shall, by 2005, have made demonstrable progress in achieving its commitments under this Protocol.

3. The net changes in greenhouse gas emissions by sources and removals by sinks resulting from direct human-induced land-use change and forestry activities, limited to afforestation, reforestation and deforestation since 1990, measured as verifiable changes in carbon stocks in each commitment period, shall be used to meet the commitments under this Article of each Party included in Annex I. The greenhouse gas emissions by sources and removals by sinks associated with those activities shall be reported in a transparent and verifiable manner and reviewed in accordance with Articles 7 and 8.

4. Prior to the first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol, each Party included in Annex I shall provide, for consideration by the Subsidiary Body for Scientific and Technological Advice, data to establish its level of carbon stocks in 1990 and to enable an estimate to be made of its changes in carbon stocks in subsequent years. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session or as soon as practicable thereafter, decide upon modalities, rules and guidelines as to how, and which, additional human-induced activities related to changes in greenhouse gas emissions by sources and removals by sinks in the agricultural soils and the land-use change and forestry categories shall be added to, or subtracted from, the assigned amounts for Parties included in Annex I, taking into account uncertainties, transparency in reporting, verifiability, the methodological work of the Intergovernmental Panel on Climate Change, the advice provided by the Subsidiary Body for Scientific and Technological Advice in accordance with Article 5 and the decisions of the Conference of the Parties. Such a decision shall apply in the second and subsequent commitment periods. A Party may choose to apply such a decision on these additional human-induced activities for

its first commitment period, provided that these activities have taken place since 1990.

5. The Parties included in Annex I undergoing the process of transition to a market economy whose base year or period was established pursuant to decision 9/CP.2 of the Conference of the Parties at its second session shall use that base year or period for the implementation of their commitments under this Article. Any other Party included in Annex I undergoing the process of transition to a market economy which has not yet submitted its first national communication under Article 12 of the Convention may also notify the Conference of the Parties serving as the meeting of the Parties to this Protocol that it intends to use an historical base year or period other than 1990 for the implementation of its commitments under this Article. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall decide on the acceptance of such notification.

6. Taking into account Article 4, paragraph 6, of the Convention, in the implementation of their commitments under this Protocol other than those under this Article, a certain degree of flexibility shall be allowed by the Conference of the Parties serving as the meeting of the Parties to this Protocol to the Parties included in Annex I undergoing the process of transition to a market economy.

7. In the first quantified emission limitation and reduction commitment period, from 2008 to 2012, the assigned amount for each Party included in Annex I shall be equal to the percentage inscribed for it in Annex B of its aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A in 1990, or the base year or period determined in accordance with paragraph 5 above, multiplied by five. Those Parties included in Annex I for whom land-use change and forestry constituted a net source of greenhouse gas emissions in 1990 shall include in their 1990 emissions base year or period the aggregate anthropogenic carbon dioxide equivalent emissions by sources minus removals by sinks in 1990 from land-use change for the purposes of calculating their assigned amount.

8. Any Party included in Annex I may use 1995 as its base year for hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride, for the purposes of the calculation referred to in paragraph 7 above.

9. Commitments for subsequent periods for Parties included in Annex I shall be established in amendments to Annex B to this Protocol, which shall be adopted in accordance with the provisions of Article 21, paragraph 7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate the consideration of such commitments at least seven years before the end of the first commitment period referred to in paragraph 1 above.

10. Any emission reduction units, or any part of an assigned amount, which a Party acquires from another Party in accordance with the provisions of Article 6 or of Article 17 shall be added to the assigned amount for the acquiring Party.

11. Any emission reduction units, or any part of an assigned amount, which a Party transfers to another Party in accordance with the provisions of Article 6 or of Article 17 shall be subtracted from the assigned amount for the transferring Party.

12. Any certified emission reductions which a Party acquires from another Party in accordance with the provisions of Article 12 shall be added to the assigned amount for the acquiring Party.

13. If the emissions of a Party included in Annex I in a commitment period are less than its assigned amount under this Article, this difference shall, on request of that Party, be added to the assigned amount for that Party for subsequent commitment periods.

13. Each Party included in Annex I shall strive to implement the commitments mentioned in paragraph 1 above in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties, particularly those identified in Article 4, paragraphs 8 and 9, of the Convention. In line with relevant decisions of the Conference of the Parties on the implementation of those paragraphs, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, consider what actions are necessary to minimize the adverse effects of climate change and/or the impacts of response measures on Parties referred to in those paragraphs. Among the issues to be considered shall be the establishment of funding, insurance and transfer of technology. Administrative Department of the President of the Republic of Azerbaijan

## Article 4

Any Parties included in Annex I that have reached an agreement to fulfil their commitments under Article 3 jointly, shall be deemed to have met those commitments provided that their total combined aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex B and in accordance with the provisions of Article 3. The respective emission level allocated to each of the Parties to the agreement shall be set out in that agreement.

1. The Parties to any such agreement shall notify the secretariat of the terms of the agreement on the date of deposit of their instruments of ratification, acceptance or approval of this Protocol, or accession thereto. The secretariat shall in turn inform the Parties and signatories to the Convention of the terms of the agreement.

2. Any such agreement shall remain in operation for the duration of the commitment period specified in Article 3, paragraph 7.

3. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization, any alteration in the composition of the organization after adoption of this Protocol shall not affect existing commitments under this Protocol. Any alteration in the composition of the organization shall only apply for the purposes of those commitments under Article 3 that are adopted subsequent to that alteration.

4. In the event of failure by the Parties to such an agreement to achieve their total combined level of emission reductions, each Party to that agreement shall be responsible for its own level of emissions set out in the agreement.

5. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization which is itself a Party to this Protocol, each member State of that regional economic integration organization individually, and together with the regional economic integration organization acting in accordance with Article 24, shall, in the event of failure to achieve the total combined level of emission reductions, be responsible for its level of emissions as notified in accordance with this Article.

## Article 5

1. Each Party included in Annex I shall have in place, no later than one year prior to the start of the first commitment period, a national system for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. Guidelines for such national systems, which shall incorporate the methodologies specified in paragraph 2 below, shall be decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.

2. Methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall regularly review and, as appropriate, revise such methodologies and adjustments, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to methodologies or adjustments shall be used only for the purposes of ascertaining compliance with commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

3. The global warming potentials used to calculate the carbon dioxide equivalence of anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex A shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties at its third session.



Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall regularly review and, as appropriate, revise the global warming potential of each such greenhouse gas, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to a global warming potential shall apply only to commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

#### **Article 6**

1. For the purpose of meeting its commitments under Article 3, any Party included in Annex I may transfer to, or acquire from, any other such Party emission reduction units resulting from projects aimed at reducing anthropogenic emissions by sources or enhancing anthropogenic removals by sinks of greenhouse gases in any sector of the economy, provided that:

- a) Any such project has the approval of the Parties involved;
- b) Any such project provides a reduction in emissions by sources, or an enhancement of removals by sinks, that is additional to any that would otherwise occur;
- c) It does not acquire any emission reduction units if it is not in compliance with its obligations under Articles 5 and 7; and
- d) The acquisition of emission reduction units shall be supplemental to domestic actions for the purposes of meeting commitments under Article 3.

2. The Conference of the Parties serving as the meeting of the Parties to this Protocol may, at its first session or as soon as practicable thereafter, further elaborate guidelines for the implementation of this Article, including for verification and reporting.

3. A Party included in Annex I may authorize legal entities to participate, under its responsibility, in actions leading to the generation, transfer or acquisition under this Article of emission reduction units.

4. If a question of implementation by a Party included in Annex I of the requirements referred to in this Article is identified in accordance with the relevant provisions of Article 8, transfers and acquisitions of emission reduction units may continue to be made after the question has been identified, provided that any such units may not be used by a Party to meet its commitments under Article 3 until any issue of compliance is resolved.

#### **Article 7**

1. Each Party included in Annex I shall incorporate in its annual inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, submitted in accordance with the relevant decisions of the Conference of the Parties, the necessary supplementary information for the purposes of ensuring compliance with Article 3, to be determined in accordance with paragraph 4 below.

2. Each Party included in Annex I shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information necessary to demonstrate compliance with its commitments under this Protocol, to be determined in accordance with paragraph 4 below.

3. Each Party included in Annex I shall submit the information required under paragraph 1 above annually, beginning with the first inventory due under the Convention for the first year of the commitment period after this Protocol has entered into force for that Party. Each such Party shall submit the information required under paragraph 2 above as part of the first national communication due under the Convention after this Protocol has entered into force for it and after the adoption of guidelines as provided for in paragraph 4 below. The frequency of subsequent submission of information required under this Article shall be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, taking into account any timetable for the submission of national communications decided upon by the Conference of the Parties.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review periodically thereafter, guidelines for the preparation of the information required under this

Article, taking into account guidelines for the preparation of national communications by Parties included in Annex I adopted by the Conference of the Parties. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall also, prior to the first commitment period, decide upon modalities for the accounting of assigned amounts.

#### **Article 8**

1. The information submitted under Article 7 by each Party included in Annex I shall be reviewed by expert review teams pursuant to the relevant decisions of the Conference of the Parties and in accordance with guidelines adopted for this purpose by the Conference of the Parties serving as the meeting of the Parties to this Protocol under paragraph 4 below. The information submitted under Article 7, paragraph 1, by each Party included in Annex I shall be reviewed as part of the annual compilation and accounting of emissions inventories and assigned amounts. Additionally, the information submitted under Article 7, paragraph 2, by each Party included in Annex I shall be reviewed as part of the review of communications.

2. Expert review teams shall be coordinated by the secretariat and shall be composed of experts selected from those nominated by Parties to the Convention and, as appropriate, by intergovernmental organizations, in accordance with guidance provided for this purpose by the Conference of the Parties.

3. The review process shall provide a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of this Protocol. The expert review teams shall prepare a report to the Conference of the Parties serving as the meeting of the Parties to this Protocol, assessing the implementation of the commitments of the Party and identifying any potential problems in, and factors influencing, the fulfilment of commitments. Such reports shall be circulated by the secretariat to all Parties to the Convention. The secretariat shall list those questions of implementation indicated in such reports for further consideration by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review periodically thereafter, guidelines for the review of implementation of this Protocol by expert review teams taking into account the relevant decisions of the Conference of the Parties.

5. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, with the assistance of the Subsidiary Body for Implementation and, as appropriate, the Subsidiary Body for Scientific and Technological Advice, consider:

a) The information submitted by Parties under Article 7 and the reports of the expert reviews thereon conducted under this Article; and

b) Those questions of implementation listed by the secretariat under paragraph 3 above, as well as any questions raised by Parties.

6. Pursuant to its consideration of the information referred to in paragraph 5 above, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take decisions on any matter required for the implementation of this Protocol.

#### **Article 9**

1. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically review this Protocol in the light of the best available scientific information and assessments on climate change and its impacts, as well as relevant technical, social and economic information. Such reviews shall be coordinated with pertinent reviews under the Convention, in particular those required by Article 4, paragraph 2(d), and Article 7, paragraph 2(a), of the Convention. Based on these reviews, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take appropriate action.

2. The first review shall take place at the second session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Further reviews shall take place at regular intervals and in a timely manner.

## Article 10

All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, without introducing any new commitments for Parties not included in Annex I, but reaffirming existing commitments under Article 4, paragraph 1, of the Convention, and continuing to advance the implementation of these commitments in order to achieve sustainable development, taking into account Article 4, paragraphs 3, 5 and 7, of the Convention, shall:

a) Formulate, where relevant and to the extent possible, cost-effective national and, where appropriate, regional programmes to improve the quality of local emission factors, activity data and/or models which reflect the socio-economic conditions of each Party for the preparation and periodic updating of national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties, and consistent with the guidelines for the preparation of national communications adopted by the Conference of the Parties;

b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change and measures to facilitate adequate adaptation to climate change:

i) Such programmes would, *inter alia*, concern the energy, transport and industry sectors as well as agriculture, forestry and waste management. Furthermore, adaptation technologies and methods for improving spatial planning would improve adaptation to climate change; and

ii) Parties included in Annex I shall submit information on action under this Protocol, including national programmes, in accordance with Article 7; and other Parties shall seek to include in their national communications, as appropriate, information on programmes which contain measures that the Party believes contribute to addressing climate change and its adverse impacts, including the abatement of increases in greenhouse gas emissions, and enhancement of and removals by sinks, capacity building and adaptation measures;

c) Cooperate in the promotion of effective modalities for the development, application and diffusion of, and take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies, know-how, practices and processes pertinent to climate change, in particular to developing countries, including the formulation of policies and programmes for the effective transfer of environmentally sound technologies that are publicly owned or in the public domain and the creation of an enabling environment for the private sector, to promote and enhance the transfer of, and access to, environmentally sound technologies;

d) Cooperate in scientific and technical research and promote the maintenance and the development of systematic observation systems and development of data archives to reduce uncertainties related to the climate system, the adverse impacts of climate change and the economic and social consequences of various response strategies, and promote the development and strengthening of endogenous capacities and capabilities to participate in international and intergovernmental efforts, programmes and networks on research and systematic observation, taking into account Article 5 of the Convention;

e) Cooperate in and promote at the international level, and, where appropriate, using existing bodies, the development and implementation of education and training programmes, including the strengthening of national capacity building, in particular human and institutional capacities and the exchange or secondment of personnel to train experts in this field, in particular for developing countries, and facilitate at the national level public awareness of, and public access to information on, climate change. Suitable modalities should be developed to implement these activities through the relevant bodies of the Convention, taking into account Article 6 of the Convention;

f) Include in their national communications information on programmes and activities undertaken pursuant to this Article in accordance with relevant decisions of the Conference of the Parties; and

g) Give full consideration, in implementing the commitments under this Article, to Article 4, paragraph 8, of the Convention.

## Article 11

1. In the implementation of Article 10, Parties shall take into account the provisions of Article 4, paragraphs 4, 5, 7, 8 and 9, of the Convention.

2. In the context of the implementation of Article 4, paragraph 1, of the Convention, in accordance with the provisions of Article 4, paragraph 3, and Article 11 of the Convention, and through the entity or entities entrusted with the operation of the financial mechanism of the Convention, the developed country Parties and other developed Parties included in Annex II to the Convention shall:

a) Provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in advancing the implementation of existing commitments under Article 4, paragraph 1(a), of the Convention that are covered in Article 10, subparagraph (a); and

b) Also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of advancing the implementation of existing commitments under Article 4, paragraph 1, of the Convention that are covered by Article 10 and that are agreed between a developing country Party and the international entity or entities referred to in Article 11 of the Convention, in accordance with that Article.

The implementation of these existing commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among developed country Parties. The guidance to the entity or entities entrusted with the operation of the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply *mutatis mutandis* to the provisions of this paragraph.

3. The developed country Parties and other developed Parties in Annex II to the Convention may also provide, and developing country Parties avail themselves of, financial resources for the implementation of Article 10, through bilateral, regional and other multilateral channels.

## **Article 12**

1. A clean development mechanism is hereby defined.

2. The purpose of the clean development mechanism shall be to assist Parties not included in Annex I in achieving sustainable development and in contributing to the ultimate objective of the Convention, and to assist Parties included in Annex I in achieving compliance with their quantified emission limitation and reduction commitments under Article 3.

3. Under the clean development mechanism:

a) Parties not included in Annex I will benefit from project activities resulting in certified emission reductions; and

b) Parties included in Annex I may use the certified emission reductions accruing from such project activities to contribute to compliance with part of their quantified emission limitation and reduction commitments under Article 3, as determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

4. The clean development mechanism shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Protocol and be supervised by an executive board of the clean development mechanism.

5. Emission reductions resulting from each project activity shall be certified by operational entities to be designated by the Conference of the Parties serving as the meeting of the Parties to this Protocol, on the basis of:

a) Voluntary participation approved by each Party involved;

b) Real, measurable, and long-term benefits related to the mitigation of climate change; and

c) Reductions in emissions that are additional to any that would occur in the absence of the certified project activity.

6. The clean development mechanism shall assist in arranging funding of certified project activities as

necessary.

7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, elaborate modalities and procedures with the objective of ensuring transparency, efficiency and accountability through independent auditing and verification of project activities.

8. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall ensure that a share of the proceeds from certified project activities is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

9. Participation under the clean development mechanism, including in activities mentioned in paragraph 3(a) above and in the acquisition of certified emission reductions, may involve private and/or public entities, and is to be subject to whatever guidance may be provided by the executive board of the clean development mechanism.

10. Certified emission reductions obtained during the period from the year 2000 up to the beginning of the first commitment period can be used to assist in achieving compliance in the first commitment period.

### **Article 13**

1. The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to this Protocol.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol.

3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be replaced by an additional member to be elected by and from amongst the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:

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

b) Periodically examine the obligations of the Parties under this Protocol, giving due consideration to any reviews required by Article 4, paragraph 2(d), and Article 7, paragraph 2, of the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge, and in this respect consider and adopt regular reports on the implementation of this Protocol;

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

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

e) Promote and guide, in accordance with the objective of the Convention and the provisions of this Protocol, and taking fully into account the relevant decisions by the Conference of the Parties, the development and periodic refinement of comparable methodologies for the effective implementation of this Protocol, to be agreed on by the

Conference of the Parties serving as the meeting of the Parties to this Protocol;

- f) Make recommendations on any matters necessary for the implementation of this Protocol;
- g) Seek to mobilize additional financial resources in accordance with Article 11, paragraph 2;
- h) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;
- i) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; and
- j) Exercise such other functions as may be required for the implementation of this Protocol, and consider any assignment resulting from a decision by the Conference of the Parties.

5. The rules of procedure of the Conference of the Parties and financial procedures applied under the Convention shall be applied *mutatis mutandis* under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

6. The first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the secretariat in conjunction with the first session of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol. Subsequent ordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held every year and in conjunction with ordinary sessions of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

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

8. The United Nations, its specialized agencies and the International Atomic Energy

Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented at sessions of the Conference of the Parties serving as the meeting of the Parties to this Protocol as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by this Protocol and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties serving as the meeting of the Parties to this Protocol as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.

#### **Article 14**

1. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this Protocol.

2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and

Article 8, paragraph 3, of the Convention on arrangements made for the functioning of the secretariat, shall apply *mutatis mutandis* to this Protocol. The secretariat shall, in addition, exercise the functions assigned to it under this Protocol.

#### **Article 15**

1. The Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation established by Articles 9 and 10 of the Convention shall serve as, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Protocol. The provisions relating to the functioning of these two bodies under the Convention shall apply *mutatis mutandis* to this Protocol. Sessions of the meetings of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Protocol shall be held in conjunction with the meetings of, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of the Convention.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the

proceedings of any session of the subsidiary bodies. When the subsidiary bodies serve as the subsidiary bodies of this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol.

3. When the subsidiary bodies established by Articles 9 and 10 of the Convention exercise their functions with regard to matters concerning this Protocol, any member of the Bureaux of those subsidiary bodies representing a Party to the Convention but, at that time, not a party to this Protocol, shall be replaced by an additional member to be elected by and from amongst the Parties to this Protocol.

#### **Article 16**

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, as soon as practicable, consider the application to this Protocol of, and modify as appropriate, the multilateral consultative process referred to in Article 13 of the Convention, in the light of any relevant decisions that may be taken by the Conference of the Parties. Any multilateral consultative process that may be applied to this Protocol shall operate without prejudice to the procedures and mechanisms established in accordance with Article 18.

#### **Article 17**

The Conference of the Parties shall define the relevant principles, modalities, rules and guidelines, in particular for verification, reporting and accountability for emissions trading. The Parties included in Annex B may participate in emissions trading for the purposes of fulfilling their commitments under Article 3. Any such trading shall be supplemental to domestic actions for the purpose of meeting quantified emission limitation and reduction commitments under that Article.

#### **Article 18**

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, approve appropriate and effective procedures and mechanisms to determine and to address cases of non-compliance with the provisions of this Protocol, including through the development of an indicative list of consequences, taking into account the cause, type, degree and frequency of non-compliance. Any procedures and mechanisms under this Article entailing binding consequences shall be adopted by means of an amendment to this Protocol.

#### **Article 19**

The provisions of Article 14 of the Convention on settlement of disputes shall apply *mutatis mutandis* to this Protocol.

#### **Article 20**

1. Any Party may propose amendments to this Protocol.
2. Amendments to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed amendment to this Protocol shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendments to the Parties and signatories to the Convention and, for information, to the Depositary.
3. The Parties shall make every effort to reach agreement on any proposed amendment to this Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance
4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths

of the Parties to this Protocol.

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

#### **Article 21**

1. Annexes to this Protocol shall form an integral part thereof and, unless otherwise expressly provided, a reference to this Protocol constitutes at the same time a reference to any annex thereto. Any annexes adopted after the entry into force of this Protocol shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

2. Any Party may make proposals for an annex to this Protocol and may propose amendments to annexes to this Protocol.

3. Annexes to this Protocol and amendments to annexes to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed annex or amendment to an annex shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed annex or amendment to an annex to the Parties and signatories to the Convention and, for information, to the Depositary.

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

5. An annex, or amendment to an annex other than Annex A or B, that has been adopted in accordance with paragraphs 3 and 4 above shall enter into force for all Parties to this Protocol six months after the date of the communication by the Depositary to such Parties of the adoption of the annex or adoption of the amendment to the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex or amendment to the annex. The annex or amendment to an annex shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.

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

7. Amendments to Annexes A and B to this Protocol shall be adopted and enter into force in accordance with the procedure set out in Article 20, provided that any amendment to Annex B shall be adopted only with the written consent of the Party concerned.

#### **Article 22**

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

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

The Secretary-General of the United Nations shall be the Depositary of this Protocol.

#### **Article 24**

1. This Protocol shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations which are Parties to the Convention. It shall be open for signature at United Nations Headquarters in New York from 16 March 1998 to 15 March 1999. This Protocol shall be open for



accession from the day after the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

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

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

#### **Article 25**

1. This Protocol shall enter into force on the ninetieth day after the date on which not less than 55 Parties to the Convention, incorporating Parties included in Annex I which accounted in total for at least 55 per cent of the total carbon dioxide emissions for 1990 of the Parties included in Annex I, have deposited their instruments of ratification, acceptance, approval or accession.

2. For the purposes of this Article, "the total carbon dioxide emissions for 1990 of the Parties included in Annex I" means the amount communicated on or before the date of adoption of this Protocol by the Parties included in Annex I in their first national communications submitted in accordance with Article 12 of the Convention.

3. For each State or regional economic integration organization that ratifies, accepts or approves this Protocol or accedes thereto after the conditions set out in paragraph 1 above for entry into force have been fulfilled, this Protocol shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of the organization.

#### **Article 26**

No reservations may be made to this Protocol.

#### **Article 27**

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

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

3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from this Protocol

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

*DONE* at Kyoto this eleventh day of December one thousand nine hundred and ninety-seven.

*IN WITNESS WHEREOF* the undersigned, being duly authorized to that effect, have affixed their signatures to this Protocol on the dates indicated.

**ANNEX A Greenhouse gases** Carbon dioxide (CO<sub>2</sub>)

Methane (CH<sub>4</sub>)

Nitrous oxide (N<sub>2</sub>O)

Hydrofluorocarbons (HFCs)  
 Perfluorocarbons (PFCs)  
 Sulphur hexafluoride (SF<sub>6</sub>)  
**Sectors/source categories** Energy  
 Fuel combustion Energy industries  
 Manufacturing industries and construction  
 Transport  
 Other sectors  
 Other  
 Fugitive emissions from fuels  
 Solid fuels  
 Oil and natural gas  
 Other  
 Industrial processes Mineral products Chemical industry Metal production Other production  
 Production of halocarbons and sulphur hexafluoride Consumption of halocarbons and sulphur  
 hexafluoride Other  
 Solvent and other product use  
 Agriculture  
 Enteric fermentation  
 Manure management  
 Rice cultivation  
 Agricultural soils  
 Prescribed burning of savannas  
 Field burning of agricultural residues  
 Other  
 Waste  
 Solid waste disposal on land Wastewater handling  
 Waste incineration Other

## **ANNEX B**

### **Party Quantified emission limitation or reduction commitment**

(percentage of base year or period)

Australia 108 Austria 92 Belgium 92 Bulgaria<sup>1</sup> 92 Canada  
 94 Croatia\* 95 Czech Republic\* 92 Denmark 92 Estonia\* 92  
 European Community 92  
 Finland 92  
 France 92  
 Germany 92  
 Greece 92  
 Hungary\* 94  
 Iceland 110  
 Ireland 92  
 Italy 92  
 Japan 94  
 Latvia\* 92

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<sup>1</sup> Countries that are undergoing the process of transition to a market economy.

Liechtenstein 92  
Lithuania\* 92  
Luxembourg 92  
Monaco 92  
Netherlands 92  
New Zealand 100  
Norway 101  
Poland\* 94  
Portugal 92  
Romania\* 92  
Russian Federation\* 100  
Slovakia\* 92  
Slovenia\* 92  
Spain 92  
Sweden 92  
Switzerland 92  
Ukraine\* 100  
United Kingdom of Great Britain and Northern Ireland 92  
United States of America 93

# Convention on international trade in endangered species of wild fauna and flora

Signed at Washington, D.C., on 3 March 1973

Amended at Bonn, on 22 June 1979

The Contracting States,

*RECOGNIZING* that wild fauna and flora in their many beautiful and varied forms are an irreplaceable part of the natural systems of the earth which must be protected for this and the generations to come;

*CONSCIOUS* of the ever-growing value of wild fauna and flora from aesthetic, scientific, cultural, recreational and economic points of view;

*RECOGNIZING* that peoples and States are and should be the best protectors of their own wild fauna and flora;

*RECOGNIZING*, in addition, that international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;

*CONVINCED* of the urgency of taking appropriate measures to this end;

*HAVE AGREED* as follows:

## Article I *Definitions*

For the purpose of the present Convention, unless the context otherwise requires:

- a) "Species" means any species, subspecies, or geographically separate population thereof;
- b) "Specimen" means:
  - i) any animal or plant, whether alive or dead;
  - ii) in the case of an animal: for species included in Appendices I and II, any readily recognizable part or derivative thereof; and for species included in Appendix III, any readily recognizable part or derivative thereof specified in Appendix in relation to the species; and
  - iii) in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily recognizable part or derivative thereof specified in Appendices II and III in relation to the species;
- c) "Trade" means export, re-export, import and introduction from the sea;
- d) "Re-export" means export of any specimen that has previously been imported;
- e) "Introduction from the sea" means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State;
- f) "Scientific Authority" means a national scientific authority designated in accordance with Article IX;
- g) "Management Authority" means a national management authority designated in accordance with Article IX;
- h) "Party" means a State for which the present Convention has entered into force.

## Article II *Fundamental principles*

1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.

2. Appendix II shall include:

- a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival;

and

- b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.
3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade.
4. The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.

### **Article III** *Regulation of Trade in Specimens of*

#### *Species Included in Appendix I*

1. All trade in specimens of species included in Appendix I shall be in accordance with the provisions of this Article.
2. The export of any specimen of a species included in Appendix I shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
  - a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
  - b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;
  - c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
  - d) a Management Authority of the State of export is satisfied that an import permit has been granted for the specimen.
3. The import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when the following conditions have been met:
  - a) a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved;
  - b) a Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
  - c) a Management Authority of the State of import is satisfied that the specimen is not to be used for primarily commercial purposes.
4. The re-export of any specimen of a species included in Appendix I shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:
  - a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention;
  - b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment; and
  - c) a Management Authority of the State of re-export is satisfied that an import permit has been granted for any living specimen.
5. The introduction from the sea of any specimen of a species included in Appendix I shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:
  - a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved;

- b) a Management Authority of the State of introduction is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
- c) a Management Authority of the State of introduction is satisfied that the specimen is not to be used for primarily commercial purposes.

**Article IV Regulation of Trade in Specimens of**

*Species Included in Appendix II*

1. All trade in specimens of species included in Appendix II shall be in accordance with the provisions of this Article.
2. The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
  - a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;
  - b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and
  - c) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.
3. A Scientific Authority in each Party shall monitor both the export permits granted by that State for specimens of species included in Appendix II and the actual exports of such specimens. Whenever a Scientific Authority determines that the export of specimens of any such species should be limited in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I, the Scientific Authority shall advise the appropriate Management Authority of suitable measures to be taken to limit the grant of export permits for specimens of that species.
4. The import of any specimen of a species included in Appendix II shall require the prior presentation of either an export permit or a re-export certificate.
5. The re-export of any specimen of a species included in Appendix II shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met:
  - a) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention; and
  - b) a Management Authority of the State of re-export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.
6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:
  - a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and
  - b) a Management Authority of the State of introduction is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.
7. Certificates referred to in paragraph 6 of this Article may be granted on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.

**Article V Regulation of Trade in Specimens of Species Included in Appendix III**

1. All trade in specimens of species included in Appendix III shall be in accordance with the provisions of this Article.
2. The export of any specimen of a species included in Appendix III from any State which has included that species in Appendix III shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met:
  - a) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora; and
  - b) a Management Authority of the State of export is satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment.
3. The import of any specimen of a species included in Appendix III shall require, except in circumstances to which paragraph 4 of this Article applies, the prior presentation of a certificate of origin and, where the import is from a State which has included that species in Appendix III, an export permit.
4. In the case of re-export, a certificate granted by the Management Authority of the State of re-export that the specimen was processed in that State or is being re-exported shall be accepted by the State of import as evidence that the provisions of the present Convention have been complied with in respect of the specimen concerned.

#### **Article VI** *Permits and Certificates*

1. Permits and certificates granted under the provisions of Articles III, IV, and V shall be in accordance with the provisions of this Article.
2. An export permit shall contain the information specified in the model set forth in Appendix IV, and may only be used for export within a period of six months from the date on which it was granted.
3. Each permit or certificate shall contain the title of the present Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority.
4. Any copies of a permit or certificate issued by a Management Authority shall be clearly marked as copies only and no such copy may be used in place of the original, except to the extent endorsed thereon.
5. A separate permit or certificate shall be required for each consignment of specimens.
6. A Management Authority of the State of import of any specimen shall cancel and retain the export permit or re-export certificate and any corresponding import permit presented in respect of the import of that specimen.
7. Where appropriate and feasible a Management Authority may affix a mark upon any specimen to assist in identifying the specimen. For these purposes "mark" means any indelible imprint, lead seal or other suitable means of identifying a specimen, designed in such a way as to render its imitation by unauthorized persons as difficult as possible.

#### **Article VII** *Exemptions and Other Special*

##### *Provisions Relating to Trade*

1. The provisions of Articles III, IV and V shall not apply to the transit or transshipment of specimens through or in the territory of a Party while the specimens remain in Customs control.
2. Where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V shall not apply to that specimen where the Management Authority issues a certificate to that effect.
3. The provisions of Articles III, IV and V shall not apply to specimens that are personal or household effects. This exemption shall not apply where:
  - a) in the case of specimens of a species included in Appendix I, they were acquired by the owner outside his State of usual residence, and are being imported into that State; or
  - b) in the case of specimens of species included in Appendix II:
    - i) they were acquired by the owner outside his State of usual residence and in a State where removal from the wild occurred;

- ii) they are being imported into the owner's State of usual residence; and
  - iii) the State where removal from the wild occurred requires the prior grant of export permits before any export of such specimens; unless a Management Authority is satisfied that the specimens were acquired before the provisions of the present Convention applied to such specimens.
4. Specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, shall be deemed to be specimens of species included in Appendix II.
5. Where a Management Authority of the State of export is satisfied that any specimen of an animal species was bred in captivity or any specimen of a plant species was artificially propagated, or is a part of such an animal or plant or was derived therefrom, a certificate by that Management Authority to that effect shall be accepted in lieu of any of the permits or certificates required under the provisions of Article III, IV or V.
6. The provisions of Articles III, IV and V shall not apply to the non-commercial loan, donation or exchange between scientists or scientific institutions registered by a Management Authority of their State, of herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material which carry a label issued or approved by a Management Authority.
7. A Management Authority of any State may waive the requirements of Articles III, IV and V and allow the movement without permits or certificates of specimens which form part of a travelling zoo, circus, menagerie, plant exhibition or other travelling exhibition provided that:
- a) the exporter or importer registers full details of such specimens with that Management Authority;
  - b) the specimens are in either of the categories specified in paragraph 2 or 5 of this Article; and (c) the Management Authority is satisfied that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.

#### **Article VIII** *Measures to Be Taken by the Parties*

1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:
- a) to penalize trade in, or possession of, such specimens, or both; and
  - b) to provide for the confiscation or return to the State of export of such specimens.
2. In addition to the measures taken under paragraph 1 of this Article, a Party may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the present Convention.
3. As far as possible, the Parties shall ensure that specimens shall pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit and ports of entry at which specimens must be presented for clearance. The Parties shall ensure further that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.
4. Where a living specimen is confiscated as a result of measures referred to in paragraph 1 of this Article:
- a) the specimen shall be entrusted to a Management Authority of the State of confiscation;
  - b) the Management Authority shall, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the present Convention; and
  - c) the Management Authority may obtain the advice of a Scientific Authority, or may, whenever it considers it desirable, consult the Secretariat in order to facilitate the decision under sub-paragraph (b) of this paragraph, including the choice of a rescue centre or other place.
5. A rescue centre as referred to in paragraph 4 of this Article means an institution designated by a Management Authority to look after the welfare of living specimens, particularly those that have been confiscated.



6. Each Party shall maintain records of trade in specimens of species included in Appendices I, II and III which shall cover:
  - a) the names and addresses of exporters and importers; and
  - b) the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.
7. Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:
  - a) an annual report containing a summary of the information specified in sub-paragraph (b) of paragraph 6 of this Article; and
  - b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.
8. The information referred to in paragraph 7 of this Article shall be available to the public where this is not inconsistent with the law of the Party concerned.

#### *Article IX Management, and Scientific Authorities*

1. Each Party shall designate for the purposes of the present Convention:
  - a) one or more Management Authorities competent to grant permits or certificates on behalf of that Party; and
  - b) one or more Scientific Authorities.
2. A State depositing an instrument of ratification, acceptance, approval or accession shall at that time inform the Depositary Government of the name and address of the Management Authority authorized to communicate with other Parties and with the Secretariat.
3. Any changes in the designations or authorizations under the provisions of this Article shall be communicated by the Party concerned to the Secretariat for transmission to all other Parties.
4. Any Management Authority referred to in paragraph 2 of this Article shall, if so requested by the Secretariat or the Management Authority of another Party, communicate to it impression of stamps, seals or other devices used to authenticate permits or certificates.

#### *Article X Trade with States not Party to the Convention*

Where export or re-export is to, or import is from, a State not a Party to the present Convention, comparable documentation issued by the competent authorities in that State which substantially conforms with the requirements of the present Convention for permits and certificates may be accepted in lieu thereof by any Party.

#### *Article XI Conference of the Parties*

1. The Secretariat shall call a meeting of the Conference of the Parties not later than two years after the entry into force of the present Convention.
2. Thereafter the Secretariat shall convene regular meetings at least once every two years, unless the Conference decides otherwise, and extraordinary meetings at any time on the written request of at least one-third of the Parties.
3. At meetings, whether regular or extraordinary, the Parties shall review the implementation of the present Convention and may:
  - a) make such provision as may be necessary to enable the Secretariat to carry out its duties, and adopt financial provisions;
  - b) consider and adopt amendments to Appendices I and II in accordance with Article XV;
  - c) review the progress made towards the restoration and conservation of the species included in Appendices

I, II and III;

- d) receive and consider any reports presented by the Secretariat or by any Party; and
  - e) where appropriate, make recommendations for improving the effectiveness of the present Convention.
4. At each regular meeting, the Parties may determine the time and venue of the next regular meeting to be held in accordance with the provisions of paragraph 2 of this Article.
5. At any meeting, the Parties may determine and adopt rules of procedure for the meeting.
6. The United Nations, its Specialized Agencies and the International Atomic Energy Agency, as well as any State not a Party to the present Convention, may be represented at meetings of the Conference by observers, who shall have the right to participate but not to vote.
7. Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:
- a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and
  - b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located. Once admitted, these observers shall have the right to participate but not to vote.

#### **Article XII** *The Secretariat*

1. Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable inter-governmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of wild fauna and flora.
2. The functions of the Secretariat shall be:
- a) to arrange for and service meetings of the Parties;
  - b) to perform the functions entrusted to it under the provisions of Articles XV and XVI of the present Convention;
  - c) to undertake scientific and technical studies in accordance with programmes authorized by the Conference of the Parties as will contribute to the implementation of the present Convention, including studies concerning standards for appropriate preparation and shipment of living specimens and the means of identifying specimens;
  - d) to study the reports of Parties and to request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention;
  - e) to invite the attention of the Parties to any matter pertaining to the aims of the present Convention;
  - f) to publish periodically and distribute to the Parties current editions of Appendices I, II and III together with any information which will facilitate identification of specimens of species included in those Appendices;
  - g) to prepare annual reports to the Parties on its work and on the implementation of the present Convention and such other reports as meetings of the Parties may request;
  - h) to make recommendations for the implementation of the aims and provisions of the present Convention, including the exchange of information of a scientific or technical nature;
  - i) to perform any other function as may be entrusted to it by the Parties.

#### **Article XIII** *International Measures*

1. When the Secretariat in the light of information received is satisfied that any species included in Appendix I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.
2. When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as

possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.

3. The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next Conference of the Parties which may make whatever recommendations it deems appropriate.

#### **Article XIV** *Effect on Domestic Legislation and International Conventions*

1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:

- a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or
- b) domestic measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III.

2. The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields.

3. The provisions of the present Convention shall in no way affect the provisions of, or the obligations deriving from, any treaty, convention or international agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external Customs control and removing Customs control between the parties thereto insofar as they relate to trade among the States members of that union or agreement.

4. A State party to the present Convention, which is also a party to any other treaty, convention or international agreement which is in force at the time of the coming into force of the present Convention and under the provisions of which protection is afforded to marine species included in Appendix II, shall be relieved of the obligations imposed on it under the provisions of the present Convention with respect to trade in specimens of species included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement.

5. Notwithstanding the provisions of Articles III, IV and V, any export of a specimen taken in accordance with paragraph 4 of this Article shall only require a certificate from a Management Authority of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement in question.

6. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

#### **Article XV** *Amendments to Appendices I and II*

1. The following provisions shall apply in relation to amendments to Appendices I and II at meetings of the Conference of the Parties:

a) Any Party may propose an amendment to Appendix I or II for consideration at the next meeting. The text of the proposed amendment shall be communicated to the Secretariat at least 150 days before the meeting. The Secretariat shall consult the other Parties and interested bodies on the amendment in accordance with the provisions of sub-paragraphs (b) and (c) of paragraph 2 of this Article and shall communicate the response to all Parties not later than 30 days before the meeting.

b) Amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes

"Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.

c) Amendments adopted at a meeting shall enter into force 90 days after that meeting for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

2. The following provisions shall apply in relation to amendments to Appendices I and II between meetings of the Conference of the Parties:

a) Any Party may propose an amendment to Appendix I or II for consideration between meetings by the postal procedures set forth in this paragraph.

b) For marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties. It shall also consult inter-governmental bodies having a function in relation to those species especially with a view to obtaining scientific data these bodies may be able to provide and to ensuring coordination with any conservation measures enforced by such bodies. The Secretariat shall communicate the views expressed and data provided by these bodies and its own findings and recommendations to the Parties as soon as possible.

c) For species other than marine species, the Secretariat shall, upon receiving the text of the proposed amendment, immediately communicate it to the Parties, and, as soon as possible thereafter, its own recommendations.

d) Any Party may, within 60 days of the date on which the Secretariat communicated its recommendations to the Parties under sub-paragraph (b) or (c) of this paragraph, transmit to the Secretariat any comments on the proposed amendment together with any relevant scientific data and information.

e) The Secretariat shall communicate the replies received together with its own recommendations to the Parties as soon as possible, (f) If no objection to the proposed amendment is received by the Secretariat within 30 days of the date the replies and recommendations were communicated under the provisions of sub-paragraph (e) of this paragraph, the amendment shall enter into force 90 days later for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

g) If an objection by any Party is received by the Secretariat, the proposed amendment shall be submitted to a postal vote in accordance with the provisions of sub-paragraphs (h), (i) and (j) of this paragraph.

h) The Secretariat shall notify the Parties that notification of objection has been received.

i) Unless the Secretariat receives the votes for, against or in abstention from at least one-half of the Parties within 60 days of the date of notification under sub-paragraph (h) of this paragraph, the proposed amendment shall be referred to the next meeting of the Conference for further consideration.

j) Provided that votes are received from one-half of the Parties, the amendment shall be adopted by a two-thirds majority of Parties casting an affirmative or negative vote.

k) The Secretariat shall notify all Parties of the result of the vote.

l) If the proposed amendment is adopted it shall enter into force 90 days after the date of the notification by the Secretariat of its acceptance for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.

3. During the period of 90 days provided for by sub-paragraph (c) of paragraph 1 or sub-paragraph (1) of paragraph 2 of this Article any Party may by notification in writing to the Depository Government make a reservation with respect to the amendment. Until such reservation is withdrawn the Party shall be treated as a State not a Party to the present Convention with respect to trade in the species concerned.

#### **Article XVI** *Appendix II and Amendments thereto*

1. Any Party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 of Article II. Appendix III shall include the names of the Parties submitting the species for inclusion therein, the scientific names of the species so submitted,

and any parts or derivatives of the animals or plants concerned that are specified in relation to the species for the purposes of sub-paragraph (b) of Article I.

2. Each list submitted under the provisions of paragraph 1 of this Article shall be communicated to the Parties by the Secretariat as soon as possible after receiving it. The list shall take effect as part of Appendix III 90 days after the date of such communication. At any time after the communication of such list, any Party may by notification in writing to the Depositary Government enter a reservation with respect to any species or any parts or derivatives, and until such reservation is withdrawn, the State shall be treated as a State not a Party to the present Convention with respect to trade in the species or part or derivative concerned.

3. A Party which has submitted a species for inclusion in Appendix III may withdraw it at any time by notification to the Secretariat which shall communicate the withdrawal to all Parties. The withdrawal shall take effect 30 days after the date of such communication.

4. Any Party submitting a list under the provisions of paragraph 1 of this Article shall submit to the Secretariat a copy of all domestic laws and regulations applicable to the protection of such species, together with any interpretations which the Party may deem appropriate or the Secretariat may request. The Party shall, for as long as the species in question is included in Appendix III, submit any amendments of such laws and regulations or any interpretations as they are adopted.

#### **Article XVII** *Amendment of the Convention*

1. An extraordinary meeting of the Conference of the Parties shall be convened by the Secretariat on the written request of at least one-third of the Parties to consider and adopt amendments to the present Convention. Such amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.

2. The text of any proposed amendment shall be communicated by the Secretariat to all Parties at least 90 days before the meeting.

3. An amendment shall enter into force for the Parties which have accepted it 60 days after two-thirds of the Parties have deposited an instrument of acceptance of the amendment with the Depositary Government. Thereafter, the amendment shall enter into force for any other Party 60 days after that Party deposits its instrument of acceptance of the amendment.

#### **Article XVIII** *Resolution of Disputes*

1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of the present Convention shall be subject to negotiation between the Parties involved in the dispute.

2. If the dispute can not be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision.

#### **Article XIX** *Signature*

The present Convention shall be open for signature at Washington until 30th April 1973 and thereafter at Beme until 31st December 1974.

#### **Article XX** *Ratification, Acceptance, Approval*

The present Convention shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of the Swiss Confederation which shall be the Depositary Government.

#### *Article XXI Accession*

The present Convention shall be open indefinitely for accession. Instruments of accession shall be deposited with the Depositary Government.

#### *Article XXII Entry into Force*

1. The present Convention shall enter into force 90 days after the date of deposit of the tenth instrument of ratification, acceptance, approval or accession, with the Depositary Government.
2. For each State which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the tenth instrument of ratification, acceptance, approval or accession, the present Convention shall enter into force 90 days after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

#### *Article XXIII Reservations*

1. The provisions of the present Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Articles XV and XVI.
2. Any State may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to:
  - a) any species included in Appendix I, II or III; or
  - b) any parts or derivatives specified in relation to a species included in Appendix III.
3. Until a Party withdraws its reservation entered under the provisions of this Article, it shall be treated as a State not a Party to the present Convention with respect to trade in the particular species or parts or derivatives specified in such reservation.

#### *Article XXIV Denunciation*

Any Party may denounce the present Convention by written notification to the Depositary Government at any time. The denunciation shall take effect twelve months after the Depositary Government has received the notification.

#### *Article XXV Depositary*

1. The original of the present Convention, in the Chinese, English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited with the Depositary Government, which shall transmit certified copies thereof to all States that have signed it or deposited instruments of accession to it.
2. The Depositary Government shall inform all signatory and acceding States and the Secretariat of signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of the present Convention, amendments thereto, entry and withdrawal of reservations and notifications of denunciation.
3. As soon as the present Convention enters into force, a certified copy thereof shall be transmitted by the Depositary Government to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

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

*DONE* at Washington this third day of March, One Thousand Nine Hundred and Seventy-three

## **Convention on environmental impact assessment in a transboundary context**

The Parties to this Convention,

*AWARE* of the interrelationship between economic activities and their environmental Consequences, *AFFIRMING* the need to ensure environmentally sound and sustainable development,

*DETERMINED* to enhance international co-operation in assessing environmental impact in particular in a transboundary context,

*MINDFUL* of the need and importance to develop anticipatory policies and of preventing, mitigating and monitoring significant adverse environmental impact in general and more specifically in a transboundary context,

*RECALLING* the relevant provisions of the Charter of the United Nations, the Declaration of the Stockholm Conference on the Human Environment, the Final Act of the Conference on Security and Cooperation in Europe (CSCE) and the Concluding Documents of the Madrid and Vienna Meetings of Representatives of the Participating States of the CSCE,

*COMMENDING* the ongoing activities of States to ensure that, through their national legal and administrative provisions and their national policies, environmental impact assessment is carried out,

*CONSCIOUS* of the need to give explicit consideration to environmental factors at an early stage in the decision-making process by applying environmental impact assessment, at all appropriate administrative levels, as a necessary tool to improve the quality of information presented to decision makers so that environmentally sound decisions can be made paying careful attention to minimizing significant adverse impact, particularly in a transboundary context,

*MINDFUL* of the efforts of international organizations to promote the use of environmental impact assessment both at the national and international levels, and taking into account work on environmental impact assessment carried out under the auspices of the United Nations Economic Commission for Europe, in particular results achieved by the Seminar on Environmental Impact Assessment (September 1987, Warsaw, Poland) as well as noting the Goals and Principles on environmental impact assessment adopted by the Governing Council of the United Nations Environment Programme, and the Ministerial Declaration on Sustainable Development (May 1990, Bergen, Norway),

*HAVE AGREED* as follows:

### *Article 1 Definitions*

For the purposes of this Convention, "Parties" means, unless the text otherwise indicates, the Contracting Parties to this Convention;

"Party of origin" means the Contracting Party or Parties to this Convention under whose jurisdiction a proposed activity is envisaged to take place;

"Affected Party" means the Contracting Party or Parties to this Convention likely to be affected by the transboundary impact of a proposed activity;

"Concerned Parties" means the Party of origin and the affected Party of an environmental impact assessment pursuant to this Convention;

"Proposed activity" means any activity or any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure;

"Environmental impact assessment" means a national procedure for evaluating the likely impact of a proposed activity on the environment;

"Impact" means any effect caused by a proposed activity on the environment including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors, it also includes effects on cultural heritage or socio-economic conditions resulting

from alterations to those factors;

"Transboundary impact" means any impact, not exclusively of a global nature, within an area under the jurisdiction of a Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another Party;

"Competent authority" means the national authority or authorities designated by a Party as responsible for performing the tasks covered by this Convention and/or the authority or authorities entrusted by a Party with decision-making powers regarding a proposed activity;

"The Public" means one or more natural or legal persons.

## **Article 2** *General Provisions*

The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities.

Each Party shall take the necessary legal, administrative or other measures to implement the provisions of this Convention, including, with respect to proposed activities listed in Appendix I that are likely to cause significant adverse transboundary impact, the establishment of an environmental impact assessment procedure that permits public participation and preparation of the environmental impact assessment documentation described in Appendix II.

The Party of origin shall ensure that in accordance with the provisions of this Convention an environmental impact assessment is undertaken prior to a decision to authorize or undertake a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.

The Party of origin shall, consistent with the provisions of this Convention, ensure that affected Parties are notified of a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact.

Concerned Parties shall, at the initiative of any such Party, enter into discussions on whether one or more proposed activities not listed in Appendix I is or are likely to cause a significant adverse transboundary impact and thus should be treated as if it or they were so listed. Where those Parties so agree, the activity or activities shall be thus treated. General guidance for identifying criteria to determine significant adverse impact is set forth in Appendix III.

The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding proposed activities and shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.

Environmental impact assessments as required by this Convention shall, as a minimum requirement, be undertaken at the project level of the proposed activity. To the extent appropriate, the Parties shall endeavour to apply the principles of environmental impact assessment to policies, plans and programmes.

The provisions of this Convention shall not affect the right of Parties to implement national laws, regulations, administrative provisions or accepted legal practices protecting information the supply of which would be prejudicial to industrial and commercial secrecy or national security.

The provisions of this Convention shall not affect the right of particular Parties to implement, by bilateral or multilateral agreement where appropriate, more stringent measures than those of this Convention.

The provisions of this Convention shall not prejudice any obligations of the Parties under international law with regard to activities having or likely to have a transboundary impact.

## **Article 3** *Notification*

For a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact, the Party of origin shall, for the purposes of ensuring adequate and effective consultations under Article 5, notify any



Party which it considers may be an affected Party as early as possible and no later than when informing its own public about that proposed activity.

This notification shall contain, inter alia:

Information on the proposed activity, including any available information on its possible transboundary impact;

The nature of the possible decision; and an indication of a reasonable time within which a response under paragraph 3 of this Article is required, taking into account the nature of the proposed activity; and may include the information set out in paragraph 5 of this Article.

The affected Party shall respond to the Party of origin within the time specified in the notification, acknowledging receipt of the notification, and shall indicate whether it intends to participate in the environmental impact assessment procedure.

If the affected Party indicates that it does not intend to participate in the environmental impact assessment procedure, or if it does not respond within the time specified in the notification, the provisions in paragraphs 5, 6, 7 and 8 of this Article and in Articles 4 to 7 will not apply. In such circumstances the right of a Party of origin to determine whether to carry out an environmental impact assessment on the basis of its national law and practice is not prejudiced.

Upon receipt of a response from the affected Party indicating its desire to participate in the environmental impact assessment procedure, the Party of origin shall, if it has not already done so, provide to the affected Party:

Relevant information regarding the environmental impact assessment procedure, including an indication of the time schedule for transmittal of comments; and Relevant information on the proposed activity and its possible significant adverse transboundary impact.

An affected Party shall, at the request of the Party of origin, provide the latter with reasonably obtainable information relating to the potentially affected environment under the jurisdiction of the affected Party, where such information is necessary for the preparation of the environmental impact assessment documentation. The information shall be furnished promptly and, as appropriate, through a joint body where one exists.

When a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity listed in Appendix I, and when no notification has taken place in accordance with paragraph 1 of this Article, the concerned Parties shall, at the request of the affected Party, exchange sufficient information for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact. If those Parties agree that there is likely to be a significant adverse transboundary impact, the provisions of this Convention shall apply accordingly. If those Parties cannot agree whether there is likely to be a significant adverse transboundary impact, any such Party may submit that question to an inquiry commission in accordance with the provisions of Appendix IV to advise on the likelihood of significant adverse transboundary impact, unless they agree on another method of settling this question.

The concerned Parties shall ensure that the public of the affected Party in the areas likely to be affected be informed of, and be provided with possibilities for making comments or objections on, the proposed activity, and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.

#### **Article 4** *Preparation Of The Environmental Impact Assessment Documentation*

The environmental impact assessment documentation to be submitted to the competent authority of the Party of origin shall contain, as a minimum, the information described in Appendix II.

The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where

appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.

**Article 5** *Consultations on the basis of the environmental impact  
Assessment documentation*

The Party of origin shall, after completion of the environmental impact assessment documentation, without undue delay enter into consultations with the affected Party concerning, inter alia, the potential transboundary impact of the proposed activity and measures to reduce or eliminate its impact. Consultations may relate to:

Possible alternatives to the proposed activity, including the no-action alternative and possible measures to mitigate significant adverse transboundary impact and to monitor the effects of such measures at the expense of the Party of origin;

Other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity; and Any other appropriate matters relating to the proposed activity.

The Parties shall agree, at the commencement of such consultations, on a reasonable time-frame for the duration of the consultation period. Any such consultations may be conducted through an appropriate joint body, where one exists.

**Article 6** *Final Decision*

The Parties shall ensure that, in the final decision on the proposed activity, due account is taken of the outcome of the environmental impact assessment, including the environmental impact assessment documentation, as well as the comments thereon received pursuant to Article 3, paragraph 8 and Article 4, paragraph 2, and the outcome of the consultations as referred to in Article 5.

The Party of origin shall provide to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based.

If additional information on the significant transboundary impact of a proposed activity, which was not available at the time a decision was made with respect to that activity and which could have materially affected the decision, becomes available to a concerned Party before work on that activity commences, that Party shall immediately inform the other concerned Party or Parties. If one of the concerned Parties so requests, consultations shall be held as to whether the decision needs to be revised.

**Article 7** *Post-Project Analysis*

The concerned Parties, at the request of any such Party, shall determine whether, and if so to what extent, a post-project analysis shall be carried out, taking into account the likely significant adverse transboundary impact of the activity for which an environmental impact assessment has been undertaken pursuant to this Convention. Any post-project analysis undertaken shall include, in particular, the surveillance of the activity and the determination of any adverse transboundary impact. Such surveillance and determination may be undertaken with a view to achieving the objectives listed in Appendix V.

When, as a result of post-project analysis, the Party of origin or the affected Party has reasonable grounds for concluding that there is a significant adverse transboundary impact or factors have been discovered which may result in such an impact, it shall immediately inform the other Party. The concerned Parties shall then consult on necessary measures to reduce or eliminate the impact.

**Article 8** *Bilateral And Multilateral Co-Operation*

The Parties may continue existing or enter into new bilateral or multilateral agreements or other arrangements in order to implement their obligations under this Convention. Such agreements or other arrangements may be based on the elements listed in Appendix VI.

**Article 9** *Research Programmes*

The Parties shall give special consideration to the setting up, or intensification of, specific research programmes aimed at:

Improving existing qualitative and quantitative methods for assessing the impacts of proposed activities;

Achieving a better understanding of cause-effect relationships and their role in integrated environmental management;

Analysing and monitoring the efficient implementation of decisions on proposed activities with the intention of minimizing or preventing impacts;

Developing methods to stimulate creative approaches in the search for environmentally sound alternatives to proposed activities, production and consumption patterns;

Developing methodologies for the application of the principles of environmental impact assessment at the macro-economic level.

The results of the programmes listed above shall be exchanged by the Parties.

#### **Article 10** *Status Of The Appendices*

The Appendices attached to this Convention form an integral part of the Convention.

#### **Article 11** *MEETING OF PARTIES*

The Parties shall meet, so far as possible, in connection with the annual sessions of the Senior Advisers to ECE Governments on Environmental and Water Problems. The first meeting of the Parties shall be convened not later than one year after the date of the entry into force of this Convention. Thereafter, meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of any Party; provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

The Parties shall keep under continuous review the implementation of this Convention, and, with this purpose in mind, shall:

Review the policies and methodological approaches to environmental impact assessment by the Parties with a view to further improving environmental impact assessment procedures in a transboundary context;

Exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements regarding the use of environmental impact assessment in a transboundary context to which one or more of the Parties are party;

Seek, where appropriate, the services of competent international bodies and scientific committees in methodological and technical aspects pertinent to the achievement of the purposes of this Convention;

At their first meeting, consider and by consensus adopt rules of procedure for their meetings;

Consider and, where necessary, adopt proposals for amendments to this Convention;

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

#### **Article 12** *Right To Vote*

Each Party to this Convention shall have one vote.

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

#### **Article 13** *Secretariat*

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

The convening and preparing of meetings of the Parties;

The transmission of reports and other information received in accordance with the provisions of this Convention to the Parties; and

The performance of other functions as may be provided for in this Convention or as may be determined by the Parties.

#### **Article 14** *Amendments To The Convention*

Any Party may propose amendments to this Convention.

Proposed amendments shall be submitted in writing to the secretariat, which shall communicate them to all Parties. The proposed amendments shall be discussed at the next meeting of the Parties, provided these proposals have been circulated by the secretariat to the Parties at least ninety days in advance.

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

Amendments to this Convention adopted in accordance with paragraph 3 of this Article shall be submitted by the Depositary to all Parties for ratification, approval or acceptance. They shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three fourths of these Parties. Thereafter they shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.

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

The voting procedure set forth in paragraph 3 of this Article is not intended to constitute a precedent for future agreements negotiated within the Economic Commission for Europe.

#### **Article 15** *Settlement Of Disputes*

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

When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligations:

Submission of the dispute to the International Court of Justice;

Arbitration in accordance with the procedure set out in Appendix VII.

If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of this Article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

#### **Article 16** *Signature*

This Convention shall be open for signature at Espoo (Finland) from 25 February to 1 March 1991 and thereafter at United Nations Headquarters in New York until 2 September 1991 by states members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraph 8 of the Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence in respect of matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

#### **Article 17** *Ratification, Acceptance, Approval And Accession*

This Convention shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations.

This Convention shall be open for accession as from 3 September 1991 by the States and organizations referred to in Article 16.

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

Any organization referred to in Article 16 which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under this Convention concurrently.

In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in Article 16 shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depositary of any relevant modification to the extent of their competence.

#### **Article 18** *Entry Into Force*

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

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

For each State or organization referred to in Article 16 which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

#### **Article 19** *Withdrawal*

At any time after four years from the date on which this Convention has come into force with respect to a Party, that Party may withdraw from this Convention by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary. Any such withdrawal shall not affect the application of Articles 3 to 6 of this Convention to a proposed activity in respect of which a notification has been made pursuant to Article 3, paragraph 1, or a request has been made pursuant to Article 3, paragraph 7, before such withdrawal took effect.

#### **Article 20** *Authentic Texts*

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

*IN WITNESS WHEREOF* the undersigned, being duly authorized thereto, have signed this Convention.

*DONE* at Espoo (Finland), this twenty-fifth day of February one thousand nine hundred and ninety-one.

### **APPENDIX I LIST OF ACTIVITIES**

Crude oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors (except research installations for the production and conversion of

fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).

Installations solely designed for the production or enrichment of nuclear fuels, for the reprocessing of irradiated nuclear fuels or for the storage, disposal and processing of radioactive waste.

Major installations for the initial smelting of cast-iron and steel and for the production of non-ferrous metals.

Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos: for asbestos-cement products, with an annual production of more than 20,000 tonnes finished product; for friction material, with an annual production of more than 50 tonnes finished product; and for other asbestos utilization of more than 200 tonnes per year.

Integrated chemical installations.

Construction of motorways, express roads\* and lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more.

Large-diameter oil and gas pipelines.

Trading ports and also inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes.

Waste-disposal installations for the incineration, chemical treatment or landfill of toxic and dangerous wastes.

Large dams and reservoirs.

Groundwater abstraction activities in cases where the annual volume of water to be abstracted amounts to 10 million cubic metres or more.

Pulp and paper manufacturing of 200 air-dried metric tonnes or more per day.

Major mining, on-site extraction and processing of metal ores or coal.

Offshore hydrocarbon production.

Major storage facilities for petroleum, petrochemical and chemical products.

Deforestation of large areas.

"Motorway" means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

Is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other by a dividing strip not intended for traffic or, exceptionally, by other means;

Does not cross at level with any road, railway or tramway track, or footpath; and

Is specially sign-posted as a motorway.

"Express road" means a road reserved for motor traffic accessible only from interchanges or controlled junctions and on which, in particular, stopping and parking are prohibited on the running carriageway(s).

## **APPENDIX II**

### **CONTENT OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION**

Information to be included in the environmental impact assessment documentation shall, as a minimum, contain, in accordance with Article 4:

A description of the proposed activity and its purpose;

For the purposes of this Convention:

A description, where appropriate, of reasonable alternatives (for example, locational or technological) to the proposed activity and also the no-action alternative;

A description of the environment likely to be significantly affected by the proposed activity and its alternatives;

A description of the potential environmental impact of the proposed activity and its alternatives and an estimation of its significance;

- A description of mitigation measures to keep adverse environmental impact to a minimum;
- An explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used;
- An identification of gaps in knowledge and uncertainties encountered in compiling the required information;
- Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis; and
- A non-technical summary including a visual presentation as appropriate (maps, graphs, etc ).

### APPENDIX III GENERAL CRITERIA TO ASSIST IN THE DETERMINATION OF THE ENVIRONMENTAL SIGNIFICANCE OF ACTIVITIES NOT LISTED IN APPENDIX I

In considering proposed activities to which Article 2, paragraph 5, applies, the concerned Parties may consider whether the activity is likely to have a significant adverse transboundary impact in particular by virtue of one or more of the following criteria:

Size: proposed activities which are large for the type of the activity;

Location: proposed activities which are located in or close to an area of special environmental sensitivity or importance (such as wetlands designated under the Ramsar Convention, national parks, nature reserves, sites of special scientific interest, or sites of archaeological, cultural or historical importance); also, proposed activities in locations where the characteristics of proposed development would be likely to have significant effects on the population;

Effects: proposed activities with particularly complex and potentially adverse effects, including those giving rise to serious effects on humans or on valued species or organisms, those which threaten the existing or potential use of an affected area and those causing additional loading which cannot be sustained by the carrying capacity of the environment.

The concerned Parties shall consider for this purpose proposed activities which are located close to an international frontier as well as more remote proposed activities which could give rise to significant transboundary effects far removed from the site of development.

### APPENDIX IV INQUIRY PROCEDURE

The requesting Party or Parties shall notify the secretariat that it or they submit(s) the question of whether a proposed activity listed in Appendix I is likely to have a significant adverse transboundary impact to an inquiry commission established in accordance with the provisions of this Appendix. This notification shall state the subject-matter of the inquiry. The secretariat shall notify immediately all Parties to this Convention of this submission.

The inquiry commission shall consist of three members. Both the requesting party and the other party to the inquiry procedure shall appoint a scientific or technical expert, and the two experts so appointed shall designate by common agreement the third expert, who shall be the president of the inquiry commission. The latter shall not be a national of one of the parties to the inquiry procedure, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the matter in any other capacity.

If the president of the inquiry commission has not been designated within two months of the appointment of the second expert, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party, designate the president within a further two-month period.

If one of the parties to the inquiry procedure does not appoint an expert within one month of its receipt of the notification by the secretariat, the other party may inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the inquiry commission within a further two-month period. Upon

designation, the president of the inquiry commission shall request the party which has not appointed an expert to do so within one month. After such a period, the president shall inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

The inquiry commission shall adopt its own rules of procedure.

The inquiry commission may take all appropriate measures in order to carry out its functions.

The parties to the inquiry procedure shall facilitate the work of the inquiry commission and, in particular, using all means at their disposal, shall provide it with all relevant documents, facilities and information; and enable it, where necessary, to call witnesses or experts and receive their evidence.

The parties and the experts shall protect the confidentiality of any information they receive in confidence during the work of the inquiry commission.

If one of the parties to the inquiry procedure does not appear before the inquiry commission or fails to present its case, the other party may request the inquiry commission to continue the proceedings and to complete its work. Absence of a party or failure of a party to present its case shall not constitute a bar to the continuation and completion of the work of the inquiry commission.

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

Any Party having an interest of a factual nature in the subject-matter of the inquiry procedure, and which may be affected by an opinion in the matter, may intervene in the proceedings with the consent of the inquiry commission.

The decisions of the inquiry commission on matters of procedure shall be taken by majority vote of its members. The final opinion of the inquiry commission shall reflect the view of the majority of its members and shall include any dissenting view.

The inquiry commission shall present its final opinion within two months of the date on which it was established unless it finds it necessary to extend this time limit for a period which should not exceed two months.

The final opinion of the inquiry commission shall be based on accepted scientific principles. The final opinion shall be transmitted by the inquiry commission to the parties to the inquiry procedure and to the secretariat.

## **APPENDIX V POST-PROJECT ANALYSIS**

Objectives Include:

Monitoring compliance with the conditions as set out in the authorization or approval of the activity and the effectiveness of mitigation measures;

Review of an impact for proper management and in order to cope with uncertainties;

Verification of past predictions in order to transfer experience to future activities of the same type.

## **APPENDIX VI ELEMENTS FOR BILATERAL AND MULTILATERAL CO-OPERATION**

Concerned Parties may set up, where appropriate, institutional arrangements or enlarge the mandate of existing institutional arrangements within the framework of bilateral and multilateral agreements in order to give full effect to this Convention.

Bilateral and multilateral agreements or other arrangements may include:

Any additional requirements for the implementation of this Convention, taking into account the specific conditions of the subregion concerned;

Institutional, administrative and other arrangements, to be made on a reciprocal and equivalent basis;

Harmonization of their policies and measures for the protection of the environment in order to attain the



greatest possible similarity in standards and methods related to the implementation of environmental impact assessment;

Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis;

Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into environmental impact assessment;

The establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities, for which environmental impact assessment in accordance with the provisions of this Convention shall be applied; and the establishment of critical loads of transboundary pollution;

Undertaking, where appropriate, joint environmental impact assessment, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies with a view to rendering the data and information obtained compatible.

## **APPENDIX VII**

### **ARBITRATIO**

#### **N**

The claimant Party or Parties shall notify the secretariat that the Parties have agreed to submit the dispute to arbitration pursuant to Article 15, paragraph 2, of this Convention. The notification shall state the subject-matter of arbitration and include, in particular, the Articles of this Convention, the interpretation or application of which are at issue. The secretariat shall forward the information received to all Parties to this Convention.

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

If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such a period, the president shall inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

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

Any arbitral tribunal constituted under the provisions set out herein shall draw up its own rules of procedure.

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

The tribunal may take all appropriate measures in order to establish the facts.

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

Provide it with all relevant documents, facilities and information; and

Enable it, where necessary, to call witnesses or experts and receive their evidence.

The parties and the arbitrators shall protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

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

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

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

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

The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to this Convention.

Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

# **Convention on the conservation of European wildlife and natural habitats (Bern Convention)**

## *Preamble*

The member States of the Council of Europe and the other signatories hereto, Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

*CONSIDERING* the wish of the Council of Europe to co-operate with other States in the field of nature conservation;

*RECOGNISING* that wild flora and fauna constitute a natural heritage of aesthetic, scientific, cultural, recreational, economic and intrinsic value that needs to be preserved and handed on to future generations;

*RECOGNISING* the essential role played by wild flora and fauna in maintaining biological balances;

*NOTING* that numerous species of wild flora and fauna are being seriously depleted and that some of them are threatened with extinction;

*AWARE* that the conservation of natural habitats is a vital component of the protection and conservation of wild flora and fauna;

*RECOGNISING* that the conservation of wild flora and fauna should be taken into consideration by the governments in their national goals and programmes, and that international cooperation should be established to protect migratory species in particular;

*BEARING* in mind the widespread requests for common action made by governments or by international bodies, in particular the requests expressed by the United Nations Conference on the Human Environment 1972 and the Consultative Assembly of the Council of Europe; *DESIRING* particularly to follow, in the field of wildlife conservation, the recommendations of Resolution No. 2 of the Second European Ministerial Conference on the Environment,

*HAVE AGREED* as follows:

## **CHAPTER I**

### ***GENERAL PROVISIONS***

#### **Article 1**

1. The aims of this Convention are to conserve wild flora and fauna and their natural habitats, especially those species and habitats whose conservation requires the co-operation of several States, and to promote such cooperation.
2. Particular emphasis is given to endangered and vulnerable species, including endangered and vulnerable migratory species.

#### **Article 2**

The Contracting Parties shall take requisite measures to maintain the population of wild flora and fauna at, or adapt it to, a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements and the needs of sub-species, varieties or forms at risk locally.

#### **Article 3**

1. Each Contracting Party shall take steps to promote national policies for the conservation of wild flora, wild fauna and natural habitats, with particular attention to endangered and vulnerable species, especially endemic ones, and endangered habitats, in accordance with the provisions of this Convention.
2. Each Contracting Party undertakes, in its planning and development policies and in its measures against pollution, to have regard to the conservation of wild flora and fauna.

3. Each Contracting Party shall promote education and disseminate general information on the need to conserve species of wild flora and fauna and their habitats.

## CHAPTER II

### *PROTECTION OF HABITATS*

#### **Article 4**

1. Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the conservation of the habitats of the wild flora and fauna species, especially those specified in Appendices I and II, and the conservation of endangered natural habitats.

2. The Contracting Parties in their planning and development policies shall have regard to the conservation requirements of the areas protected under the preceding paragraph, so as to avoid or minimise as far as possible any deterioration of such areas.

3. The Contracting Parties undertake to give special attention to the protection of areas that are of importance for the migratory species specified in Appendices II and III and which are appropriately situated in relation to migration routes, as wintering, staging, feeding, breeding or moulting areas.

4. The Contracting Parties undertake to co-ordinate as appropriate their efforts for the protection of the natural habitats referred to in this article when these are situated in frontier areas.

## CHAPTER III

### *PROTECTION OF SPECIES*

#### **Article 5**

Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the special protection of the wild flora species specified in Appendix I. Deliberate picking, collecting, cutting or uprooting of such plants shall be prohibited. Each Contracting Party shall, as appropriate, prohibit the possession or sale of these species.

#### **Article 6**

Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the special protection of the wild fauna species specified in Appendix II. The following will in particular be prohibited for these species:

- a. all forms of deliberate capture and keeping and deliberate killing;
- b. the deliberate damage to or destruction of breeding or resting sites;
- c. the deliberate disturbance of wild fauna, particularly during the period of breeding, rearing and hibernation, insofar as disturbance would be significant in relation to the objectives of this Convention;
- d. the deliberate destruction or taking of eggs from the wild or keeping these eggs even if empty;

1. the possession of and internal trade in these animals, alive or dead, including stuffed animals and any readily recognisable part or derivative thereof, where this would contribute to the effectiveness of the provisions of this article. Each Contracting Party shall take appropriate and necessary legislative and administrative measures to ensure the protection of the wild fauna species specified in Appendix III.

2. Any exploitation of wild fauna specified in Appendix III shall be regulated in order to keep the populations out of danger, taking into account the requirements of Article 2.

3. Measures to be taken shall include:
  - a. closed seasons and/or other procedures regulating the exploitation;
  - b. the temporary or local prohibition of exploitation, as appropriate, in order to restore satisfactory population levels;
  - c. the regulation as appropriate of sale, keeping for sale, transport for sale or offering for sale of live and dead wild animals.

#### **Article 8**

In respect of the capture or killing of wild fauna species specified in Appendix III and in cases where, in accordance with Article 9, exceptions are applied to species specified in Appendix II, Contracting Parties shall prohibit the use of all indiscriminate means of capture and killing and the use of all means capable of causing local disappearance of, or serious disturbance to, populations of a species, and in particular, the means specified in Appendix IV.

#### **Article 9**

1. Each Contracting Party may make exceptions from the provisions of Articles 4, 5, 6, 7 and from the prohibition of the use of the means mentioned in Article 8 provided that there is no other satisfactory solution and that the exception will not be detrimental to the survival of the population concerned:
  - for the protection of flora and fauna;
  - to prevent serious damage to crops, livestock, forests, fisheries, water and other forms of property;
  - in the interests of public health and safety, air safety or other overriding public interests;
  - for the purposes of research and education, of repopulation, of reintroduction and for the necessary breeding;
  - to permit, under strictly supervised conditions, on a selective basis and to a limited extent, the taking, keeping or other judicious exploitation of certain wild animals and plants in small numbers.
2. The Contracting Parties shall report every two years to the Standing Committee on the exceptions made under the preceding paragraph. These reports must specify:
  - the populations which are or have been subject to the exceptions and, when practical, the number of specimens involved;
  - the means authorised for the killing or capture;
  - the conditions of risk and the circumstances of time and place under which such exceptions were granted;
  - the authority empowered to declare that these conditions have been fulfilled, and to take decisions in respect of the means that may be used, their limits and the persons instructed to carry them out;
  - the controls involved.

### **CHAPTER IV** ***SPECIAL PROVISIONS FOR MIGRATORY***

The Contracting Parties undertake, in addition to the measures specified in Articles 4, 6, 7 and 8, to coordinate their efforts for the protection of the migratory species specified in Appendices II and III whose range extends into their territories.

1. The Contracting Parties shall take measures to seek to ensure that the closed seasons and/or other procedures regulating the exploitation established under paragraph 3. a of Article 7 are adequate and appropriately disposed to meet the requirements of the migratory species specified in Appendix III.

## **CHAPTER V**

### ***SUPPLEMENTARY PROVISIONS***

#### **Article 11**

1. In carrying out the provisions of this Convention, the Contracting Parties undertake:
  - a. to co-operate whenever appropriate and in particular where this would enhance the effectiveness of measures taken under other articles of this Convention;
  - b. to encourage and co-ordinate research related to the purposes of this Convention.
2. Each Contracting Party undertakes:
  - a. to encourage the reintroduction of native species of wild flora and fauna when this would contribute to the conservation of an endangered species, provided that a study is first made in the light of the experiences of other Contracting Parties to establish that such reintroduction would be effective and acceptable;
  - b. to strictly control the introduction of non-native species.
3. Each Contracting Party shall inform the Standing Committee of the species receiving complete protection on its territory and not included in Appendices I and II.

#### **Article 12**

The Contracting Parties may adopt stricter measures for the conservation of wild flora and fauna and their natural habitats than those provided under this Convention.

## **CHAPTER VI**

### ***STANDING COMMITTEE***

#### **Article 13**

1. For the purposes of this Convention, a Standing Committee shall be set up.
2. Any Contracting Party may be represented on the Standing Committee by one or more delegates. Each delegation shall have one vote. Within the areas of its competence, the European Economic Community shall exercise its right to vote with a number of votes equal to the number of its member States which are Contracting Parties to this Convention; the European Economic Community shall not exercise its right to vote in cases where the member States concerned exercise theirs, and conversely.
3. Any member State of the Council of Europe which is not a Contracting Party to the Convention may be represented on the committee as an observer.

The Standing Committee may, by unanimous decision, invite any non-member State of the Council of Europe which is not a Contracting Party to the Convention to be represented by an observer at one of its meetings.

Any body or agency technically qualified in the protection, conservation or management of wild fauna and flora and their habitats, and belonging to one of the following categories:

- a. international agencies or bodies, either governmental or non-governmental, and national governmental agencies or bodies;
  - b. national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located, may inform the Secretary General of the Council of Europe, at least three months before the meeting of the Committee, of its wish to be represented at that meeting by observers. They shall be admitted unless, at least one month before the meeting, one-third of the Contracting Parties have informed the Secretary General of their objection.
4. The Standing Committee shall be convened by the Secretary General of the Council of Europe. Its first meeting shall be held within one year of the date of the entry into force of the Convention. It shall subsequently meet

at least every two years and whenever a majority of the Contracting Parties so request.

5. A majority of the Contracting Parties shall constitute a quorum for holding a meeting of the Standing Committee.

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

#### **Article 14**

1. The Standing Committee shall be responsible for following the application of this Convention. It may in particular:

- keep under review the provisions of this Convention, including its appendices, and examine any modifications necessary;

- make recommendations to the Contracting Parties concerning measures to be taken for the purposes of this Convention;

- recommend the appropriate measures to keep the public informed about the activities undertaken within the framework of this Convention;

- make recommendations to the Committee of Ministers concerning non-member States of the Council of Europe to be invited to accede to this Convention;

- make any proposal for improving the effectiveness of this Convention, including proposals for the conclusion, with the States which are not Contracting Parties to the Convention, of agreements that would enhance the effective conservation of species or groups of species.

2. In order to discharge its functions, the Standing Committee may, on its own initiative, arrange for meetings of groups of experts.

#### **Article 15**

After each meeting, the Standing Committee shall forward to the Committee of Ministers of the Council of Europe a report on its work and on the functioning of the Convention.

### **CHAPTER VII AMENDMENTS**

#### **Article 16**

1. Any amendment to the articles of this Convention proposed by a Contracting Party or the Committee of Ministers shall be communicated to the Secretary General of the Council of Europe and forwarded by him at least two months before the meeting of the Standing Committee to the member States of the Council of Europe, to any signatory, to any Contracting Party, to any State invited to sign this Convention in accordance with the provisions of Article 19 and to any State invited to accede to it in accordance with the provisions of Article 20.

2. Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined by the Standing Committee which:

a. for amendments to Articles 1 to 12, shall submit the text adopted by a three - quarters majority of the votes cast to the Contracting Parties for acceptance;

b. for amendments to Articles 13 to 24, shall submit the text adopted by a three - quarters majority of the votes cast to the Committee of Ministers for approval. After its approval, this text shall be forwarded to the Contracting Parties for acceptance.

3. Any amendment shall enter into force on the thirtieth day after all the Contracting Parties have informed the Secretary General that they have accepted it.

4. The provisions of paragraphs 1, 2 .a and 3 of this article shall apply to the adoption of new appendices to

this Convention.

#### **Article 17**

1. Any amendment to the appendices of this Convention proposed by a Contracting Party or the Committee of Ministers shall be communicated to the Secretary General of the Council of Europe and forwarded by him at least two months before the meeting of the Standing Committee to the member States of the Council of Europe, to any signatory, to any Contracting Party, to any State invited to sign this Convention in accordance with the provisions of Article 19 and to any State invited to accede to it in accordance with the provisions of Article 20.
2. Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined by the Standing Committee, which may adopt it by a two-thirds majority of the Contracting Parties. The text adopted shall be forwarded to the Contracting Parties.
3. Three months after its adoption by the Standing Committee and unless one-third of the Contracting Parties have notified objections, any amendment shall enter into force for those Contracting Parties which have not notified objections.

### **CHAPTER VIII** ***SETTLEMENT OF DISPUTES***

#### **Article 18**

1. The Standing Committee shall use its best endeavours to facilitate a friendly settlement of any difficulty to which the execution of this Convention may give rise.
2. Any dispute between Contracting Parties concerning the interpretation or application of this Convention which has not been settled on the basis of the provisions of the preceding paragraph or by negotiation between the parties concerned shall, unless the said parties agree otherwise, be submitted, at the request of one of them, to arbitration. Each party shall designate an arbitrator and the two arbitrators shall designate a third arbitrator. Subject to the provisions of paragraph 3 of this article, if one of the parties has not designated its arbitrator within the three months following the request for arbitration, he shall be designated at the request of the other party by the President of the European Court of Human Rights within a further three months period. The same procedure shall be observed if the arbitrators cannot agree on the choice of the third arbitrator within the three months following the designation of the two first arbitrators.
3. In the event of a dispute between two Contracting Parties one of which is a member State of the European Economic Community, the latter itself being a Contracting Party, the other Contracting Party shall address the request for arbitration both to the member State and to the Community, which jointly shall notify it, within two months of receipt of the request, whether the member State or the Community, or the member and the Community jointly, shall be party to the dispute. In the absence of such notification within the said time limit, the member State and the Community shall be considered as being one and the same party to the dispute for the purposes of the application of the provisions governing the constitution and procedure of the arbitration tribunal. The same shall apply when the member State and the Community jointly present themselves as party to the dispute.
4. The arbitration tribunal shall draw up its own Rules of Procedure. Its decisions shall be taken by majority vote. Its award shall be final and binding.
5. Each party to the dispute shall bear the expenses of the arbitrator designated by it and the parties shall share equally the expenses of the third arbitrator, as well as other costs entailed by the arbitration.

### **CHAPTER IX** ***FINAL PROVISIONS***



### **Article 19**

1. This Convention shall be open for signature by the member States of the Council of Europe and nonmember States which have participated in its elaboration and by the European Economic Community.

Up until the date when the Convention enters into force, it shall also be open for signature by any other State so invited by the Committee of Ministers.

The Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

2. The Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date on which five States, including at least four member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

3. In respect of any signatory State or the European Economic Community which subsequently express their consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

### **Article 20**

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe, after consulting the Contracting Parties, may invite to accede to the Convention any non-member State of the Council which, invited to sign in accordance with the provisions of Article 19, has not yet done so, and any other non-member State.

2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

### **Article 21**

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2. Any Contracting Party may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

3. Any declaration made under the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by notification addressed to the Secretary General. Such withdrawal shall become effective on the first day of the month following the expiry of a period of six months after the date of receipt of the notification by the Secretary General.

### **Article 22**

1. Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, make one or more reservations regarding certain species specified in Appendices I to in and/or, for certain species mentioned in the reservation or reservations, regarding certain means or methods of killing, capture and other exploitation listed in Appendix IV. No reservations of a general nature may be made.

2. Any Contracting Party which extends the application of this Convention to a territory mentioned in the declaration referred to in paragraph 2 of Article 21 may, in respect of the territory concerned, make one or more reservations in accordance with the provisions of the preceding paragraph.

3. No other reservation may be made.

4. Any Contracting Party which has made a reservation under paragraphs 1 and 2 of this article may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect as from the date of receipt of the notification by the Secretary General.

### **Article 23**

1. Any Contracting Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiry of a period of six months after the date of receipt of the notification by the Secretary General.

### **Article 24**

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any signatory State, the European Economic Community if a signatory of this Convention and any Contracting Party of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Convention in accordance with Articles 19 and 20;
- d. any information forwarded under the provisions of paragraph 3 of Article 13;
- e. any report established in pursuance of the provisions of Article 15;
- f. any amendment or any new appendix adopted in accordance with Articles 16 and 17 and the date on which the amendment or new appendix comes into force;
- g. any declaration made under the provisions of paragraphs 2 and 3 of Article 21;
- h. any reservation made under the provisions of paragraphs 1 and 2 of Article 22;
- i. the withdrawal of any reservation carried out under the provisions of paragraph 4 of Article 22;
- j. any notification made under the provisions of Article 23 and the date on which the denunciation takes effect. In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

*DONE* at Bern, this 19th day of September 1979, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, to any signatory State, to the European Economic Community if a signatory and to any State invited to sign this Convention or to accede thereto.

## **Convention on access to information, public participation in decision making and access to justice in environmental matters**

Done at Aarhus, Denmark, on 25 June 1998

The Parties to this Convention, *RECALLING* principle 1 of the Stockholm Declaration on the Human Environment, *RECALLING ALSO* principle 10 of the Rio Declaration on Environment and *DEVELOPMENT*, *RECALLING FURTHER* General Assembly resolutions 37/7 of 28 October 1982 on the World Charter for Nature and 45/94 of 14 December 1990 on the need to ensure a healthy environment for the well-being of individuals, *RECALLING* the European Charter on Environment and Health adopted at the First European Conference on Environment and Health of the World Health Organization in Frankfurt-am-Main, Germany, on 8 December 1989, *AFFIRMING* the need to protect, preserve and improve the state of the environment and to ensure sustainable and environmentally sound development, *RECOGNIZING* that adequate protection of the environment is essential to human well-being and the enjoyment of basic human rights, including the right to life itself, *RECOGNIZING ALSO* that every person has the right to live in an environment adequate to his or her health and well-being, and the duty, both individually and in association with others, to protect and improve the environment for the benefit of present and future generations, *CONSIDERING* that, to be able to assert this right and observe this duty, citizens must have access to information, be entitled to participate in decision-making and have access to justice in environmental matters, and acknowledging in this regard that citizens may need assistance in order to exercise their rights, *RECOGNIZING* that, in the field of the environment, improved access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns, *AIMING* thereby to further the accountability of and transparency in decision-making and to strengthen public support for decisions on the environment, *RECOGNIZING* the desirability of transparency in all branches of government and inviting legislative bodies to implement the principles of this Convention in their proceedings, *RECOGNIZING ALSO* that the public needs to be aware of the procedures for participation in environmental decision-making, have free access to them and know how to use them, *RECOGNIZING FURTHER* the importance of the respective roles that individual citizens, non-governmental organizations and the private sector can play in environmental protection, *DESIRING* to promote environmental education to further the understanding of the environment and sustainable development and to encourage widespread public awareness of, and participation in, decisions affecting the environment and sustainable development, *NOTING*, in this context, the importance of making use of the media and of electronic or other, future forms of communication, *RECOGNIZING* the importance of fully integrating environmental considerations in governmental decision-making and the consequent need for public authorities to be in possession of accurate, comprehensive and up-to-date environmental information, *ACKNOWLEDGING* that public authorities hold environmental information in the public interest, *CONCERNED* that effective judicial mechanisms should be accessible to the public, including organizations, so that its legitimate interests are protected and the law is enforced, *NOTING* the importance of adequate product information being provided to consumers to enable them to make informed environmental choices, *RECOGNIZING* the concern of the public about the deliberate release of genetically modified organisms into the environment and the need for increased transparency and greater public participation in decision-making in this field, *CONVINCED* that the implementation of this Convention will contribute to strengthening democracy in the region of the United Nations Economic Commission for Europe (ECE), *CONSCIOUS* of the role played in this respect by ECE and recalling, inter alia, the ECE Guidelines on Access to Environmental Information and Public Participation in Environmental Decisionmaking endorsed in the Ministerial Declaration adopted at the Third Ministerial Conference "Environment for

Europe" in Sofia, Bulgaria, on 25 October 1995, *BEARING IN MIND* the relevant provisions in the Convention on Environmental Impact Assessment in a Transboundary Context, done at Espoo, Finland, on 25 February 1991, and the Convention on the Transboundary Effects of Industrial Accidents and the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, both done at Helsinki on 17 March 1992, and other regional conventions, *CONSCIOUS* that the adoption of this Convention will have contributed to the further strengthening of the "Environment for Europe" process and to the results of the Fourth Ministerial Conference in Aarhus, Denmark, in June 1998, *HAVE AGREED* as follows:

#### Article 1 *Objective*

In order to contribute to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being, each Party shall guarantee the rights of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.

#### **DEFINITIONS**

For the purposes of this Convention,

1. "Party" means, unless the text otherwise indicates, a Contracting Party to this Convention;
2. "Public authority" means:
  - a) Government at national, regional and other level;
  - b) Natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment;
  - c) Any other natural or legal persons having public responsibilities or functions, or providing public services, in relation to the environment, under the control of a body or person falling within subparagraphs (a) or (b) above;
  - d) The institutions of any regional economic integration organization referred to in article 17 which is a Party to this Convention.

This definition does not include bodies or institutions acting in a judicial or legislative capacity;

3. "Environmental information" means any information in written, visual, aural, electronic or any other material form on:
  - a) The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
  - b) Factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;
  - c) The state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above;
4. "The public" means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups;
5. "The public concerned" means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest.

#### **GENERAL PROVISIONS**

1. Each Party shall take the necessary legislative, regulatory and other measures, including measures to achieve compatibility between the provisions implementing the information, public participation and access-to-

justice provisions in this Convention, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement the provisions of this Convention.

2. Each Party shall endeavour to ensure that officials and authorities assist and provide guidance to the public in seeking access to information, in facilitating participation in decision-making and in seeking access to justice in environmental matters.

3. Each Party shall promote environmental education and environmental awareness among the public, especially on how to obtain access to information, to participate in decision-making and to obtain access to justice in environmental matters.

4. Each Party shall provide for appropriate recognition of and support to associations, organizations or groups promoting environmental protection and ensure that its national legal system is consistent with this obligation.

5. The provisions of this Convention shall not affect the right of a Party to maintain or introduce measures providing for broader access to information, more extensive public participation in decision-making and wider access to justice in environmental matters than required by this Convention.

6. This Convention shall not require any derogation from existing rights of access to information, public participation in decision-making and access to justice in environmental matters.

7. Each Party shall promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment.

8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings.

9. Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

#### *Article 4 Access To Environmental Information*

1. Each Party shall ensure that, subject to the following paragraphs of this article, public authorities, in response to a request for environmental information, make such information available to the public, within the framework of national legislation, including, where requested and subject to subparagraph (b) below, copies of the actual documentation containing or comprising such information:

a) Without an interest having to be stated;

b) In the form requested unless:

i) It is reasonable for the public authority to make it available in another form, in which case reasons shall be given for making it available in that form; or

ii) The information is already publicly available in another form.

2. The environmental information referred to in paragraph 1 above shall be made available as soon as possible and at the latest within one month after the request has been submitted, unless the volume and the complexity of the information justify an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

3. A request for environmental information may be refused if:

a) The public authority to which the request is addressed does not hold the environmental information requested;

b) The request is manifestly unreasonable or formulated in too general a manner; or

c) The request concerns material in the course of completion or concerns internal communications of public authorities where such an exemption is provided for in national law or customary practice, taking into account the public interest served by disclosure.

4. A request for environmental information may be refused if the disclosure would adversely affect:

- a) The confidentiality of the proceedings of public authorities, where such confidentiality is provided for under national law;
- b) International relations, national defence or public security;
- c) The course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;
- d) The confidentiality of commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest. Within this framework, information on emissions which is relevant for the protection of the environment shall be disclosed;
- e) Intellectual property rights;
- f) The confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for in national law;
- g) The interests of a third party which has supplied the information requested without that party being under or capable of being put under a legal obligation to do so, and where that party does not consent to the release of the material; or
- h) The environment to which the information relates, such as the breeding sites of rare species.

The aforementioned grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment.

5. Where a public authority does not hold the environmental information requested, this public authority shall, as promptly as possible, inform the applicant of the public authority to which it believes it is possible to apply for the information requested or transfer the request to that authority and inform the applicant accordingly.

6. Each Party shall ensure that, if information exempted from disclosure under paragraphs 3 (c) and 4 above can be separated out without prejudice to the confidentiality of the information exempted, public authorities make available the remainder of the environmental information that has been requested.

7. A refusal of a request shall be in writing if the request was in writing or the applicant so requests. A refusal shall state the reasons for the refusal and give information on access to the review procedure provided for in accordance with article 9. The refusal shall be made as soon as possible and at the latest within one month, unless the complexity of the information justifies an extension of this period up to two months after the request. The applicant shall be informed of any extension and of the reasons justifying it.

8. Each Party may allow its public authorities to make a charge for supplying information, but such charge shall not exceed a reasonable amount. Public authorities intending to make such a charge for supplying information shall make available to applicants a schedule of charges which may be levied, indicating the circumstances in which they may be levied or waived and when the supply of information is conditional on the advance payment of such a charge.

#### **Article 5 Collection And Dissemination Of Environmental**

*Information 1.* Each Party shall ensure that:

- a) Public authorities possess and update environmental information which is relevant to their functions;
- b) Mandatory systems are established so that there is an adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment;
- c) In the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected.

2. Each Party shall ensure that, within the framework of national legislation, the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible, inter alia, by:

- a) Providing sufficient information to the public about the type and scope of environmental information held by the relevant public authorities, the basic terms and conditions under which such information is made available and accessible, and the process by which it can be obtained;
  - b) Establishing and maintaining practical arrangements, such as:
    - i) Publicly accessible lists, registers or files;
    - ii) Requiring officials to support the public in seeking access to information under this Convention; and
    - iii) The identification of points of contact; and
  - c) Providing access to the environmental information contained in lists, registers or files as referred to in subparagraph (b) (i) above free of charge.
3. Each Party shall ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks. Information accessible in this form should include:
- a) Reports on the state of the environment, as referred to in paragraph 4 below;
  - b) Texts of legislation on or relating to the environment;
  - c) As appropriate, policies, plans and programmes on or relating to the environment, and environmental agreements; and
  - d) Other information, to the extent that the availability of such information in this form would facilitate the application of national law implementing this Convention, provided that such information is already available in electronic form.
4. Each Party shall, at regular intervals not exceeding three or four years, publish and disseminate a national report on the state of the environment, including information on the quality of the environment and information on pressures on the environment.
5. Each Party shall take measures within the framework of its legislation for the purpose of disseminating, inter alia:
- a) Legislation and policy documents such as documents on strategies, policies, programmes and action plans relating to the environment, and progress reports on their implementation, prepared at various levels of government;
  - b) International treaties, conventions and agreements on environmental issues; and
  - c) Other significant international documents on environmental issues, as appropriate.
6. Each Party shall encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products, where appropriate within the framework of voluntary eco-labelling or eco-auditing schemes or by other means.
7. Each Party shall:
- a) Publish the facts and analyses of facts which it considers relevant and important in framing major environmental policy proposals;
  - b) Publish, or otherwise make accessible, available explanatory material on its dealings with the public in matters falling within the scope of this Convention; and
  - c) Provide in an appropriate form information on the performance of public functions or the provision of public services relating to the environment by government at all levels.
8. Each Party shall develop mechanisms with a view to ensuring that sufficient product information is made available to the public in a manner which enables consumers to make informed environmental choices.
9. Each Party shall take steps to establish progressively, taking into account international processes where appropriate, a coherent, nationwide system of pollution inventories or registers on a structured, computerized and publicly accessible database compiled through standardized reporting. Such a system may include inputs, releases and transfers of a specified range of substances and products, including water, energy and resource use, from a specified range of activities to environmental media and to on-site and off-site treatment and disposal sites.
10. Nothing in this article may prejudice the right of Parties to refuse to disclose certain environmental

information in accordance with article 4, paragraphs 3 and 4.

#### Article 6 *Public Participation In Decisions On Specific Activities*

1. Each Party:
  - a) Shall apply the provisions of this article with respect to decisions on whether to permit proposed activities listed in annex I;
  - b) Shall, in accordance with its national law, also apply the provisions of this article to decisions on proposed activities not listed in annex I which may have a significant effect on the environment. To this end, Parties shall determine whether such a proposed activity is subject to these provisions; and
  - c) May decide, on a case-by-case basis if so provided under national law, not to apply the provisions of this article to proposed activities serving national defense purposes, if that Party deems that such application would have an adverse effect on these purposes.
2. The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:
  - a) The proposed activity and the application on which a decision will be taken;
  - b) The nature of possible decisions or the draft decision;
  - c) The public authority responsible for making the decision;
  - d) The envisaged procedure, including, as and when this information can be provided:
    - i) The commencement of the procedure;
    - ii) The opportunities for the public to participate;
    - iii) The time and venue of any envisaged public hearing;
    - iv) An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public;
    - v) An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or questions; and
    - vi) An indication of what environmental information relevant to the proposed activity is available; and
  - e) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.
3. The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.
4. Each Party shall provide for early public participation, when all options are open and effective public participation can take place.
5. Each Party should, where appropriate, encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit.
6. Each Party shall require the competent public authorities to give the public concerned access for examination, upon request where so required under national law, free of charge and as soon as it becomes available, to all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure, without prejudice to the right of Parties to refuse to disclose certain information in accordance with article 4, paragraphs 3 and 4. The relevant information shall include at least, and without prejudice to the provisions of article 4:
  - a) A description of the site and the physical and technical characteristics of the proposed activity, including an estimate of the expected residues and emissions;
  - b) A description of the significant effects of the proposed activity on the environment;
  - c) A description of the measures envisaged to prevent and/or reduce the effects, including emissions;
  - d) A non-technical summary of the above;
  - e) An outline of the main alternatives studied by the applicant; and
  - f) In accordance with national legislation, the main reports and advice issued to the public authority at the



time when the public concerned shall be informed in accordance with paragraph 2 above.

7. Procedures for public participation shall allow the public to submit, in writing or, as appropriate, at a public hearing or inquiry with the applicant, any comments, information, analyses or opinions that it considers relevant to the proposed activity.

8. Each Party shall ensure that in the decision due account is taken of the outcome of the public participation.

9. Each Party shall ensure that, when the decision has been taken by the public authority, the public is promptly informed of the decision in accordance with the appropriate procedures. Each Party shall make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based.

10. Each Party shall ensure that, when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 of this article are applied *mutatis mutandis*, and where appropriate.

11. Each Party shall, within the framework of its national law, apply, to the extent feasible and appropriate, provisions of this article to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

**Article 7** *Public participation concerning plans,  
Programmes and policies relating to the environment*

Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention. To the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.

**Article 8** *Public Participation During The Preparation Of Executive Regulations And/Or Generally  
Applicable Legally Binding Normative Instruments*

Each Party shall strive to promote effective public participation at an appropriate stage, and while options are still open, during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment.

To this end, the following steps should be taken:

- a) Time-frames sufficient for effective participation should be fixed;
- b) Draft rules should be published or otherwise made publicly available; and
- c) The public should be given the opportunity to comment, directly or through representative consultative bodies.

The result of the public participation shall be taken into account as far as possible.

**Article 9**

1. Each Party shall, within the framework of its national legislation, ensure that any person who considers that his or her request for information under article 4 has been ignored, wrongfully refused, whether in part or in full, inadequately answered, or otherwise not dealt with in accordance with the provisions of that article, has access to a review procedure before a court of law or another independent and impartial body established by law.

In the circumstances where a Party provides for such a review by a court of law, it shall ensure that such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law.

Final decisions under this paragraph 1 shall be binding on the public authority holding the information. Reasons shall be stated in writing, at least where access to information is refused under this paragraph.

2. Each Party shall, within the framework of its national legislation, ensure that members of the public concerned

- a) Having a sufficient interest or, alternatively,
- b) Maintaining impairment of a right, where the administrative procedural law of a Party requires this as a precondition, have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6 and, where so provided for under national law and without prejudice to paragraph 3 below, of other relevant provisions of this Convention.

What constitutes a sufficient interest and impairment of a right shall be determined in accordance with the requirements of national law and consistently with the objective of giving the public concerned wide access to justice within the scope of this Convention. To this end, the interest of any non-governmental organization meeting the requirements referred to in article 2, paragraph 5, shall be deemed sufficient for the purpose of subparagraph (a) above. Such organizations shall also be deemed to have rights capable of being impaired for the purpose of subparagraph (b) above.

The provisions of this paragraph 2 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

3 In addition and without prejudice to the review procedures referred to in paragraphs 1 and 2 above, each Party shall ensure that, where they meet the criteria, if any, laid down in its national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment.

1. In addition and without prejudice to paragraph 1 above, the procedures referred to in paragraphs 1, 2 and 3 above shall provide adequate and effective remedies, including injunctive relief as appropriate, and be fair, equitable, timely and not prohibitively expensive. Decisions under this article shall be given or recorded in writing. Decisions of courts, and whenever possible of other bodies, shall be publicly accessible.

2. In order to further the effectiveness of the provisions of this article, each Party shall ensure that information is provided to the public on access to administrative and judicial review procedures and shall consider the establishment of appropriate assistance mechanisms to remove or reduce financial and other barriers to access to justice.

#### **Article 10 Meeting Of The Parties**

1 .The first meeting of the Parties shall be convened no later than one year after the date of the entry into force of this Convention. Thereafter, an ordinary meeting of the Parties shall be held at least once every two years, unless otherwise decided by the Parties, or at the written request of any Party, provided that, within six months of the request being communicated to all Parties by the Executive Secretary of the Economic Commission for Europe, the said request is supported by at least one third of the Parties.

2. At their meetings, the Parties shall keep under continuous review the implementation of this Convention on the basis of regular reporting by the Parties, and, with this purpose in mind, shall:

- a) Review the policies for and legal and methodological approaches to access to information, public participation in decision-making and access to justice in environmental matters, with a view to further improving them;
- b) Exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements having relevance to the purposes of this Convention and to which one or more of the Parties are a party;
- c) Seek, where appropriate, the services of relevant ECE bodies and other competent international bodies and specific committees in all aspects pertinent to the achievement of the purposes of this Convention;
- d) Establish any subsidiary bodies as they deem necessary;
- e) Prepare, where appropriate, protocols to this Convention;
- f) Consider and adopt proposals for amendments to this Convention in accordance with the provisions of

article 14;

g) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention;

h) At their first meeting, consider and by consensus adopt rules of procedure for their meetings and the meetings of subsidiary bodies;

i) At their first meeting, review their experience in implementing the provisions of article 5, paragraph 9, and consider what steps are necessary to develop further the system referred to in that paragraph, taking into account international processes and developments, including the elaboration of an appropriate instrument concerning pollution release and transfer registers or inventories which could be annexed to this Convention.

3. The Meeting of the Parties may, as necessary, consider establishing financial arrangements on a consensus basis.

4. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State or regional economic integration organization entitled under article 17 to sign this Convention but which is not a Party to this Convention, and any intergovernmental organization qualified in the fields to which this Convention relates, shall be entitled to participate as observers in the meetings of the Parties.

5. Any non-governmental organization, qualified in the fields to which this Convention relates, which has informed the Executive Secretary of the Economic Commission for Europe of its wish to be represented at a meeting of the Parties shall be entitled to participate as an observer unless at least one third of the Parties present in the meeting raise objections.

6. For the purposes of paragraphs 4 and 5 above, the rules of procedure referred to in paragraph 2 (h) above shall provide for practical arrangements for the admittance procedure and other relevant terms.

#### **Article 11 *Right To Vote***

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

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

#### **Article 12**

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

a) The convening and preparing of meetings of the Parties;

b) The transmission to the Parties of reports and other information received in accordance with the provisions of this Convention; and

c) Such other functions as may be determined by the Parties.

#### **Article 13 *Annexes***

The annexes to this Convention shall constitute an integral part thereof.

#### **Article 14 *Amendments To The Convention***

1. Any Party may propose amendments to this Convention.

2. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate it to all Parties at least ninety days before the meeting of the Parties at which it is proposed for adoption.

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

4. Amendments to this Convention adopted in accordance with paragraph 3 above shall be communicated by

the Depositary to all Parties for ratification, approval or acceptance. Amendments to this Convention other than those to an annex shall enter into force for Parties having ratified, approved or accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three fourths of these Parties. Thereafter they shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.

5. Any Party that is unable to approve an amendment to an annex to this Convention shall so notify the Depositary in writing within twelve months from the date of the communication of the adoption. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and, upon deposit of an instrument of acceptance with the Depositary, the amendments to such an annex shall become effective for that Party.

6. On the expiry of twelve months from the date of its communication by the Depositary as provided for in paragraph 4 above an amendment to an annex shall become effective for those Parties which have not submitted a notification to the Depositary in accordance with the provisions of paragraph 5 above, provided that not more than one third of the Parties have submitted such a notification.

7. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

## **REVIEW OF COMPLIANCE**

The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of considering communications from members of the public on matters related to this Convention.

### **Article 16** *Settlement Of Disputes*

1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.

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

- a) Submission of the dispute to the International Court of Justice;
- b) Arbitration in accordance with the procedure set out in annex II.

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 above, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

### **Article 17** *Signature*

This Convention shall be open for signature at Aarhus (Denmark) on 25 June 1998, and thereafter at United Nations Headquarters in New York until 21 December 1998, by States members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraphs 8 and 11 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

### **Article 18** *Depositary*

The Secretary-General of the United Nations shall act as the Depository of this Convention.

**Article 19** *Ratification, Acceptance, Approval And Accession*

1. This Convention shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations.
2. This Convention shall be open for accession as from 22 December 1998 by the States and regional economic integration organizations referred to in article 17.
3. Any other State, not referred to in paragraph 2 above, that is a Member of the United Nations may accede to the Convention upon approval by the Meeting of the Parties.
4. Any organization referred to in article 17 which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. If one or more of such an organization's member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under this Convention concurrently.
5. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 17 shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depository of any substantial modification to the extent of their competence.

**Article 20** *Entry Into Force*

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.
2. For the purposes of paragraph 1 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of such an organization.
3. For each State or organization referred to in article 17 which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

**Article 21** *Withdrawal*

At any time after three years from the date on which this Convention has come into force with respect to a Party that Party may withdraw from the Convention by giving written notification to the Depository. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depository.

**Article 22** *Authentic Texts*

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

*IN WITNESS WHEREOF* *the*, undersigned, being duly authorized thereto, have signed this Convention.

*DONE* at Aarhus (Denmark), this twenty-fifth day of June, one thousand nine hundred and ninety-eight.

**ANNEX I**

**LIST OF ACTIVITIES REFERRED TO IN ARTICLE 6, PARAGRAPH 1 (a)**

1. Energy sector:
  - Mineral oil and gas refineries;
  - Installations for gasification and liquefaction;
  - Thermal power stations and other combustion installations with a heat input of 50 megawatts (MW) or more;
  - Coke ovens;

- Nuclear power stations and other nuclear reactors including the dismantling or decommissioning of such power stations or reactors J\_/ (except research installations for the production and conversion of fissionable and fertile materials whose maximum power does not exceed 1 kW continuous thermal load);

- Installations for the reprocessing of irradiated nuclear fuel;

- Installations designed:

- For the production or enrichment of nuclear fuel;

- For the processing of irradiated nuclear fuel or high-level radioactive waste;

- For the final disposal of irradiated nuclear fuel;

- Solely for the final disposal of radioactive waste;

- Solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

2. Production and processing of metals:

- Metal ore (including sulphide ore) roasting or sintering installations;

- Installations for the production of pig-iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tons per hour;

- Installations for the processing of ferrous metals:

- i) Hot-rolling mills with a capacity exceeding 20 tons of crude steel per hour,

- ii) Smitheries with hammers the energy of which exceeds 50 kilojoules per hammer, where the calorific power used exceeds 20 MW;

- iii) Application of protective fused metal coats with an input exceeding 2 tons of crude steel per hour,

- Ferrous metal foundries with a production capacity exceeding 20 tons per day;

- Installations:

- i) For the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes;

- ii) For the smelting, including the alloying, of non-ferrous metals, including recovered products (refining, foundry casting, etc.), with a melting capacity exceeding 4 tons per day for lead and cadmium or 20 tons per day for all other metals;

- Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process where the volume of the treatment vats exceeds 30 m<sup>3</sup>

3. Mineral industry:

- Installations for the production of cement clinker in rotary kilns with a production capacity exceeding 500 tons per day or lime in rotary kilns with a production capacity exceeding 50 tons per day or in other furnaces with a production capacity exceeding 50 tons per day;

- Installations for the production of asbestos and the manufacture of asbestos-based products;

- Installations for the manufacture of glass including glass fibre with a melting capacity exceeding 20 tons per day;

- Installations for melting mineral substances including the production of mineral fibres with a melting capacity exceeding 20 tons per day;

- Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 75 tons per day, and/or with a kiln capacity exceeding 4 m<sup>3</sup> and with a setting density per kiln exceeding 300 kg/m<sup>3</sup>.

4. Chemical industry: Production within the meaning of the categories of activities contained in this paragraph means the production on an industrial scale by chemical processing of substances or groups of substances listed in subparagraphs (a) to (g):

- a) Chemical installations for the production of basic organic chemicals, such as:

- i) Simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic);

- ii) Oxygen-containing hydrocarbons such as alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, epoxy resins;

- iii) Sulphurous hydrocarbons;
  - iv) Nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates;
  - v) Phosphorus-containing hydrocarbons;
  - vi) Halogenic hydrocarbons;
  - vii) Organometallic compounds;
  - viii) Basic plastic materials (polymers, synthetic fibres and cellulose-based fibres);
  - ix) Synthetic rubbers;
  - x) Dyes and pigments;
  - xi) Surface-active agents and surfactants;
  - b) Chemical installations for the production of basic inorganic chemicals, such as:
    - i) Gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl chloride;
    - ii) Acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acids;
    - iii) Bases, such as ammonium hydroxide, potassium hydroxide, sodium hydroxide;
    - iv) Salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate;
    - v) Non-metals, metal oxides or other inorganic compounds such as calcium carbide, silicon, silicon carbide;
  - c) Chemical installations for the production of phosphorous-, nitrogen- or potassium-based fertilizers (simple or compound fertilizers);
  - d) Chemical installations for the production of basic plant health products and of biocides;
  - e) Installations using a chemical or biological process for the production of basic pharmaceutical products;
  - f) Chemical installations for the production of explosives;
  - g) Chemical installations in which chemical or biological processing is used for the production of protein feed additives, ferments and other protein substances.
5. Waste management:
- Installations for the incineration, recovery, chemical treatment or landfill of hazardous waste;
  - Installations for the incineration of municipal waste with a capacity exceeding 3 tons per hour;
  - Installations for the disposal of non-hazardous waste with a capacity exceeding 50 tons per day;
  - Landfills receiving more than 10 tons per day or with a total capacity exceeding 25,000 tons, excluding landfills of inert waste.
6. Waste-water treatment plants with a capacity exceeding 150 000 population equivalent.
7. Industrial plants for the:
- a) Production of pulp from timber or similar fibrous materials;
  - b) Production of paper and board with a production capacity exceeding 20 tons per day.
8. a) Construction of lines for long-distance railway traffic and of airports 2/ with a basic runway length of 2 100 m or more;
- b) Construction of motorways and express roads; 3/
  - c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road, would be 10 km or more in a continuous length.
9. a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1 350 tons;
- b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tons.
10. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.
11. a) Works for the transfer of water resources between river basins where this transfer aims at preventing

possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres/year;

b) In all other cases, works for the transfer of water resources between river basins where the multiannual average flow of the basin of abstraction exceeds 2 000 million cubic metres/year and where the amount of water transferred exceeds 5% of this flow.

In both cases transfers of piped drinking water are excluded.

12. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tons/day in the case of petroleum and 500,000 cubic metres/day in the case of gas.

13. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

14. Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 mm and a length of more than 40 km.

15. Installations for the intensive rearing of poultry or pigs with more than: (a)..40,000 places for poultry;

b) 2 000 places for production pigs (over 30 kg); or

c) 750 places for sows.

16. Quarries and opencast mining where the surface of the site exceeds 25 hectares, or peat extraction, where the surface of the site exceeds 150 hectares.

17. Construction of overhead electrical power lines with a voltage of 220 kV or more and a length of more than 15 km.

18. Installations for the storage of petroleum, petrochemical, or chemical products with a capacity of 200 000 tons or more.

19. Other activities:

-Plants for the pretreatment (operations such as washing, bleaching, mercerization) or dyeing of fibres or textiles where the treatment capacity exceeds 10 tons per day;

-Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tons of finished products per day;

a) Slaughterhouses with a carcass production capacity greater than 50 tons per day;

b) Treatment and processing intended for the production of food products from:

i) Animal raw materials (other than milk) with a finished product production capacity greater than 75 tons per day;

ii) Vegetable raw materials with a finished product production capacity greater than 300 tons per day (average value on a quarterly basis);

c) Treatment and processing of milk, the quantity of milk received being greater than 200 tons per day (average value on an annual basis);

-Installations for the disposal or recycling of animal carcasses and animal waste with a treatment capacity exceeding 10 tons per day;

-Installations for the surface treatment of substances, objects or products using organic solvents, in particular for dressing, printing, coating, degreasing, waterproofing, sizing, painting, cleaning or impregnating, with a consumption capacity of more than 150 kg per hour or more than 200 tons per year;

-Installations for the production of carbon (hard-burnt coal) or electrographite by means of incineration or graphitization.

20. Any activity not covered by paragraphs 1-19 above where public participation is provided for under an environmental impact assessment procedure in accordance with national legislation.

21. The provision of article 6, paragraph 1 (a) of this Convention, does not apply to any of the above projects undertaken exclusively or mainly for research, development and testing of new methods or products for less than two years unless they would be likely to cause a significant adverse effect on environment or health.

22. Any change to or extension of activities, where such a change or extension in itself meets the criteria/thresholds set out in this annex, shall be subject to article 6, paragraph 1 (a) of this Convention. Any other change or extension of activities shall be subject to article 6, paragraph 1 (b) of this Convention.



## NOTES

1/ Nuclear power stations and other nuclear reactors cease to be such an installation when all nuclear fuel and other radioactively contaminated elements have been removed permanently from the installation site.

2/ For the purposes of this Convention, "airport" means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organization (Annex 14).

3/ For the purposes of this Convention, "express road" means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

## ANNEX II ARBITRATION

1. In the event of a dispute being submitted for arbitration pursuant to article 16, paragraph 2, of this Convention, a party or parties shall notify the secretariat of the subject matter of arbitration and indicate, in particular, the articles of this Convention whose interpretation or application is at issue. The secretariat shall forward the information received to all Parties to this Convention.

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

3. If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

4. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may so inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the president shall so inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

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

6. Any arbitral tribunal constituted under the provisions set out in this annex shall draw up its own rules of procedure.

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

8. The tribunal may take all appropriate measures to establish the facts.

9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

a) Provide it with all relevant documents, facilities and information;

b) Enable it, where necessary, to call witnesses or experts and receive their evidence.

10. The parties and the arbitrators shall protect the confidentiality of any information that they receive in confidence during the proceedings of the arbitral tribunal.

11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.

12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings.

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

14. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the parties to the dispute in

equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

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

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

17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to this Convention. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.

# Montreal Protocol on Substances that Deplete the Ozone Layer

## Preamble

*The Parties to this Convention,*

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

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

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

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

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

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

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

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

*Have agreed as follows:*

## Article 1: Definitions

For the purposes of this Convention:

1. "The ozone layer" means the layer of atmospheric ozone above the planetary boundary layer.
2. "Adverse effects" means changes in the physical environment or biota, including changes in climate, which have significant deleterious effects on human health or on the composition, resilience and productivity of natural and managed ecosystems, or on materials useful to mankind.
3. "Alternative technologies or equipment" means technologies or equipment the use of which makes it possible to reduce or effectively eliminate emissions of substances which have or are likely to have adverse effects on the ozone layer.
4. "Alternative substances" means substances which reduce, eliminate or avoid adverse effects on the ozone layer.

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

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

7. "Protocols" means protocols to this Convention.

### **Article 2: General obligations**

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

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

- a. Co-operate by means of systematic observations, research and information exchange in order to better understand and assess the effects of human activities on the ozone layer and the effects on human health and the environment from modification of the ozone layer;
- b. Adopt appropriate legislative or administrative measures and co-operate in harmonizing appropriate policies to control, limit, reduce or prevent human activities under their jurisdiction or control should it be found that these activities have or are likely to have adverse effects resulting from modification or likely modification of the ozone layer;
- c. Co-operate in the formulation of agreed measures, procedures and standards for the implementation of this Convention, with a view to the adoption of protocols and annexes;
- d. Co-operate with competent international bodies to implement effectively this Convention and protocols to which they are party.

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

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

### **Article 3: Research and systematic observations**

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

- a. The physical and chemical processes that may affect the ozone layer;
- b. The human health and other biological effects deriving from any modifications of the ozone layer, particularly those resulting from changes in ultra-violet solar radiation having biological effects (UV-B) ;
- c. Climatic effects deriving from any modifications of the ozone layer;
- d. Effects deriving from any modifications of the ozone layer and any consequent change in UV-B radiation on natural and synthetic materials useful to mankind;
- e. Substances, practices, processes and activities that may affect the ozone layer, and their cumulative effects;
- f. Alternative substances and technologies;
- g. Related socio-economic matters; and as further elaborated in annexes I and II.

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

parameters, as elaborated in annex I.

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

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

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

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

- a. Facilitation of the acquisition of alternative technologies by other Parties;
- b. Provision of information on alternative technologies and equipment, and supply of special manuals or guides to them;
- c. The supply of necessary equipment and facilities for research and systematic observations;
- d. Appropriate training of scientific and technical personnel.

#### **Article 5: Transmission of information**

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

#### **Article 6: Conference of the Parties**

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

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

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure and financial rules for itself and for any subsidiary bodies it may establish, as well as financial provisions governing the functioning of the secretariat.

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

- a. Establish the form and the intervals for transmitting the information to be submitted in accordance with article 5 and consider such information as well as reports submitted by any subsidiary body;
- b. Review the scientific information on the ozone layer, on its possible modification and on possible effects of any such modification;
- c. Promote, in accordance with article 2, the harmonization of appropriate policies, strategies and measures for minimizing the release of substances causing or likely to cause modification of the ozone layer, and make

- recommendations on any other measures relating to this Convention;
- d. Adopt, in accordance with articles 3 and 4, programmes for research, systematic observations, scientific and technological co-operation, the exchange of information and the transfer of technology and knowledge;
  - e. Consider and adopt, as required, in accordance with articles 9 and 10, amendments to this Convention and its annexes;
  - f. Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;
  - g. Consider and adopt, as required, in accordance with article 10, additional annexes to this Convention;
  - h. Consider and adopt, as required, protocols in accordance with article 8;
  - i. Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention;
  - j. Seek, where appropriate, the services of competent international bodies and scientific committees, in particular the World Meteorological Organization and the World Health Organization as well as the Co-ordinating Committee on the Ozone Layer, in scientific research, systematic observations and other activities pertinent to the objectives of this Convention, and make use as appropriate of information from these bodies and committees;
  - k. Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention.

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

#### **Article 7: Secretariat**

1. The functions of the secretariat shall be:

- a. To arrange for and service meetings provided for in articles 6, 8, 9 and 10;
- b. To prepare and transmit reports based upon information received in accordance with articles 4 and 5, as well as upon information derived from meetings of subsidiary bodies established under article 6;
- c. To perform the functions assigned to it by any protocol;
- d. To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;
- e. To ensure the necessary co-ordination with other relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;
- f. To perform such other functions as may be determined by the Conference of the Parties.

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

#### **Article 8: Adoption of protocols**

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

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

## **Article 9: Amendment of the Convention or protocols**

1. Any Party may propose amendments to this Convention or to any protocol. Such amendments shall take due account, inter alia, of relevant scientific and technical considerations.
2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.
3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval or acceptance.
4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the parties to that protocol present and voting at the meeting shall suffice for their adoption.
5. Ratification, approval or acceptance of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between parties having accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three-fourths of the Parties to this Convention or by at least two-thirds of the parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.
6. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

## **Article 10: Adoption and amendment of annexes**

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:
  - a. Annexes to this Convention shall be proposed and adopted according to the procedure laid down in article 9, paragraphs 2 and 3, while annexes to any protocol shall be proposed and adopted according to the procedure laid down in article 9, paragraphs 2 and 4;
  - b. Any party that is unable to approve an additional annex to this Convention or annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;
  - c. On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provision of subparagraph (b) above.
3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes

to a protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical considerations.

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

#### **Article 11: Settlement of disputes**

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

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

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

- a. Arbitration in accordance with procedures to be adopted by the Conference of the Parties at its first ordinary meeting;
- b. Submission of the dispute to the International Court of Justice.

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

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

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

#### **Article 12: Signature**

This Convention shall be open for signature by States and by regional economic integration organizations at the Federal Ministry for Foreign Affairs of the Republic of Austria in Vienna from 22 March 1985 to 21 September 1985, and at United Nations Headquarters in New York from 22 September 1985 to 21 March 1986.

#### **Article 13: Ratification, acceptance or approval**

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

2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention or any protocol without any of its member States being a Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Party to the Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligation under the Convention or protocol, as the case may be. In such cases, the organization and



the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.

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

#### **Article 14: Accession**

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

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

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

#### **Article 15: Right to vote**

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

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

#### **Article 16: Relationship between the Convention and its protocols**

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

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

#### **Article 17: Entry into force**

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

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

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

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

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

#### **Article 18: Reservations**

No reservations may be made to this Convention.

#### **Article 19: Withdrawal**

1. At any time after four years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.
2. Except as may be provided in any protocol, at any time after four years from the date on which such protocol has entered into force for a party, that party may withdraw from the protocol by giving written notification to the Depositary.
3. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.
4. Any Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is party.

#### **Article 20: Depositary**

1. The Secretary-General of the United Nations shall assume the functions of depositary of this Convention and any protocols.
2. The Depositary shall inform the Parties, in particular, of:
  - a. The signature of this Convention and of any protocol, and the deposit of instruments of ratification, acceptance, approval or accession in accordance with articles 13 and 14;
  - b. The date on which the Convention and any protocol will come into force in accordance with article 17;
  - c. Notifications of withdrawal made in accordance with article 19;
  - d. Amendments adopted with respect to the Convention and any protocol, their acceptance by the parties and their date of entry into force in accordance with article 9;
  - e. All communications relating to the adoption and approval of annexes and to the amendment of annexes in accordance with article 10;
  - f. Notifications by regional economic integration organizations of the extent of their competence with respect to matters governed by this Convention and any protocols, and of any modifications thereof.
  - g. Declarations made in accordance with article 11, paragraph 3.

#### **Article 21: Authentic texts**

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

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

Done at Vienna on the 22nd day of March 1985

#### **Annex I:**

Research and systematic observations

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

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

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

- a. Research into the physics and chemistry of the atmosphere
  - i. Comprehensive theoretical models: further development of models which consider the interaction between radiative, dynamic and chemical processes; studies of the simultaneous effects of various man-made and naturally occurring species upon atmospheric ozone; interpretation of satellite and non-satellite measurement data sets; evaluation of trends in atmospheric and geophysical parameters, and the development of methods for attributing changes in these parameters to specific causes;
  - ii. Laboratory studies of: rate coefficients, absorption cross-sections and mechanisms of tropospheric and stratospheric chemical and photochemical processes; spectroscopic data to support field measurements in all relevant spectral regions;
  - iii. Field measurements: the concentration and fluxes of key source gases of both natural and anthropogenic origin; atmospheric dynamics studies; simultaneous measurements of photochemically-related species down to the planetary boundary layer, using in situ and remote sensing instruments; intercomparison of different sensors, including co-ordinated correlative measures for satellite instrumentation; three-dimensional fields of key atmospheric trace constituents, solar spectral flux and meteorological parameters;
  - iv. Instrument development, including satellite and non-satellite sensors for atmospheric trace constituents, solar flux and meteorological parameters;
- b. Research into health, biological and photodegradation effects
  - i. The relationship between human exposure to visible and ultra-violet solar radiation and (a) the development of both non-melanoma and melanoma skin cancer and (b) the effects on the immunological system;
  - ii. Effects of UV-B radiation, including the wavelength dependence, upon (a) agricultural crops, forests and other terrestrial ecosystems and (b) the aquatic food web and fisheries, as well as possible inhibition of oxygen production by marine phytoplankton;
  - iii. The mechanisms by which UV-B radiation acts on biological materials, species and ecosystems, including: the relationship between dose, dose rate, and response; photorepair, adaptation, and protection;
  - iv. Studies of biological action spectra and the spectral response using polychromatic radiation in order to include possible interactions of the various wavelength regions;
  - v. The influence of UV-B radiation on: the sensitivities and activities of biological species important to the biospheric balance; primary processes such as photosynthesis and biosynthesis;
  - vi. The influence of UV-B radiation on the photodegradation of pollutants, agricultural chemicals and other materials;
- c. Research on effects on climate
  - i. Theoretical and observational studies of the radiative effects of ozone and other trace species and the impact on climate parameters, such as land and ocean surface temperatures, precipitation patterns, the exchange between the troposphere and stratosphere;
  - ii. The investigation of the effects of such climate impacts on various aspects of human activity;
- d. Systematic observation on:
  - i. The status of the ozone layer (i.e. the spatial and temporal variability of the total column content and vertical distribution) by making the Global Ozone Observing System, based on the integration of satellite and ground-based systems, fully operational;
  - ii. The tropospheric and stratospheric concentrations of source gases for the HOX, NOX, ClOX and carbon

- families;
- iii. The temperature from the ground to the mesosphere, utilizing both ground-based and satellite systems;
- iv. Wavelength-resolved solar flux reaching, and thermal radiation leaving, the Earth's atmosphere, utilizing satellite measurements;
- v. Wavelength-resolved solar flux reaching the Earth's surface in the ultra-violet range having biological effects (UV-B) ;
- vi. Aerosol properties and distribution from the ground to the mesosphere, utilizing ground-based, airborne and satellite systems;
- vii. Climatically important variables by the maintenance of programmes of high-quality meteorological surface measurements;
- viii. Trace species, temperatures, solar flux and aerosols utilizing improved methods for analyzing global data.

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

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

a. Carbon substances

i. Carbon monoxide (CO)

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

ii. Carbon dioxide (CO<sub>2</sub>)

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

iii. Methane (CH<sub>4</sub>)

Methane has both natural and anthropogenic sources, and affects both tropospheric and stratospheric ozone.

iv. Non-methane hydrocarbon species

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

b. Nitrogen substances

i. Nitrous oxide (N<sub>2</sub>O)

The dominant sources of N<sub>2</sub>O are natural, but anthropogenic contributions are becoming increasingly important. Nitrous oxide is the primary source of stratospheric NO<sub>x</sub>, which play a vital role in controlling the abundance of stratospheric ozone.

ii. Nitrogen oxides (NO<sub>x</sub>)

Ground-level sources of NO<sub>x</sub> play a major direct role only in tropospheric photochemical processes and

an indirect role in stratosphere photochemistry, whereas injection of NOX close to the tropopause may lead directly to a change in upper tropospheric and stratospheric ozone.

c. Chlorine substances

- i. Fully halogenated alkanes, e.g. CCl<sub>4</sub>, CFCI<sub>3</sub> (CFC-11), CF<sub>2</sub>Cl<sub>2</sub> (CFC-12), C<sub>2</sub>F<sub>3</sub>Cl<sub>3</sub> (CFC-113), C<sub>2</sub>F<sub>4</sub>Cl<sub>2</sub> (CFC-114)

Fully halogenated alkanes are anthropogenic and act as a source of ClOX which plays a vital role in ozone photochemistry, especially in the 30-50 km altitude region.

- ii. Partially halogenated alkanes, e.g. CH<sub>3</sub>Cl, CHF<sub>2</sub>Cl (CFC-22), CH<sub>3</sub>CCl<sub>3</sub>, CHFCl<sub>2</sub> (CFC-21)

The sources of CH<sub>3</sub>Cl are natural, whereas the other partially halogenated alkanes mentioned above are anthropogenic in origin. These gases also act as a source of stratospheric ClOX.

d. Bromine substances

Fully halogenated alkanes, e.g. CF<sub>3</sub>Br

These gases are anthropogenic and act as a source of BrOX, which behaves in a manner similar to ClOX.

e. Hydrogen substances

- i. Hydrogen (H<sub>2</sub>)

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

- ii. Water (H<sub>2</sub>O)

Water, the source of which is natural, plays a vital role in both tropospheric and stratospheric photochemistry. Local sources of water vapor in the stratosphere include the oxidation of methane and, to a lesser extent, of hydrogen.

## **Annex II: Information exchange**

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

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

### 3. Scientific information

This includes information on:

- a. Planned and ongoing research, both governmental and private, to facilitate the co-ordination of research programmes so as to make the most effective use of available national and international resources;
- b. The emission data needed for research;

- c. Scientific results published in peer-reviewed literature on the understanding of the physics and chemistry of the Earth's atmosphere and of its susceptibility to change, in particular on the state of the ozone layer and effects on human health, environment and climate which would result from changes on all time-scales in either the total column content or the vertical distribution of ozone;
- d. The assessment of research results and the recommendation for future research.

#### 4. Technical information

This includes information on:

- a. The availability and cost of chemical substitutes and of alternative technologies to reduce the emissions of ozone-modifying substances and related planned and ongoing research;
- b. The limitations and any risks involved in using chemical or other substitutes and alternative technologies.

#### 5. Socio-economic and commercial information on the substances referred to in annex I

This includes information on:

- a. Production and production capacity;
- b. Use and use patterns;
- c. Imports/exports;
- d. The costs, risks and benefits of human activities which may indirectly modify the ozone layer and of the impacts of regulatory actions taken or being considered to control these activities.

This includes information on:

- a. National laws, administrative measures and legal research relevant to the protection of the ozone layer;
- b. International agreements, including bilateral agreements, relevant to the protection of the ozone layer;
- c. Methods and terms of licensing and availability of patents relevant to the protection of the ozone layer.

### **Declarations**

(made at the time of adoption of the Final Act of the Conference of Plenipotentiaries on the Protection of the Ozone Layer/\*)

1. The delegations of Australia, Austria, Belgium, Canada, Chile, Denmark, Finland, France, Germany, Federal Republic of Italy, Netherlands, New Zealand, Norway, Sweden, Switzerland, and United Kingdom of Great Britain and Northern Ireland express their regret at the absence from the Vienna Convention for the Protection of the Ozone Layer of any provision for the compulsory settlement of disputes by third parties, at the request of one party. Consistently with their traditional support for such a procedure, these delegations appeal to all Parties to the Convention to make use of the possibility of a declaration under article 11, paragraph 3, of the Convention.

2. The delegation of Egypt reiterates the importance attached by its Government to the international and national efforts to protect the environment, including the protection of the ozone layer. For that reason, it has participated from the outset in the preparatory work for the Conference of Plenipotentiaries on the Protection of the Ozone Layer, and in the adoption of the Convention and resolutions. While concurring with the consensus on article 1 of the Convention, the delegation of Egypt understands paragraph 6 of that article as being applicable to all regional organizations, including the Organization of African Unity and the League of Arab States, provided they fulfil the conditions laid down in that article, namely, that they have competence in respect of matters governed by the Convention and have been duly authorized by their member States in accordance with their internal rules of procedure. While concurring with the consensus on article 2 of the Convention, the delegation of Egypt states that the first sentence of paragraph 2 of that article should be read in the light of the third preambular paragraph. While concurring with the consensus on Resolution No. 1 on Institutional and Financial Arrangements, the delegation of Egypt states that its approval of the third preambular paragraph of that

resolution is without prejudice to its position on the method of apportioning contributions among the member States, with particular reference to option 2, which it had supported during the discussions on preparatory document UNEP/WG.94/13, whereby 80 per cent of the costs would be covered by the industrialized countries and the remaining 20 per cent apportioned among the member States on the basis of the United Nations scale of assessment.

3. With regard to Resolution No. 2 on the Protocol Concerning Chlorofluorocarbons, the delegation of Japan is of the opinion that a decision whether or not to continue work on a protocol should await the results of the work of the Coordinating Committee on the Ozone Layer. Secondly, with regard to paragraph 6 of the above-mentioned resolution, the delegation of Japan is of the opinion that each country should itself decide how to control emissions of chlorofluorocarbons.

4. The delegation of Spain declares that, in accordance with the interpretation by the President of the Conference in his statement of 21 March 1985, its Government understands paragraph 6 of the Resolution on a Protocol Concerning Chlorofluorocarbons as being addressed exclusively to the individual countries themselves, which are urged to control their limits of production or use, and not to third countries or to regional organizations with respect to such countries.

5. The delegation of the United States of America declares that it understands article 15 of the Convention to mean that regional economic integration organizations, none of whose member States are Parties to the Convention or relevant Protocol, shall have one vote each. It further understands that article 15 does not allow any double voting by regional economic integration organizations and their member States, that is, regional economic integration organizations may never vote in addition to their member States which are party to the Convention or relevant protocol, and vice versa.

# Convention on biological diversity

**5 June 1992**

## *Preamble*

The Contracting Parties, *CONSCIOUS* of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components, *CONSCIOUS ALSO* of the importance of biological diversity for evolution and for maintaining life sustaining systems of the biosphere, *AFFIRMING* that the conservation of biological diversity is a common concern of humankind, *REAFFIRMING* that States have sovereign rights over their own biological resources, *REAFFIRMING ALSO* that States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner, *CONCERNED* that biological diversity is being significantly reduced by certain human activities, *AWARE* of the general lack of information and knowledge regarding biological diversity and of the urgent need to develop scientific, technical and institutional capacities to provide the basic understanding upon which to plan and implement appropriate measures, *NOTING* that it is vital to anticipate, prevent and attack the causes of significant reduction or loss of biological diversity at source, *NOTING ALSO* that where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat, *NOTING FURTHER* that the fundamental requirement for the conservation of biological diversity is the *in-situ* conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings, *NOTING FURTHER* that *EX-SITU* measures, preferably in the country of origin, also have an important role to play, *RECOGNIZING* the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components, *RECOGNIZING ALSO* the vital role that women play in the conservation and sustainable use of biological diversity and affirming the need for the full participation of women at all levels of policy-making and implementation for biological diversity conservation, *STRESSING* the importance of, and the need to promote, international, regional and global cooperation among States and intergovernmental organizations and the nongovernmental sector for the conservation of biological diversity and the sustainable use of its components, *ACKNOWLEDGING* that the provision of new and additional financial resources and appropriate access to relevant technologies can be expected to make a substantial difference in the world's ability to address the loss of biological diversity, *ACKNOWLEDGING FURTHER* that special provision is required to meet the needs of developing countries, including the provision of new and additional financial resources and appropriate access to relevant technologies, *NOTING* in this regard the special conditions of the least developed countries and small island States, *ACKNOWLEDGING* that substantial investments are required to conserve biological diversity and that there is the expectation of a broad range of environmental, economic and social benefits from those investments, *RECOGNIZING* that economic and social development and poverty eradication are the first and overriding priorities of developing countries, *AWARE* that conservation and sustainable use of biological diversity is of critical importance for meeting the food, health and other needs of the growing world population, for which purpose access to and sharing of both genetic resources and technologies are essential, *NOTING* that, ultimately, the conservation and sustainable use of biological diversity will strengthen friendly relations among States and contribute to peace for humankind, *DESIRING* to enhance and complement existing international arrangements for the conservation of biological diversity and sustainable use of its components, and *DETERMINED* to conserve and sustainably use biological diversity for the benefit of present and future generations,

*HAVE AGREED* as follows

## **Article 1. Objectives**

The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the



conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

## **Article 2. Use of Terms**

For the purposes of this Convention:

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

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

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

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

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

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

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

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

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

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

"*Habitat*" means the place or type of site where an organism or population naturally occurs.

"*In-situ conditions*" means conditions where genetic resources exist within ecosystems and natural habitats, and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

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

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

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

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

"*Technology*" includes biotechnology.

## **Article 3. Principle**

States have, in accordance with the Charter of the United Nations and the principles of international law, the

sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

#### **Article 4. Jurisdictional Scope**

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

- a) In the case of components of biological diversity, in areas within the limits of its national jurisdiction; and
- b) In the case of processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.

#### **Article 5. Cooperation**

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

#### **Article 6. General Measures for Conservation and Sustainable Use**

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

- a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, *inter alia*, the measures set out in this Convention relevant to the Contracting Party concerned; and
- b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

#### **Article 7. Identification and Monitoring**

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

- a) Identify components of biological diversity important for its conservation and sustainable use having regard to the indicative list of categories set down in Annex I;
- b) Monitor, through sampling and other techniques, the components of biological diversity identified pursuant to subparagraph (a) above, paying particular attention to those requiring urgent conservation measures and those which offer the greatest potential for sustainable use;
- c) Identify processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and monitor their effects through sampling and other techniques; and
- d) Maintain and organize, by any mechanism data, derived from identification and monitoring activities pursuant to subparagraphs (a), (b) and (c) above.

#### **Article 8. In-situ Conservation**

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

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

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

- b) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;
- c) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;
- d) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas;
- e) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, *inter alia*, through the development and implementation of plans or other management strategies;
- f) Establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health;
- g) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;
- h) Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components;
- i) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;
- j) Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations;
- k) Where a significant adverse effect on biological diversity has been determined pursuant to Article 7, regulate or manage the relevant processes and categories of activities; and
- l) Cooperate in providing financial and other support for *in-situ* conservation outlined in subparagraphs (a) to (j) above, particularly to developing countries.

#### **Article 9. *Ex-situ* Conservation**

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

- a) Adopt measures for the *ex-situ* conservation of components of biological diversity, preferably in the country of origin of such components;
- b) Establish and maintain facilities for *ex-situ* conservation of and research on plants, animals and microorganisms, preferably in the country of origin of genetic resources;
- c) Adopt measures for the recovery and rehabilitation of threatened species and for their reintroduction into their natural habitats under appropriate conditions;
- d) Regulate and manage collection of biological resources from natural habitats for *ex-situ* conservation purposes so as not to threaten ecosystems and *in-situ* populations of species, except where special temporary *ex-situ* measures are required under subparagraph (c) above; and
- e) Cooperate in providing financial and other support for *ex-situ* conservation outlined in subparagraphs (a) to (d) above and in the establishment and maintenance of *ex-situ* conservation facilities in developing countries.

#### **Article 10. *Sustainable Use of Components of Biological Diversity***

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

- a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;
- b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;
- c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;
- d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and
- e) Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.

#### **Article 11. *Incentive Measures***

Each Contracting Party shall, as far as possible and as appropriate, adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity.

#### **Article 12. *Research and Training***

The Contracting Parties, taking into account the special needs of developing countries, shall:

- a) Establish and maintain programmes for scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity and its components and provide support for such education and training for the specific needs of developing countries;
- b) Promote and encourage research which contributes to the conservation and sustainable use of biological diversity, particularly in developing countries, *inter alia*, in accordance with decisions of the Conference of the Parties taken in consequence of recommendations of the Subsidiary Body on Scientific, Technical and Technological Advice; and
- c) In keeping with the provisions of Articles 16, 18 and 20, promote and cooperate in the use of scientific advances in biological diversity research in developing methods for conservation and sustainable use of biological resources.

#### **Article 13. *Public Education and Awareness***

The Contracting Parties shall:

- a) Promote and encourage understanding of the importance of, and the measures required for, the conservation of biological diversity, as well as its propagation through media, and the inclusion of these topics in educational programmes; and
- b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes, with respect to conservation and sustainable use of biological diversity.

#### **Article 14. *Impact Assessment and Minimizing Adverse Impacts***

1. Each Contracting Party, as far as possible and as appropriate, shall:
  - a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;
  - b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;
  - c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;

d) In the case of imminent or grave danger or damage, originating under its jurisdiction or control, to biological diversity within the area under jurisdiction of other States or in areas beyond the limits of national jurisdiction, notify immediately the potentially affected States of such danger or damage, as well as initiate action to prevent or minimize such danger or damage; and

e) Promote national arrangements for emergency responses to activities or events, whether caused naturally or otherwise, which present a grave and imminent danger to biological diversity and encourage international cooperation to supplement such national efforts and, where appropriate and agreed by the States or regional economic integration organizations concerned, to establish joint contingency plans.

2. The Conference of the Parties shall examine, on the basis of studies to be carried out, the issue of liability and redress, including restoration and compensation, for damage to biological diversity, except where such liability is a purely internal matter.

#### **Article 15. Access to Genetic Resources**

1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.

2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.

3. For the purpose of this Convention, the genetic resources being provided by a Contracting Party, as referred to in this Article and Articles 16 and 19, are only those that are provided by Contracting Parties that are countries of origin of such resources or by the Parties that have acquired the genetic resources in accordance with this Convention.

4. Access, where granted, shall be on mutually agreed terms and subject to the provisions of this Article.

5. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party.

6. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties.

7. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, and in accordance with Articles 16 and 19 and, where necessary, through the financial mechanism established by Articles 20 and 21 with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms.

#### **Article 16. Access to and Transfer of Technology**

1. Each Contracting Party, recognizing that technology includes biotechnology, and that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.

2. Access to and transfer of technology referred to in paragraph 1 above to developing countries shall be provided and/or facilitated under fair and most favourable terms, including on concessional and preferential terms where mutually agreed, and, where necessary, in accordance with the financial mechanism established by Articles 20 and 21. In the case of technology subject to patents and other intellectual property rights, such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights. The application of this paragraph shall be consistent with paragraphs 3,4 and 5 below.

3. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular those that are developing countries, which provide genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, including technology protected by patents and other intellectual property rights, where necessary, through the provisions of Articles 20 and 21 and in accordance with international law and consistent with paragraphs 4 and 5 below.

4. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that the private sector facilitates access to, joint development and transfer of technology referred to in paragraph 1 above for the benefit of both governmental institutions and the private sector of developing countries and in this regard shall abide by the obligations included in paragraphs 1, 2 and 3 above.

5. The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives.

#### *Article 17. Exchange of Information*

1. The Contracting Parties shall facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries.

2. Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1.

1. It shall also, where feasible, include repatriation of information.

#### *Article 18. Technical and Scientific Cooperation*

1. The Contracting Parties shall promote international technical and scientific cooperation in the field of conservation and sustainable use of biological diversity, where necessary, through the appropriate international and national institutions.

2. Each Contracting Party shall promote technical and scientific cooperation with other Contracting Parties, in particular developing countries, in implementing this Convention, *inter alia*, through the development and implementation of national policies. In promoting such cooperation, special attention should be given to the development and strengthening of national capabilities, by means of human resources development and institution building.

3. The Conference of the Parties, at its first meeting, shall determine how to establish a clearing-house mechanism to promote and facilitate technical and scientific cooperation.

4. The Contracting Parties shall, in accordance with national legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of this Convention. For this purpose, the Contracting Parties shall also promote cooperation in the training of personnel and exchange of experts.

5. The Contracting Parties shall, subject to mutual agreement, promote the establishment of joint research programmes and joint ventures for the development of technologies relevant to the objectives of this Convention.

#### **Article 19. Handling of Biotechnology and Distribution of its Benefits**

1. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, to provide for the effective participation in biotechnological research activities by those Contracting Parties, especially developing countries, which provide the genetic resources for such research, and where feasible in such Contracting Parties.

2. Each Contracting Party shall take all practicable measures to promote and advance priority access on a fair

and equitable basis by Contracting Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Contracting Parties. Such access shall be on mutually agreed terms.

3. The Parties shall consider the need for and modalities of a protocol setting out appropriate procedures, including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity.

4. Each Contracting Party shall, directly or by requiring any natural or legal person under its jurisdiction providing the organisms referred to in paragraph 3 above, provide any available information about the use and safety regulations required by that Contracting Party in handling such organisms, as well as any available information on the potential adverse impact of the specific organisms concerned to the Contracting Party into which those organisms are to be introduced.

#### **Article 20. *Financial Resources***

1. Each Contracting Party undertakes to provide, in accordance with its capabilities, financial support and incentives in respect of those national activities which are intended to achieve the objectives of this Convention, in accordance with its national plans, priorities and programmes.

2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs to them of implementing measures which fulfill the obligations of this Convention and to benefit from its provisions and which costs are agreed between a developing country Party and the institutional structure referred to in Article 21, in accordance with policy, strategy, programme priorities and eligibility criteria and an indicative list of incremental costs established by the Conference of the Parties. Other Parties, including countries undergoing the process of transition to a market economy, may voluntarily assume the obligations of the developed country Parties. For the purpose of this Article, the Conference of the Parties, shall at its first meeting establish a list of developed country Parties and other Parties which voluntarily assume the obligations of the developed country Parties. The Conference of the Parties shall periodically review and if necessary amend the list. Contributions from other countries and sources on a voluntary basis would also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability and timely flow of funds and the importance of burden-sharing among the contributing Parties included in the list.

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

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

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

6. The Contracting Parties shall also take into consideration the special conditions resulting from the dependence on, distribution and location of, biological diversity within developing country Parties, in particular small island States.

7. Consideration shall also be given to the special situation of developing countries, including those that are most environmentally vulnerable, such as those with arid and semi-arid zones, coastal and mountainous areas.

#### **Article 21. *Financial Mechanism***

1. There shall be a mechanism for the provision of financial resources to developing country Parties for purposes of this Convention on a grant or concessional basis the essential elements of which are described in this Article. The mechanism shall function under the authority and guidance of, and be accountable to, the Conference of the Parties for purposes of this Convention. The operations of the mechanism shall be carried out by such institutional structure as may be decided upon by the Conference of the Parties at its first meeting. For purposes of this Convention, the Conference of the Parties shall determine the policy, strategy, programme priorities and eligibility criteria relating to the access to and utilization of such resources. The contributions shall be such as to take into account the need for predictability, adequacy and timely flow of funds referred to in Article 20 in accordance with the amount of resources needed to be decided periodically by the Conference of the Parties and the importance of burden-sharing among the contributing Parties included in the list referred to in Article 20, paragraph 2. Voluntary contributions may also be made by the developed country Parties and by other countries and sources. The mechanism shall operate within a democratic and transparent system of governance.
2. Pursuant to the objectives of this Convention, the Conference of the Parties shall at its first meeting determine the policy, strategy and programme priorities, as well as detailed criteria and guidelines for eligibility for access to and utilization of the financial resources including monitoring and evaluation on a regular basis of such utilization. The Conference of the Parties shall decide on the arrangements to give effect to paragraph 1 above after consultation with the institutional structure entrusted with the operation of the financial mechanism.
3. The Conference of the Parties shall review the effectiveness of the mechanism established under this Article, including the criteria and guidelines referred to in paragraph 2 above, not less than two years after the entry into force of this Convention and thereafter on a regular basis. Based on such review, it shall take appropriate action to improve the effectiveness of the mechanism if necessary.
4. The Contracting Parties shall consider strengthening existing financial institutions to provide financial resources for the conservation and sustainable use of biological diversity.

#### **Article 22.** *Relationship with Other International Conventions*

1. The provisions of this Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity.
2. Contracting Parties shall implement this Convention with respect to the marine environment consistently with the rights and obligations of States under the law of the sea.

#### **Article 23.** *Conference of the Parties*

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.
2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.
3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules governing the funding of the Secretariat. At each ordinary meeting, it shall adopt a budget for the financial period until the next ordinary meeting.
4. The Conference of the Parties shall keep under review the implementation of this Convention, and, for this purpose, shall:
  - a) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 26 and consider such information as well as reports submitted by any subsidiary body;



- b) Review scientific, technical and technological advice on biological diversity provided in accordance with Article 25;
- c) Consider and adopt, as required, protocols in accordance with Article 28;
- d) Consider and adopt, as required, in accordance with Articles 29 and 30, amendments to this Convention and its annexes;
- e) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;
- f) Consider and adopt, as required, in accordance with Article 30, additional annexes to this Convention;
- g) Establish such subsidiary bodies, particularly to provide scientific and technical advice, as are deemed necessary for the implementation of this Convention;
- h) Contact, through the Secretariat, the executive bodies of conventions dealing with matters covered by this Convention with a view to establishing appropriate forms of cooperation with them; and
- i) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation.

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

#### **Article 24. Secretariat**

1. A secretariat is hereby established. Its functions shall be:
  - a) To arrange for and service meetings of the Conference of the Parties provided for in Article 23;
  - b) To perform the functions assigned to it by any protocol;
  - c) To prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties;
  - d) To coordinate with other relevant international bodies and, in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and
  - e) To perform such other functions as may be determined by the Conference of the Parties.
2. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

#### **Article 25. Subsidiary Body on Scientific, Technical and Technological Advice**

1. A subsidiary body for the provision of scientific, technical and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely advice relating to the implementation of this Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.
2. Under the authority of and in accordance with guidelines laid down by the Conference of the Parties, and upon its request, this body shall:
  - a) Provide scientific and technical assessments of the status of biological diversity;
  - b) Prepare scientific and technical assessments of the effects of types of measures taken in accordance with the provisions of this Convention;

- c) Identify innovative, efficient and state-of-the-art technologies and know-how relating to the conservation and sustainable use of biological diversity and advice on the ways and means of promoting development and/or transferring such technologies;
  - d) Provide advice on scientific programmes and international cooperation in research and development related to conservation and sustainable use of biological diversity; and
  - e) Respond to scientific, technical, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.
3. The functions, terms of reference, organization and operation of this body may be further elaborated by the Conference of the Parties.

#### **Article 26. Reports**

Each Contracting Party shall, at intervals to be determined by the Conference of the Parties, present to the Conference of the Parties, reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention.

#### **Article 27. Settlement of Disputes**

1. In the event of a dispute between Contracting Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.
2. If the parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.
3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:
  - a) Arbitration in accordance with the procedure laid down in Part 1 of Annex II;
  - b) Submission of the dispute to the International Court of Justice.
4. If the parties to the dispute have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with Part 2 of Annex II unless the parties otherwise agree.
5. The provisions of this Article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.

#### **Article 28. Adoption of Protocols**

1. The Contracting Parties shall cooperate in the formulation and adoption of protocols to this Convention.
2. Protocols shall be adopted at a meeting of the Conference of the Parties.
3. The text of any proposed protocol shall be communicated to the Contracting Parties by the Secretariat at least six months before such a meeting.

#### **Article 29. Amendment of the Convention or Protocols**

1. Amendments to this Convention may be proposed by any Contracting Party. Amendments to any protocol may be proposed by any Party to that protocol.
2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the Protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties to the instrument in question by the secretariat at least six months before the

meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.

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

4. Ratification, acceptance or approval of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 above shall enter into force among Parties having accepted them on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by at least two thirds of the Contracting Parties to this Convention or of the Parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.

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

### **Article 30.** *Adoption and Amendment of Annexes*

1. The annexes to this Convention or to any protocol shall form an integral part of the Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this

Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to procedural, scientific, technical and administrative matters.

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

a) Annexes to this Convention or to any protocol shall be proposed and adopted according to the procedure laid down in Article 29;

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

c) On the expiry of one year from the date of the communication of the adoption by the Depositary, the annex shall enter into force for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provisions of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to any protocol.

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

### **Article 31.** *Right to Vote*

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

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this

Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

**Article 32. *Relationship between this Convention and Its Protocols***

1. A State or a regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.
2. Decisions under any protocol shall be taken only by the Parties to the protocol concerned. Any Contracting Party that has not ratified, accepted or approved a protocol may participate as an observer in any meeting of the parties to that protocol.

**Article 33. *Signature***

This Convention shall be open for signature at Rio de Janeiro by all States and any regional economic integration organization from 5 June 1992 until 14 June 1992, and at the United Nations Headquarters in New York from 15 June 1992 to 4 June 1993.

**Article 34. *Ratification, Acceptance or Approval***

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

**Article 35. *Accession***

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depositary.
2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.
3. The provisions of Article 34, paragraph 2, shall apply to regional economic integration organizations which accede to this Convention or any protocol.

**Article 36. *Entry Into Force***

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession.
2. Any protocol shall enter into force on the ninetieth day after the date of deposit of the number of instruments of ratification, acceptance, approval or accession, specified in that protocol, has been deposited.

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

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

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

#### **Article 37. *Reservations***

No reservations may be made to this Convention.

#### **Article 38. *Withdrawals***

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

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

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

#### **Article 39. *Financial Interim Arrangements***

Provided that it has been fully restructured in accordance with the requirements of Article 21, the Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the institutional structure referred to in Article 21 on an interim basis, for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties or until the Conference of the Parties decides which institutional structure will be designated in accordance with Article 21.

#### **Article 40. *Secretariat Interim Arrangements***

The secretariat to be provided by the Executive Director of the United Nations Environment Programme shall be the secretariat referred to in Article 24, paragraph 2, on an interim basis for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties.

#### **Article 41. *Depositary***

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

#### **Article 42. *Authentic Texts***

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

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

*DONE* at Rio de Janeiro on this fifth day of June, one thousand nine hundred and ninety-two.

ANNEX I  
IDENTIFICATION AND MONITORING

1. Ecosystems and habitats: containing high diversity, large numbers of endemic or threatened species, or wilderness; required by migratory species; of social, economic, cultural or scientific importance; or, which are representative, unique or associated with key evolutionary or other biological processes;
2. Species and communities which are: threatened; wild relatives of domesticated or cultivated species; of medicinal, agricultural or other economic value; or social, scientific or cultural importance; or importance for research into the conservation and sustainable use of biological diversity, such as indicator species; and
3. Described genomes and genes of social, scientific or economic importance.

ANNEX II  
PART I  
*ARBITRATION*

Article 1

The claimant party shall notify the secretariat that the parties are referring a dispute to arbitration pursuant to Article 27. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. If the parties do not agree on the subject matter of the dispute before the President of the tribunal is designated, the arbitral tribunal shall determine the subject matter. The secretariat shall forward the information thus received to all Contracting Parties to this Convention or to the protocol concerned.

Article 2

1. In disputes between two parties, the arbitral tribunal shall consist of three members. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the President of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.
2. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement.
3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

**Article 3**

1. If the President of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a party, designate the President within a further two-month period.
2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General who shall make the designation within a further two-month period.

**Article 4**

The arbitral tribunal shall render its decisions in accordance with the provisions of this Convention, any protocols concerned, and international law.

**Article 5**

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of procedure.

## **Article 6**

The arbitral tribunal may, at the request of one of the parties, recommend essential interim measures of protection.

## **Article 7**

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

- a) Provide it with all relevant documents, information and facilities; and
- b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

## **Article 8**

The parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

## **Article 9**

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

## **Article 10**

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

## **Article 11**

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

## **Article 12**

Decisions both on procedure and substance of the arbitral tribunal shall be taken by a majority vote of its members.

## **Article 13**

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

## **Article 14**

The tribunal shall render its final decision within five months of the date on which it is fully constituted unless it finds it necessary to extend the time-limit for a period which should not exceed five more months.

## **Article 15**

The final decision of the arbitral tribunal shall be confined to the subject-matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the tribunal may attach a separate or dissenting opinion to the final decision.

## **Article 16**

The award shall be binding on the parties to the dispute. It shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

### **Article 17**

Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the final decision may be submitted by either party for decision to the arbitral tribunal which rendered it.

## **PART 2 CONCILIATION**

### **Article 1**

A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall, unless the parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

### **Article 2**

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint their members separately.

### **Article 3**

If any appointments by the parties are not made within two months of the date of the request to create a conciliation commission, the Secretary-General of the United Nations shall, if asked to do so by the party that made the request, make those appointments within a further two-month period.

### **Article 4**

If a President of the conciliation commission has not been chosen within two months of the last of the members of the commission being appointed, the Secretary-General of the United Nations shall, if asked to do so by a party, designate a President within a further two-month period.

### **Article 5**

The conciliation commission shall take its decisions by majority vote of its members. It shall, unless the parties to the dispute otherwise agree, determine its own procedure. It shall render a proposal for resolution of the dispute, which the parties shall consider in good faith.

### **Article 6**

A disagreement as to whether the conciliation commission has competence shall be decided by the commission.



## **CARTAGENA PROTOCOL ON BIOSAFETY TO THE CONVENTION ON BIOLOGICAL DIVERSITY**

The Parties to this Protocol,

Being Parties to the Convention on Biological Diversity, hereinafter referred to as “the Convention”,

Recalling Article 19, paragraphs 3 and 4, and Articles 8 (g) and 17 of the Convention,

Recalling also decision II/5 of 17 November 1995 of the Conference of the Parties to the Convention to develop a Protocol on biosafety, specifically focusing on transboundary movement of any living modified organism resulting from modern biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity, setting out for consideration, in particular, appropriate procedures for advance informed agreement,

Reaffirming the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development,

Aware of the rapid expansion of modern biotechnology and the growing public concern over its potential adverse effects on biological diversity, taking also into account risks to human health,

Recognizing that modern biotechnology has great potential for human wellbeing if developed and used with adequate safety measures for the environment and human health,

Recognizing also the crucial importance to humankind of centres of origin and centres of genetic diversity,

Taking into account the limited capabilities of many countries, particularly developing countries, to cope with the nature and scale of known and potential risks associated with living modified organisms,

Recognizing that trade and environment agreements should be mutually supportive with a view to achieving sustainable development,

Emphasizing that this Protocol shall not be interpreted as implying a change in the rights and obligations of a Party under any existing international agreements,

Understanding that the above recital is not intended to subordinate this Protocol to other international agreements,

Have agreed as follows:

### **Article 1 OBJECTIVE**

In accordance with the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Protocol is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and specifically focusing on transboundary movements.

### **Article 2 GENERAL PROVISIONS**

1. Each Party shall take necessary and appropriate legal, administrative and other measures to implement its obligations under this Protocol.

2. The Parties shall ensure that the development, handling, transport, use, transfer and release of any living modified organisms are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health.

3. Nothing in this Protocol shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by

ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

4. Nothing in this Protocol shall be interpreted as restricting the right of a Party to take action that is more protective of the conservation and sustainable use of biological diversity than that called for in this Protocol, provided that such action is consistent with the objective and the provisions of this Protocol and is in accordance with that Party's other obligations under international law.

5. The Parties are encouraged to take into account, as appropriate, available expertise, instruments and work undertaken in international forums with competence in the area of risks to human health.

### **Article 3 USE OF TERMS**

For the purposes of this Protocol:

- (a) "Conference of the Parties" means the Conference of the Parties to the Convention;
- (b) "Contained use" means any operation, undertaken within a facility, installation or other physical structure, which involves living modified organisms that are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment;
- (c) "Export" means intentional transboundary movement from one Party to another Party;
- (d) "Exporter" means any legal or natural person, under the jurisdiction of the Party of export, who arranges for a living modified organism to be exported;
- (e) "Import" means intentional transboundary movement into one Party from another Party;
- (f) "Importer" means any legal or natural person, under the jurisdiction of the Party of import, who arranges for a living modified organism to be imported;
- (g) "Living modified organism" means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology;
- (h) "Living organism" means any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids;
- (i) "Modern biotechnology" means the application of:
  - a. In vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or
  - b. Fusion of cells beyond the taxonomic family, that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection;
- (j) "Regional economic integration organization" means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Protocol and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it;
- (k) "Transboundary movement" means the movement of a living modified organism from one Party to another Party, save that for the purposes of Articles 17 and 24 transboundary movement extends to movement between Parties and non-Parties.

### **Article 4 SCOPE**

This Protocol shall apply to the transboundary movement, transit, handling and use of all living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

### **Article 5 PHARMACEUTICALS**

Notwithstanding Article 4 and without prejudice to any right of a Party to subject all living modified organisms to risk assessment prior to the making of decisions on import, this Protocol shall not apply to the

transboundary movement of living modified organisms which are pharmaceuticals for humans that are addressed by other relevant international agreements or organisations.

## **Article 6**

### **TRANSIT AND CONTAINED USE**

1. Notwithstanding Article 4 and without prejudice to any right of a Party of transit to regulate the transport of living modified organisms through its territory and make available to the Biosafety Clearing-House, any decision of that Party, subject to Article 2, paragraph 3, regarding the transit through its territory of a specific living modified organism, the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to living modified organisms in transit.

2. Notwithstanding Article 4 and without prejudice to any right of a Party to subject all living modified organisms to risk assessment prior to decisions on import and to set standards for contained use within its jurisdiction, the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to the transboundary movement of living modified organisms destined for contained use undertaken in accordance with the standards of the Party of import.

## **Article 7**

### **APPLICATION OF THE ADVANCE INFORMED AGREEMENT PROCEDURE**

1. Subject to Articles 5 and 6, the advance informed agreement procedure in Articles 8 to 10 and 12 shall apply prior to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment of the Party of import.

2. "Intentional introduction into the environment" in paragraph 1 above, does not refer to living modified organisms intended for direct use as food or feed, or for processing.

3. Article 11 shall apply prior to the first transboundary movement of living modified organisms intended for direct use as food or feed, or for processing.

4. The advance informed agreement procedure shall not apply to the intentional transboundary movement of living modified organisms identified in a decision of the Conference of the Parties serving as the meeting of the Parties to this Protocol as being not likely to have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

## **Article 8**

### **NOTIFICATION**

1. The Party of export shall notify, or require the exporter to ensure notification to, in writing, the competent national authority of the Party of import prior to the intentional transboundary movement of a living modified organism that falls within the scope of Article 7, paragraph 1. The notification shall contain, at a minimum, the information specified in Annex I.

2. The Party of export shall ensure that there is a legal requirement for the accuracy of information provided by the exporter.

## **Article 9**

### **ACKNOWLEDGEMENT OF RECEIPT OF NOTIFICATION**

1. The Party of import shall acknowledge receipt of the notification, in writing, to the notifier within ninety days of its receipt.

2. The acknowledgement shall state:

(a) The date of receipt of the notification;

(b) Whether the notification, prima facie, contains the information referred to in Article 8;

(c) Whether to proceed according to the domestic regulatory framework of the Party of import or according to the procedure specified in Article 10.

3. The domestic regulatory framework referred to in paragraph 2 (c) above, shall be consistent with this Protocol.

4. A failure by the Party of import to acknowledge receipt of a notification shall not imply its consent to an intentional transboundary movement.

## **Article 10 DECISION PROCEDURE**

1. Decisions taken by the Party of import shall be in accordance with Article 15.

2. The Party of import shall, within the period of time referred to in Article 9, inform the notifier, in writing, whether the intentional transboundary movement may proceed:

(a) Only after the Party of import has given its written consent; or

(b) After no less than ninety days without a subsequent written consent.

3. Within two hundred and seventy days of the date of receipt of notification, the Party of import shall communicate, in writing, to the notifier and to the Biosafety Clearing-House the decision referred to in paragraph 2

(a) above: (a) Approving the import, with or without conditions, including how the decision will apply to subsequent imports of the same living modified organism;

(b) Prohibiting the import;

(c) Requesting additional relevant information in accordance with its domestic regulatory framework or Annex I; in calculating the time within which the Party of import is to respond, the number of days it has to wait for additional relevant information shall not be taken into account; or

(d) Informing the notifier that the period specified in this paragraph is extended by a defined period of time.

4. Except in a case in which consent is unconditional, a decision under paragraph 3 above, shall set out the reasons on which it is based.

5. A failure by the Party of import to communicate its decision within two hundred and seventy days of the date of receipt of the notification shall not imply its consent to an intentional transboundary movement.

6. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of the living modified organism in question as referred to in paragraph 3 above, in order to avoid or minimize such potential adverse effects.

7. The Conference of the Parties serving as the meeting of the Parties shall, at its first meeting, decide upon appropriate procedures and mechanisms to facilitate decision-making by Parties of import.

## **Article 11 PROCEDURE FOR LIVING MODIFIED ORGANISMS INTENDED FOR DIRECT USE AS FOOD OR FEED, OR FOR PROCESSING**

1. A Party that makes a final decision regarding domestic use, including placing on the market, of a living modified organism that may be subject to transboundary movement for direct use as food or feed, or for processing shall, within fifteen days of making that decision, inform the Parties through the Biosafety Clearing-House. This information shall contain, at a minimum, the information specified in Annex II. The Party shall provide a copy of the information, in writing, to the national focal point of each Party that informs the Secretariat in advance that it does not have access to the Biosafety ClearingHouse. This provision shall not apply to decisions regarding field trials.

2. The Party making a decision under paragraph 1 above, shall ensure that there is a legal requirement for the accuracy of information provided by the applicant.

3. Any Party may request additional information from the authority identified in paragraph (b) of Annex II.

4. A Party may take a decision on the import of living modified organisms intended for direct use as food or feed, or for processing, under its domestic regulatory framework that is consistent with the objective of this Protocol.

5. Each Party shall make available to the Biosafety Clearing-House copies of any national laws, regulations and guidelines applicable to the import of living modified organisms intended for direct use as food or feed, or for processing, if available.

6. A developing country Party or a Party with an economy in transition may, in the absence of the domestic regulatory framework referred to in paragraph 4 above, and in exercise of its domestic jurisdiction, declare through the Biosafety Clearing-House that its decision prior to the first import of a living modified organism intended for direct use as food or feed, or for processing, on which information has been provided under paragraph 1 above, will be taken according to the following:

(a) A risk assessment undertaken in accordance with Annex III; and

(b) A decision made within a predictable timeframe, not exceeding two hundred and seventy days.

7. Failure by a Party to communicate its decision according to paragraph 6 above, shall not imply its consent or refusal to the import of a living modified organism intended for direct use as food or feed, or for processing, unless otherwise specified by the Party.

8. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a living modified organism on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of that living modified organism intended for direct use as food or feed, or for processing, in order to avoid or minimize such potential adverse effects.

9. A Party may indicate its needs for financial and technical assistance and capacity-building with respect to living modified organisms intended for direct use as food or feed, or for processing. Parties shall cooperate to meet these needs in accordance with Articles 22 and 28.

## **Article 12 REVIEW OF DECISIONS**

1. A Party of import may, at any time, in light of new scientific information on potential adverse effects on the conservation and sustainable use of biological diversity, taking also into account the risks to human health, review and change a decision regarding an intentional transboundary movement. In such case, the Party shall, within thirty days, inform any notifier that has previously notified movements of the living modified organism referred to in such decision, as well as the Biosafety Clearing-House, and shall set out the reasons for its decision.

2. A Party of export or a notifier may request the Party of import to review a decision it has made in respect of it under Article 10 where the Party of export or the notifier considers that:

(a) A change in circumstances has occurred that may influence the outcome of the risk assessment upon which the decision was based; or

(b) Additional relevant scientific or technical information has become available.

3. The Party of import shall respond in writing to such a request within ninety days and set out the reasons for its decision.

4. The Party of import may, at its discretion, require a risk assessment for subsequent imports.

## **Article 13 SIMPLIFIED PROCEDURE**

1. A Party of import may, provided that adequate measures are applied to ensure the safe intentional transboundary movement of living modified organisms in accordance with the objective of this Protocol, specify in advance to the Biosafety Clearing-House:

(a) Cases in which intentional transboundary movement to it may take place at the same time as the movement is notified to the Party of import; and

(b) Imports of living modified organisms to it to be exempted from the advance informed agreement procedure. Notifications under subparagraph (a) above, may apply to subsequent similar movements to the same Party.

2. The information relating to an intentional transboundary movement that is to be provided in the notifications referred to in paragraph 1 (a) above, shall be the information specified in Annex I.

## **Article 14 BILATERAL, REGIONAL AND MULTILATERAL AGREEMENTS AND ARRANGEMENTS**

1. Parties may enter into bilateral, regional and multilateral agreements and arrangements regarding intentional transboundary movements of living modified organisms, consistent with the objective of this Protocol and provided that such agreements and arrangements do not result in a lower level of protection than that provided for by the Protocol.

2. The Parties shall inform each other, through the Biosafety Clearing-House, of any such bilateral, regional and multilateral agreements and arrangements that they have entered into before or after the date of entry into force of this Protocol.

3. The provisions of this Protocol shall not affect intentional transboundary movements that take place pursuant to such agreements and arrangements as between the parties to those agreements or arrangements.

4. Any Party may determine that its domestic regulations shall apply with respect to specific imports to it and shall notify the Biosafety Clearing-House of its decision.

## **Article 15** **RISK ASSESSMENT**

1. Risk assessments undertaken pursuant to this Protocol shall be carried out in a scientifically sound manner, in accordance with Annex III and taking into account recognized risk assessment techniques. Such risk assessments shall be based, at a minimum, on information provided in accordance with Article 8 and other available scientific evidence in order to identify and evaluate the possible adverse effects of living modified organisms on the conservation and sustainable use of biological diversity, taking also into account risks to human health.

2. The Party of import shall ensure that risk assessments are carried out for decisions taken under Article 10. It may require the exporter to carry out the risk assessment.

3. The cost of risk assessment shall be borne by the notifier if the Party of import so requires.

## **Article 16** **RISK MANAGEMENT**

1. The Parties shall, taking into account Article 8 (g) of the Convention, establish and maintain appropriate mechanisms, measures and strategies to regulate, manage and control risks identified in the risk assessment provisions of this Protocol associated with the use, handling and transboundary movement of living modified organisms.

2. Measures based on risk assessment shall be imposed to the extent necessary to prevent adverse effects of the living modified organism on the conservation and sustainable use of biological diversity, taking also into account risks to human health, within the territory of the Party of import.

3. Each Party shall take appropriate measures to prevent unintentional transboundary movements of living modified organisms, including such measures as requiring a risk assessment to be carried out prior to the first release of a living modified organism.

4. Without prejudice to paragraph 2 above, each Party shall endeavour to ensure that any living modified organism, whether imported or locally developed, has undergone an appropriate period of observation that is commensurate with its life-cycle or generation time before it is put to its intended use.

5. Parties shall cooperate with a view to:

(a) Identifying living modified organisms or specific traits of living modified organisms that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and

(b) Taking appropriate measures regarding the treatment of such living modified organisms or specific traits.

## **Article 17** **UNINTENTIONAL TRANSBOUNDARY MOVEMENTS AND EMERGENCY MEASURES**

1. Each Party shall take appropriate measures to notify affected or potentially affected States, the Biosafety Clearing-House and, where appropriate, relevant international organizations, when it knows of an occurrence under its jurisdiction resulting in a release that leads, or may lead, to an unintentional transboundary movement of a living modified organism that is likely to have significant adverse effects on the conservation and sustainable use of

biological diversity, taking also into account risks to human health in such States. The notification shall be provided as soon as the Party knows of the above situation.

2. Each Party shall, no later than the date of entry into force of this Protocol for it, make available to the Biosafety Clearing-House the relevant details setting out its point of contact for the purposes of receiving notifications under this Article.

3. Any notification arising from paragraph 1 above, should include:

(a) Available relevant information on the estimated quantities and relevant characteristics and/or traits of the living modified organism;

(b) Information on the circumstances and estimated date of the release, and on the use of the living modified organism in the originating Party;

(c) Any available information about the possible adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, as well as available information about possible risk management measures;

(d) Any other relevant information; and

(e) A point of contact for further information.

4. In order to minimize any significant adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party, under whose jurisdiction the release of the living modified organism referred to in paragraph 1 above, occurs, shall immediately consult the affected or potentially affected States to enable them to determine appropriate responses and initiate necessary action, including emergency measures.

## **Article 18**

### **HANDLING, TRANSPORT, PACKAGING AND IDENTIFICATION**

1. In order to avoid adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party shall take necessary measures to require that living modified organisms that are subject to intentional transboundary movement within the scope of this Protocol are handled, packaged and transported under conditions of safety, taking into consideration relevant international rules and standards.

2. Each Party shall take measures to require that documentation accompanying:

(a) Living modified organisms that are intended for direct use as food or feed, or for processing, clearly identifies that they “may contain” living modified organisms and are not intended for intentional introduction into the environment, as well as a contact point for further information. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall take a decision on the detailed requirements for this purpose, including specification of their identity and any unique identification, no later than two years after the date of entry into force of this Protocol;

(b) Living modified organisms that are destined for contained use clearly identifies them as living modified organisms; and specifies any requirements for the safe handling, storage, transport and use, the contact point for further information, including the name and address of the individual and institution to whom the living modified organisms are consigned; and

(c) Living modified organisms that are intended for intentional introduction into the environment of the Party of import and any other living modified organisms within the scope of the Protocol, clearly identifies them as living modified organisms; specifies the identity and relevant traits and/or characteristics, any requirements for the safe handling, storage, transport and use, the contact point for further information and, as appropriate, the name and address of the importer and exporter; and contains a declaration that the movement is in conformity with the requirements of this Protocol applicable to the exporter.

3. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall consider the need for and modalities of developing standards with regard to identification, handling, packaging and transport practices, in consultation with other relevant international bodies.

## **Article 19**

### **COMPETENT NATIONAL AUTHORITIES AND NATIONAL FOCAL POINTS**

1. Each Party shall designate one national focal point to be responsible on its behalf for liaison with the Secretariat. Each Party shall also designate one or more competent national authorities, which shall be responsible for performing the administrative functions required by this Protocol and which shall be authorized to act on its behalf with respect to those functions. A Party may designate a single entity to fulfil the functions of both focal point and competent national authority.

2. Each Party shall, no later than the date of entry into force of this Protocol for it, notify the Secretariat of the names and addresses of its focal point and its competent national authority or authorities. Where a Party designates more than one competent national authority, it shall convey to the Secretariat, with its notification thereof, relevant information on the respective responsibilities of those authorities. Where applicable, such information shall, at a minimum, specify which competent authority is responsible for which type of living modified organism. Each Party shall forthwith notify the Secretariat of any changes in the designation of its national focal point or in the name and address or responsibilities of its competent national authority or authorities.

3. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 2 above, and shall also make such information available through the Biosafety Clearing-House.

## **Article 20**

### **INFORMATION SHARING AND THE BIOSAFETY CLEARING-HOUSE**

1. A Biosafety Clearing-House is hereby established as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention, in order to:

(a) Facilitate the exchange of scientific, technical, environmental and legal information, and experience with, living modified organisms; and

(b) Assist Parties to implement the Protocol, taking into account the special needs of developing country Parties, in particular the least developed and small island developing States among them, and countries with economies in transition as well as countries that are centres of origin and centres of genetic diversity.

2. The Biosafety Clearing-House shall serve as a means through which information is made available for the purposes of paragraph 1 above. It shall provide access to information made available by the Parties relevant to the implementation of the Protocol. It shall also provide access, where possible, to other international biosafety information exchange mechanisms.

3. Without prejudice to the protection of confidential information, each Party shall make available to the Biosafety Clearing-House any information required to be made available to the Biosafety Clearing-House under this Protocol, and:

(a) Any existing laws, regulations and guidelines for implementation of the Protocol, as well as information required by the Parties for the advance informed agreement procedure;

(b) Any bilateral, regional and multilateral agreements and arrangements; (c) Summaries of its risk assessments or environmental reviews of living modified organisms generated by its regulatory process, and carried out in accordance with Article 15, including, where appropriate, relevant information regarding products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology;

(d) Its final decisions regarding the importation or release of living modified organisms; and

(e) Reports submitted by it pursuant to Article 33, including those on implementation of the advance informed agreement procedure.

4. The modalities of the operation of the Biosafety Clearing-House, including reports on its activities, shall be considered and decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first meeting, and kept under review thereafter.

## **Article 21**

### **CONFIDENTIAL INFORMATION**

1. The Party of import shall permit the notifier to identify information submitted under the procedures of this Protocol or required by the Party of import as part of the advance informed agreement procedure of the Protocol that is to be treated as confidential. Justification shall be given in such cases upon request.



2. The Party of import shall consult the notifier if it decides that information identified by the notifier as confidential does not qualify for such treatment and shall, prior to any disclosure, inform the notifier of its decision, providing reasons on request, as well as an opportunity for consultation and for an internal review of the decision prior to disclosure.

3. Each Party shall protect confidential information received under this Protocol, including any confidential information received in the context of the advance informed agreement procedure of the Protocol. Each Party shall ensure that it has procedures to protect such information and shall protect the confidentiality of such information in a manner no less favourable than its treatment of confidential information in connection with domestically produced living modified organisms.

4. The Party of import shall not use such information for a commercial purpose, except with the written consent of the notifier.

5. If a notifier withdraws or has withdrawn a notification, the Party of import shall respect the confidentiality of commercial and industrial information, including research and development information as well as information on which the Party and the notifier disagree as to its confidentiality.

6. Without prejudice to paragraph 5 above, the following information shall not be considered confidential:

- (a) The name and address of the notifier;
- (b) A general description of the living modified organism or organisms;
- (c) A summary of the risk assessment of the effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and
- (d) Any methods and plans for emergency response.

## **Article 22 CAPACITY-BUILDING**

1. The Parties shall cooperate in the development and/or strengthening of human resources and institutional capacities in biosafety, including biotechnology to the extent that it is required for biosafety, for the purpose of the effective implementation of this Protocol, in developing country Parties, in particular the least developed and small island developing States among them, and in Parties with economies in transition, including through existing global, regional, subregional and national institutions and organizations and, as appropriate, through facilitating private sector involvement.

2. For the purposes of implementing paragraph 1 above, in relation to cooperation, the needs of developing country Parties, in particular the least developed and small island developing States among them, for financial resources and access to and transfer of technology and know-how in accordance with the relevant provisions of the Convention, shall be taken fully into account for capacity-building in biosafety. Cooperation in capacitybuilding shall, subject to the different situation, capabilities and requirements of each Party, include scientific and technical training in the proper and safe management of biotechnology, and in the use of risk assessment and risk management for biosafety, and the enhancement of technological and institutional capacities in biosafety. The needs of Parties with economies in transition shall also be taken fully into account for such capacity-building in biosafety.

## **Article 23 PUBLIC AWARENESS AND PARTICIPATION**

1. The Parties shall:

(a) Promote and facilitate public awareness, education and participation concerning the safe transfer, handling and use of living modified organisms in relation to the conservation and sustainable use of biological diversity, taking also into account risks to human health. In doing so, the Parties shall cooperate, as appropriate, with other States and international bodies;

(b) Endeavour to ensure that public awareness and education encompass access to information on living modified organisms identified in accordance with this Protocol that may be imported.

2. The Parties shall, in accordance with their respective laws and regulations, consult the public in the decision-making process regarding living modified organisms and shall make the results of such decisions available to the public, while respecting confidential information in accordance with Article 21. 3. Each Party shall endeavour to inform its public about the means of public access to the Biosafety Clearing-House.

**Article 24**  
**NON-PARTIES**

1. Transboundary movements of living modified organisms between Parties and non-Parties shall be consistent with the objective of this Protocol. The Parties may enter into bilateral, regional and multilateral agreements and arrangements with non-Parties regarding such transboundary movements.

2. The Parties shall encourage non-Parties to adhere to this Protocol and to contribute appropriate information to the Biosafety Clearing-House on living modified organisms released in, or moved into or out of, areas within their national jurisdictions.

**Article 25**  
**ILLEGAL TRANSBOUNDARY MOVEMENTS**

1. Each Party shall adopt appropriate domestic measures aimed at preventing and, if appropriate, penalizing transboundary movements of living modified organisms carried out in contravention of its domestic measures to implement this Protocol. Such movements shall be deemed illegal transboundary movements.

2. In the case of an illegal transboundary movement, the affected Party may request the Party of origin to dispose, at its own expense, of the living modified organism in question by repatriation or destruction, as appropriate.

3. Each Party shall make available to the Biosafety Clearing-House information concerning cases of illegal transboundary movements pertaining to it.

**Article 26**  
**SOCIO-ECONOMIC CONSIDERATIONS**

1. The Parties, in reaching a decision on import under this Protocol or under its domestic measures implementing the Protocol, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.

2. The Parties are encouraged to cooperate on research and information exchange on any socio-economic impacts of living modified organisms, especially on indigenous and local communities.

**Article 27**  
**LIABILITY AND REDRESS**

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, adopt a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms, analysing and taking due account of the ongoing processes in international law on these matters, and shall endeavour to complete this process within four years.

**Article 28**  
**FINANCIAL MECHANISM AND RESOURCES**

1. In considering financial resources for the implementation of this Protocol, the Parties shall take into account the provisions of Article 20 of the Convention.

2. The financial mechanism established in Article 21 of the Convention shall, through the institutional structure entrusted with its operation, be the financial mechanism for this Protocol.

3. Regarding the capacity-building referred to in Article 22 of this Protocol, the Conference of the Parties serving as the meeting of the Parties to this Protocol, in providing guidance with respect to the financial mechanism referred to in paragraph 2 above, for consideration by the Conference of the Parties, shall take into account the need

for financial resources by developing country Parties, in particular the least developed and the small island developing States among them.

4. In the context of paragraph 1 above, the Parties shall also take into account the needs of the developing country Parties, in particular the least developed and the small island developing States among them, and of the Parties with economies in transition, in their efforts to identify and implement their capacity-building requirements for the purposes of the implementation of this Protocol.

5. The guidance to the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply, *mutatis mutandis*, to the provisions of this Article.

6. The developed country Parties may also provide, and the developing country Parties and the Parties with economies in transition avail themselves of, financial and technological resources for the implementation of the provisions of this Protocol through bilateral, regional and multilateral channels.

## **Article 29**

### **CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THIS PROTOCOL**

1. The Conference of the Parties shall serve as the meeting of the Parties to this Protocol.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to it.

3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of the bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be substituted by a member to be elected by and from among the Parties to this Protocol.

4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:

- (a) Make recommendations on any matters necessary for the implementation of this Protocol;
- (b) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;
- (c) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies;
- (d) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 33 of this Protocol and consider such information as well as reports submitted by any subsidiary body;
- (e) Consider and adopt, as required, amendments to this Protocol and its annexes, as well as any additional annexes to this Protocol, that are deemed necessary for the implementation of this Protocol; and
- (f) Exercise such other functions as may be required for the implementation of this Protocol.

5. The rules of procedure of the Conference of the Parties and financial rules of the Convention shall be applied, *mutatis mutandis*, under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

6. The first meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the Secretariat in conjunction with the first meeting of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol. Subsequent ordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held in conjunction with ordinary meetings of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

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

8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented as observers at meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Any body or agency, whether

national or international, governmental or nongovernmental, that is qualified in matters covered by this Protocol and that has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties serving as a meeting of the Parties to this Protocol as an observer, may be so admitted, unless at least one third of the Parties present object. Except as otherwise provided in this Article, the admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.

### **Article 30**

#### **SUBSIDIARY BODIES**

1. Any subsidiary body established by or under the Convention may, upon a decision by the Conference of the Parties serving as the meeting of the Parties to this Protocol, serve the Protocol, in which case the meeting of the Parties shall specify which functions that body shall exercise.

2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of any such subsidiary bodies. When a subsidiary body of the Convention serves as a subsidiary body to this Protocol, decisions under the Protocol shall be taken only by the Parties to the Protocol.

3. When a subsidiary body of the Convention exercises its functions with regard to matters concerning this Protocol, any member of the bureau of that subsidiary body representing a Party to the Convention but, at that time, not a Party to the Protocol, shall be substituted by a member to be elected by and from among the Parties to the Protocol.

### **Article 31**

#### **SECRETARIAT**

1. The Secretariat established by Article 24 of the Convention shall serve as the secretariat to this Protocol.

2. Article 24, paragraph 1, of the Convention on the functions of the Secretariat shall apply, *mutatis mutandis*, to this Protocol.

3. To the extent that they are distinct, the costs of the secretariat services for this Protocol shall be met by the Parties hereto. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, decide on the necessary budgetary arrangements to this end.

### **Article 32**

#### **RELATIONSHIP WITH THE CONVENTION**

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

### **Article 33**

#### **MONITORING AND REPORTING**

Each Party shall monitor the implementation of its obligations under this Protocol, and shall, at intervals to be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, report to the Conference of the Parties serving as the meeting of the Parties to this Protocol on measures that it has taken to implement the Protocol.

### **Article 34**

#### **COMPLIANCE**

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of this Protocol and to address cases of non-compliance. These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. They shall be separate from, and without prejudice to, the dispute settlement procedures and mechanisms established by Article 27 of the Convention.

**Article 35**  
**ASSESSMENT AND REVIEW**

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall undertake, five years after the entry into force of this Protocol and at least every five years thereafter, an evaluation of the effectiveness of the Protocol, including an assessment of its procedures and annexes.

**Article 36**  
**SIGNATURE**

This Protocol shall be open for signature at the United Nations Office at Nairobi by States and regional economic integration organizations from 15 to 26 May 2000, and at United Nations Headquarters in New York from 5 June 2000 to 4 June 2001.

**Article 37**  
**ENTRY INTO FORCE**

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession by States or regional economic integration organizations that are Parties to the Convention.

2. This Protocol shall enter into force for a State or regional economic integration organization that ratifies, accepts or approves this Protocol or accedes thereto after its entry into force pursuant to paragraph 1 above, on the ninetieth day after the date on which that State or regional economic integration organization deposits its instrument of ratification, acceptance, approval or accession, or on the date on which the Convention enters into force for that State or regional economic integration organization, whichever shall be the later.

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

**Article 38**  
**RESERVATIONS**

No reservations may be made to this Protocol.

**Article 39**  
**WITHDRAWAL**

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

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

**Article 40**  
**AUTHENTIC TEXTS**

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

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

DONE at Montreal on this twenty-ninth day of January, two thousand.

**Annex I**  
**INFORMATION REQUIRED IN NOTIFICATIONS UNDER ARTICLES 8, 10 AND 13**

- (a) Name, address and contact details of the exporter.
- (b) Name, address and contact details of the importer.
- (c) Name and identity of the living modified organism, as well as the domestic classification, if any, of the biosafety level of the living modified organism in the State of export.
- (d) Intended date or dates of the transboundary movement, if known.
- (e) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.
- (f) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.
- (g) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.
- (h) Description of the nucleic acid or the modification introduced, the technique used, and the resulting characteristics of the living modified organism.
- (i) Intended use of the living modified organism or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology.
- (j) Quantity or volume of the living modified organism to be transferred.
- (k) A previous and existing risk assessment report consistent with Annex III.
- (l) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.
- ( m ) Regulatory status of the living modified organism within the State of export (for example, whether it is prohibited in the State of export, whether there are other restrictions, or whether it has been approved for general release) and, if the living modified organism is banned in the State of export, the reason or reasons for the ban. (n) Result and purpose of any notification by the exporter to other States regarding the living modified organism to be transferred.
- (o) A declaration that the above-mentioned information is factually correct.

## **Annex II**

### **INFORMATION REQUIRED CONCERNING LIVING MODIFIED ORGANISMS INTENDED FOR DIRECT USE AS FOOD OR FEED, OR FOR PROCESSING UNDER ARTICLE 11**

- (a) The name and contact details of the applicant for a decision for domestic use.
- (b) The name and contact details of the authority responsible for the decision.
- (c) Name and identity of the living modified organism.
- (d) Description of the gene modification, the technique used, and the resulting characteristics of the living modified organism.
- (e) Any unique identification of the living modified organism.
- (f) Taxonomic status, common name, point of collection or acquisition, and characteristics of recipient organism or parental organisms related to biosafety.
- (g) Centres of origin and centres of genetic diversity, if known, of the recipient organism and/or the parental organisms and a description of the habitats where the organisms may persist or proliferate.
- (h) Taxonomic status, common name, point of collection or acquisition, and characteristics of the donor organism or organisms related to biosafety.
- (i) Approved uses of the living modified organism.
- (j) A risk assessment report consistent with Annex III.
- (k) Suggested methods for the safe handling, storage, transport and use, including packaging, labelling, documentation, disposal and contingency procedures, where appropriate.

## **Annex III**

### **RISK ASSESSMENT**

Objective

1. The objective of risk assessment, under this Protocol, is to identify and evaluate the potential adverse effects of living modified organisms on the conservation and sustainable use of biological diversity in the likely potential receiving environment, taking also into account risks to human health.

#### Use of risk assessment

2. Risk assessment is, inter alia, used by competent authorities to make informed decisions regarding living modified organisms.

#### General principles

3. Risk assessment should be carried out in a scientifically sound and transparent manner, and can take into account expert advice of, and guidelines developed by, relevant international organizations.

4. Lack of scientific knowledge or scientific consensus should not necessarily be interpreted as indicating a particular level of risk, an absence of risk, or an acceptable risk.

5. Risks associated with living modified organisms or products thereof, namely, processed materials that are of living modified organism origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology, should be considered in the context of the risks posed by the non-modified recipients or parental organisms in the likely potential receiving environment.

6. Risk assessment should be carried out on a case-by-case basis. The required information may vary in nature and level of detail from case to case, depending on the living modified organism concerned, its intended use and the likely potential receiving environment.

#### Methodology

7. The process of risk assessment may on the one hand give rise to a need for further information about specific subjects, which may be identified and requested during the assessment process, while on the other hand information on other subjects may not be relevant in some instances.

8. To fulfil its objective, risk assessment entails, as appropriate, the following steps:

(a) An identification of any novel genotypic and phenotypic characteristics associated with the living modified organism that may have adverse effects on biological diversity in the likely potential receiving environment, taking also into account risks to human health;

(b) An evaluation of the likelihood of these adverse effects being realized, taking into account the level and kind of exposure of the likely potential receiving environment to the living modified organism; (c) An evaluation of the consequences should these adverse effects be realized;

(d) An estimation of the overall risk posed by the living modified organism based on the evaluation of the likelihood and consequences of the identified adverse effects being realized;

(e) A recommendation as to whether or not the risks are acceptable or manageable, including, where necessary, identification of strategies to manage these risks; and

(f) Where there is uncertainty regarding the level of risk, it may be addressed by requesting further information on the specific issues of concern or by implementing appropriate risk management strategies and/or monitoring the living modified organism in the receiving environment.

#### Points to consider

Depending on the case, risk assessment takes into account the relevant technical and scientific details regarding the characteristics of the following subjects:

(a) Recipient organism or parental organisms. The biological characteristics of the recipient organism or parental organisms, including information on taxonomic status, common name, origin, centres of origin and centres of genetic diversity, if known, and a description of the habitat where the organisms may persist or proliferate;

(b) Donor organism or organisms. Taxonomic status and common name, source, and the relevant biological characteristics of the donor organisms

(c) Vector. Characteristics of the vector, including its identity, if any, and its source or origin, and its host range;

(d) Insert or inserts and/or characteristics of modification. Genetic characteristics of the inserted nucleic acid and the function it specifies, and/or characteristics of the modification introduced;

(e) Living modified organism. Identity of the living modified organism, and the differences between the biological characteristics of the living modified organism and those of the recipient organism or parental organisms;

(f) Detection and identification of the living modified organism. Suggested detection and identification methods and their specificity, sensitivity and reliability;

(g) Information relating to the intended use. Information relating to the intended use of the living modified organism, including new or changed use compared to the recipient organism or parental organisms; and (h) Receiving environment. Information on the location, geographical, climatic and ecological characteristics, including relevant information on biological diversity and centres of origin of the likely potential receiving environment.



# **Plant protection convention**

**Rome, 6 December 1951**

## **PREAMBLE**

The contracting Governments, recognizing the usefulness of international co-operation in controlling pests and diseases of plants and plant products and in preventing their introduction and spread across national boundaries, and desiring to ensure close co-ordination of measures directed to these ends, have agreed as follows:

### **Article I PURPOSE AND RESPONSIBILITY**

1. With the purpose of securing common and effective action to prevent the introduction and spread of pests and diseases of plants and plant products and to promote measures for their control, the contracting Governments undertake to adopt the legislative, technical and administrative measures specified in this Convention and in supplementary agreements pursuant to Article III.
2. Each contracting Government shall assume responsibility for the fulfilment within its territories of all requirements under this Convention.

### **Article II SCOPE**

1. For the purposes of this Convention the term "plant" shall comprise living plants and parts thereof, including seeds in so far as the supervision of their importation under Article VI of the Convention or the issue of phytosanitary certificates in respect of them under Articles IV(1), (a) (iv) and V of this Convention may be deemed necessary by contracting Governments; and the term "plant products" shall comprise unmanufactured and milled material of plant origin, including seeds in so far as they are not included in the term "plants".
2. The provisions of this Convention may be deemed by contracting Governments to extend to storage places, containers, conveyances, packing material and accompanying media of all sorts including soil involved in the international transportation of plants and plant products.
3. This Convention shall have particular reference to pests and diseases of importance to international trade.

### **Article III SUPPLEMENTARY AGREEMENTS**

1. Supplementary agreements applicable to specific regions, to specific pests and diseases, to specific plants and plant products, to specific methods of international transportation of plants and plant products, or otherwise supplementing the provisions of this Convention, may be proposed by the Food and Agriculture Organization of the United Nations (hereinafter referred to as "FAO") on the recommendation of a contracting Government or on its own initiative, to meet special problems of plant protection which need particular attention or action.
2. Any such supplementary agreements shall come into force for each contracting Government after acceptance in accordance with the provisions of the FAO Constitution and Rules of Procedure.

### **Article IV NATIONAL ORGANIZATION FOR PLANT PROTECTION**

1. Each contracting Government shall make provision, as soon as possible and to the best of its ability, for
  - a) an official plant protection organization, with the following main functions:
    - (i) the inspection of growing plants, of areas under cultivation (including fields, plantations, nurseries, gardens and greenhouses), and of plants and plant products in storage and in transportation particularly with the object of reporting the existence, outbreak and spread of plant diseases and pests and of controlling those pests and diseases;
    - (ii) the inspection of consignments of plants and plant products moving in international traffic and, as far as practicable, the inspection of consignments of other articles or commodities moving in international traffic under conditions where they may act incidentally as carriers of pests and diseases of plants and plant products, and the inspection and supervision of storage and transportation facilities of all kinds involved in international traffic whether of plants and plant products or of other commodities, particularly with the object of preventing the

dissemination across national boundaries of pests and diseases of plants and plant products;

(iii) the disinfestations or disinfection of consignments of plants and plant products moving in international traffic, and their containers, storage places, or transportation facilities of all kinds employed;

(iv) the issue of certificates relating to phytosanitary condition and origin of consignments of plants and plant products (hereinafter referred to as "phytosanitary certificates");

b) the distribution of information within the country regarding the pests and diseases of plants and plant products and the means of their prevention and control;

c) research and investigation in the field of plant protection.

2. Each contracting Government shall submit a description of the scope of its national organization for plant protection and of changes in such organization to the Director-General of FAO, who shall circulate such information to all contracting Governments.

#### **Article V PHYTOSANITARY CERTIFICATES**

1. Each contracting Government shall make arrangements for the issue of phytosanitary certificates to accord with the plant protection regulations of other contracting Governments, and in conformity with the following provisions:

a) Inspection shall be carried out and certificate issued only by or under the authority of technically qualified and duly authorized officers and in such circumstances and with such knowledge and information available to those officers that the authorities of importing countries may accept such certificates with confidence as dependable documents.

b) Each certificate covering materials intended for planting or propagation shall be as worded in the Annex to this Convention and shall include such additional declarations as may be required by the importing country. The model certificate may also be used for other plants or plant products where appropriate and not inconsistent with the requirements of the importing country.

c) The certificates shall bear no alterations or erasures.

2. Each contracting Government undertakes not to require consignments of plants intended for planting or propagation imported into its territories to be accompanied by phytosanitary certificates inconsistent with the model set out in the Annex to this Convention.

#### **Article VI REQUIREMENTS IN RELATION TO IMPORTS**

1. With the aim of preventing the introduction of diseases and pests of plants into their territories, contracting Governments shall have full authority to regulate the entry of plants and plant products, and to this end, may:

a) prescribe restrictions or requirements concerning the importation of plants or plant products;

b) prohibit the importation of particular plants or plant products, or of particular consignments of plants or plant products;

c) inspect or detain particular consignments of plants or plant products;

d) treat, destroy or refuse entry to particular consignments of plants or plant products, or require such consignments to be treated or destroyed.

2. In order to minimize interference with international trade, each contracting Government undertakes to carry out the provisions referred to in paragraph 1 of this Article in conformity with the following:

a) Contracting Governments shall not, under this plant protection legislation, take any of the measures specified in paragraph 1 of this Article unless such measures are made necessary by phytosanitary considerations.

b) If a contracting Government prescribes any restrictions or requirements concerning the importation of plants and plant products into its territories, it shall publish the restrictions or requirements and communicate them immediately to the plant protection services of other contracting Governments and to FAO.

c) If a contracting Government prohibits, under the provisions of its plant protection legislation, the importation of any plants or plant products, it shall publish its decision with reasons and shall immediately inform the plant protection services of other contracting Governments and FAO.

d) If a contracting Government requires consignment of particular products to be imported only through specified points of entry, such points shall be so selected as not unnecessarily to impede international commerce. The contracting Government shall publish a list of such points of entry and communicate it to the plant protection services of other contracting Governments and to FAO. Such restrictions on points of entry shall not be made unless the plants or plant products concerned are required to be accompanied by phytosanitary certificates or to be

submitted to inspection or treatment.

e) Any inspection by the plant protection service of a contracting Government of consignments of plants offered for importation shall take place as promptly as possible with due regard to the perishability of the plants concerned. If any consignment is found not to conform to the requirements of the plant protection legislation of the importing country, the plant protection service of the exporting country shall be informed. If the consignment is destroyed, in whole or in part, an official report shall be forwarded immediately to the plant protection service of the exporting country.

f) Contracting Governments shall make provisions which, without endangering their own plant production, will reduce to a minimum the number of cases in which a phytosanitary certificate is required on the entry of plants or plant products not intended for planting, such as cereals, fruits, vegetables and cut flowers.

g) Contracting Governments may make provision for the importation for purposes of scientific research of plants and plant products and of specimens of plant pests and disease-causing organisms under conditions affording ample precaution against the risk of spreading plant diseases and pests.

3. The measures specified in this Article shall not be applied to goods in transit throughout the territories of contracting Governments unless such measures are necessary for the protection of their own plants.

#### **Article VII INTERNATIONAL CO-OPERATION**

The contracting Governments shall co-operate with one another to the fullest practicable extent in achieving the aims of this Convention, in particular as follows:

a) Each contracting Government agrees to co-operate with FAO in the establishment of a world reporting service on plant diseases and pests, making full use of the facilities and services of existing organizations for this purpose, and, when this is established, to furnish to FAO periodically the following information:

(i) reports on the occurrence, outbreak and spread of economically important pests and diseases of plants and plant products which may be of immediate or potential danger;(ii) information on means found to be effective in controlling the pests and diseases of plants and plant products.

b) Each contracting Government shall, as far as is practicable, participate in any special campaigns for combating particular destructive pests or diseases which may seriously threaten crop production and need international action to meet the emergencies.

#### **Article VIII REGIONAL PLANT PROTECTION ORGANIZATION**

1. The contracting Governments undertake to co-operate with one another in establishing regional plant protection organizations in appropriate areas.

2. The regional plant protection organizations shall function as the co-ordinating bodies in the areas covered and shall participate in various activities to achieve the objectives of this Convention.

#### **Article IX SETTLEMENT OF DISPUTES**

1. If there is any dispute regarding the interpretation or application of this Convention, or if a contracting Government considers that any action by another contracting Government is in conflict with the obligations of the latter under Articles V and VI of this Convention, especially regarding the basis of prohibiting or restricting the imports of plants or plant products coming from its territories, the Government or Governments concerned may request the Director-General of FAO to appoint a committee to consider the question in dispute.

2. The Director-General of FAO shall thereupon, after consultation with the Governments concerned, appoint a committee of experts which shall include representatives of those Governments. This committee shall consider the question in dispute, taking into account all documents and other forms of evidence submitted by the Governments concerned. This committee shall submit a report to the Director-General of FAO who shall transmit it to the Governments concerned, and to other contracting Governments.

3. The contracting Governments agree that the recommendations of such a committee, while not binding in character, will become the basis for renewed consideration by the Governments concerned of the matter out of which the disagreement arose.

4. The Governments concerned shall share equally the expenses of the experts.

#### **Article X SUBSTITUTION OF PRIOR AGREEMENTS**

This Convention shall terminate and replace, between contracting Governments, the International Convention

respecting measures to be taken against the Phylloxera vastatrix of 3 November 1881, the additional Convention signed at Beme on 15 April 1889 and the International Convention for the Protection of Plants signed at Rome on 16 April 1929.

#### **Article XI TERRITORIAL APPLICATION**

1. Any Government may at the time of ratification or adherence or at any time thereafter communicate to the Director-General of FAO a declaration that this Convention shall extend to all or any of the territories for the international relations of which it is responsible, and this Convention shall be applicable to all territories specified in the declaration as from the thirtieth day after the receipt of the declaration by the Director-General.
2. Any Government which has communicated to the Director-General of FAO a declaration in accordance with paragraph 1 of this Article may at any time communicate a further declaration modifying the scope of any former declaration or terminating the application of the provisions of the present Convention in respect of any territory. Such modification or termination shall take effect as from the thirtieth day after the receipt of the declaration by the Director-General.
3. The Director-General of FAO shall inform all signatory and adhering Governments of any declaration received under this Article.

#### **Article XII RATIFICATION AND ADHERENCE**

1. This Convention shall be open for signature by all Governments until 1 May 1952 and shall be ratified at the earliest possible date. The instruments of ratification shall be deposited with the Director-General of FAO, who shall give notice of the date of deposit to each of the signatory Governments.
2. As soon as this Convention has come into force in accordance with Article XIV, it shall be open for adherence by non-signatory Governments. Adherence shall be effected by the deposit of an instrument of adherence with the Director-General of FAO, who shall notify all signatory and adhering Governments.

#### **Article XIII AMENDMENT**

1. Any proposal by a contracting Government for the amendment of this Convention shall be communicated to the Director-General of FAO.
2. Any proposal amendment of this Convention received by the Director-General of FAO from a contracting Government shall be presented to a regular or special session of the Conference of FAO for approval and, if the amendment involves important technical changes or imposes additional obligations on the contracting Governments, it shall be considered by an advisory committee of specialists convened by FAO prior to the Conference.
3. Notice of any proposed amendment of this Convention shall be transmitted to the contracting Governments by the Director-General of FAO not later than the time when the agenda of the session of the Conference at which the matter is to be considered is dispatched.
4. Any such proposed amendment of this Convention shall require the approval of the Conference of FAO and shall come into force as from the thirtieth day after acceptance by two-thirds of the contracting Governments. Amendments involving new obligations for contracting Governments, however, shall come into force in respect of each contracting Government only on acceptance by it and as from the thirtieth day after such acceptance.
5. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of FAO, who shall inform all contracting Governments of the receipt of acceptances and the entry into force of amendments.

#### **Article XV DENUNCIATION**

1. Any contracting Government may at any time give notice of denunciation of this Convention by notification addressed to the Director-General of FAO. The Director-General shall at once inform all signatory and adhering Governments.
2. Denunciation shall take effect one year from the date of receipt of the notification by the Director-General of FAO.

Done at Rome, Italy on the sixth day of December, one thousand nine hundred and fifty-one, in a single copy in the English, French and Spanish languages, each of which shall be of equal authenticity. The document shall be

deposited in the archives of the Food and Agriculture Organization of the United Nations. Certified copies shall be transmitted by the Director-General of the Food and Agriculture to each signatory and adhering Government.

In Witness Whereof the undersigned duly authorized to that effect, have signed this Convention on behalf of their respective Governments on the dates appearing opposite their signatures.

**ANNEX**

Model Phytosanitary Certificate  
Plant Protection Service of.....  
No.....

This is to certify that the plants, parts of plants or plant products described below or representative samples of them were thoroughly examined on (date) ..... by (name) ..... an authorized officer of the (service) ..... and were found to the best of his knowledge to be substantially free from injurious diseases and pests, and that the consignment is believed to conform with the current phytosanitary regulations of the importing country both as stated in the additional declaration hereon and otherwise. \_\_\_\_\_

Fumigation or disinfection treatment (if required by importing country):  
Date .....  
Duration of exposure.....  
Treatment .....  
Chemical and concentration .....

Additional declaration  
..... 19...  
..... (Signature)

**(Rank  
)**

(Stamp of the Service)

Description of the Consignment  
Name and address of exporter:.....  
Name and address of consignee: .....  
Number and description of packages: .....  
Distinguishing marks: .....  
Origin (if required by importing country):

Means of conveyance:.....  
Point of entry:.....  
Quantify and name of produce:.....

Botanical name (if required by importing country):

# Convention on the protection and use of transboundary watercourses and international lakes

**Done at Helsinki, on 17 March 1992**

## *Preamble*

The Parties to this Convention, *MINDFUL* that the protection and use of transboundary watercourses and international lakes are important and urgent tasks, the effective accomplishment of which can only be ensured by enhanced cooperation, *CONCERNED* over the existence and threats of adverse effects, in the short or long term, of changes in the conditions of transboundary watercourses and international lakes on the environment, economies and well-being of the member countries of the Economic Commission for Europe (ECE), *EMPHASIZING* the need for strengthened national and international measures to prevent, control and reduce the release of hazardous substances into the aquatic environment and to abate eutrophication and acidification, as well as pollution of the marine environment, in particular coastal areas, from land-based sources, *COMMENDING* the efforts already undertaken by the ECE Governments to strengthen cooperation, on bilateral and multilateral levels, for the prevention, control and reduction of transboundary pollution, sustainable water management, conservation of water resources and environmental protection, *RECALLING* the pertinent provisions and principles of the Declaration of the Stockholm Conference on the Human Environment, the Final Act of the Conference on Security and Cooperation in Europe (CSCE), the Concluding Documents of the Madrid and Vienna Meetings of Representatives of the Participating States of the CSCE, and the Regional Strategy for Environmental Protection and Rational Use of Natural Resources in ECE Member Countries covering the Period up to the Year 2000 and beyond, Conscious of the role of the United Nations Economic Commission for Europe in promoting international cooperation for the prevention, control and reduction of transboundary water pollution and sustainable use of transboundary waters, and in this regard recalling the ECE Declaration of Policy on Prevention and Control of Water Pollution, including Transboundary Pollution; the ECE Declaration of Policy on the Rational Use of Water; the ECE Principles Regarding Cooperation in the Field of Transboundary Waters; the ECE Charter on Groundwater Management; and the Code of Conduct on Accidental Pollution of Transboundary Inland Waters, *REFERRING* to decisions I (42) and I (44) adopted by the Economic Commission for Europe at its forty-second and forty-fourth sessions, respectively, and the outcome of the CSCE Meeting on the Protection of the Environment (Sofia, Bulgaria, 16 October - 3 November 1989), *EMPHASIZING* that cooperation between member countries in regard to the protection and use of transboundary waters shall be implemented primarily through the elaboration of agreements between countries bordering the same waters, especially where no such agreements have yet been reached, *HAVE AGREED* as follows:

## **Article 1** *Definitions*

For the purposes of this Convention,

1. "Transboundary waters" means any surface or ground waters which mark, cross or are located on boundaries between two or more States; wherever transboundary waters flow directly into the sea, these transboundary waters end at a straight line across their respective mouths between points on the low-water line of their banks;
2. "Transboundary impact" means any significant adverse effect on the environment resulting from a change in the conditions of transboundary waters caused by a human activity, the physical origin of which is situated wholly or in part within an area under the jurisdiction of a Party, within an area under the jurisdiction of another Party. Such effects on the environment include effects on human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; they also include effects on the cultural heritage or socio-economic conditions resulting from alterations to those factors;

3. "Party" means, unless the text otherwise indicates, a Contracting Party to this Convention;
4. "Riparian Parties" means the Parties bordering the same transboundary waters;
5. "Joint body" means any bilateral or multilateral commission or other appropriate institutional arrangements for cooperation between the Riparian Parties;
6. "Hazardous substances" means substances which are toxic, carcinogenic, mutagenic, teratogenic or bio-accumulative, especially when they are persistent;
7. "Best available technology" (the definition is contained in annex I to this Convention).

**PART I**  
***PROVISIONS RELATING TO ALL PARTIES***

**Article 2 *General Provisions***

1. The Parties shall take all appropriate measures to prevent, control and reduce any transboundary impact.
2. The Parties shall, in particular, take all appropriate measures:
  - a) To prevent, control and reduce pollution of waters causing or likely to cause transboundary impact;
  - b) To ensure that transboundary waters are used with the aim of ecologically sound and rational water management, conservation of water resources and environmental protection;
  - c) To ensure that transboundary waters are used in a reasonable and equitable way, taking into particular account their transboundary character, in the case of activities which cause or are likely to cause transboundary impact;
  - d) To ensure conservation and, where necessary, restoration of ecosystems.
3. Measures for the prevention, control and reduction of water pollution shall be taken, where possible, at source.
4. These measures shall not directly or indirectly result in a transfer of pollution to other parts of the environment.
5. In taking the measures referred to in paragraphs 1 and 2 of this article, the Parties shall be guided by the following principles:
  - a) The precautionary principle, by virtue of which action to avoid the potential transboundary' impact of the release of hazardous substances shall not be postponed on the ground that scientific research has not fully proved a causal link between those substances, on the one hand, and the potential transboundary impact, on the other hand;
  - b) The polluter-pays principle, by virtue of which costs of pollution prevention, control and reduction measures shall be borne by the polluter;
  - c) Water resources shall be managed so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs.
6. The Riparian Parties shall cooperate on the basis of equality and reciprocity, in particular through bilateral and multilateral agreements, in order to develop harmonized policies, programmes and strategies covering the relevant catchment areas, or parts thereof, aimed at the prevention, control and reduction of transboundary impact and aimed at the protection of the environment of transboundary waters or the environment influenced by such waters, including the marine environment.
7. The application of this Convention shall not lead to the deterioration of environmental conditions nor lead to increased transboundary impact.
8. The provisions of this Convention shall not affect the right of Parties individually or jointly to adopt and implement more stringent measures than those set down in this Convention.
9. To prevent, control and reduce transboundary impact, the Parties shall develop, adopt, implement and, as far as possible, render compatible relevant legal, administrative, economic, financial and technical measures, in order to ensure, inter alia, that:
  - a) The emission of pollutants is prevented, controlled and reduced at source through the application of, inter

alia, low- and non-waste technology;

- b) Transboundary waters are protected against pollution from point sources through the prior licensing of waste-water discharges by the competent national authorities, and that the authorized discharges are monitored and controlled;
- c) Limits for waste-water discharges stated in permits are based on the best available technology for discharges of hazardous substances;
- d) Stricter requirements, even leading to prohibition in individual cases, are imposed when the quality of the receiving water or the ecosystem so requires;
- e) At least biological treatment or equivalent processes are applied to municipal waste water, where necessary in a step-by-step approach;
- f) Appropriate measures are taken, such as the application of the best available technology, in order to reduce nutrient inputs from industrial and municipal sources;
- g) Appropriate measures and best environmental practices are developed and implemented for the reduction of inputs of nutrients and hazardous substances from diffuse sources, especially where the main sources are from agriculture (guidelines for developing best environmental practices are given in annex II to this Convention);
- h) Environmental impact assessment and other means of assessment are applied;
- i) Sustainable water-resources management, including the application of the ecosystems approach, is promoted;
- j) Contingency planning is developed;
- k) Additional specific measures are taken to prevent the pollution of groundwaters;
- l) The risk of accidental pollution is minimized.

1. To this end, each Party shall set emission limits for discharges from point sources into surface waters based on the best available technology, which are specifically applicable to individual industrial sectors or industries from which hazardous substances derive. The appropriate measures mentioned in paragraph 1 of this article to prevent, control and reduce the input of hazardous substances from point and diffuse sources into waters, may, inter alia, include total or partial prohibition of the production or use of such substances. Existing lists of such industrial sectors or industries and of such hazardous substances in international conventions or regulations, which are applicable in the area covered by this Convention, shall be taken into account.

2. In addition, each Party shall define, where appropriate, water-quality objectives and adopt water-quality criteria for the purpose of preventing, controlling and reducing transboundary impact. General guidance for developing such objectives and criteria is given in annex III to this Convention. When necessary, the Parties shall endeavour to update this annex.

#### **Article 4 Monitoring**

The Parties shall establish programmes for monitoring the conditions of transboundary waters.

#### **Article 5 Research And Development**

The Parties shall cooperate in the conduct of research into and development of effective techniques for the prevention, control and reduction of transboundary impact. To this effect, the Parties shall, on a bilateral and/or multilateral basis, taking into account research activities pursued in relevant international forums, endeavour to initiate or intensify specific research programmes, where necessary, aimed, inter alia, at:

- a) Methods for the assessment of the toxicity of hazardous substances and the noxiousness of pollutants;
- b) Improved knowledge on the occurrence, distribution and environmental effects of pollutants and the processes involved;
- c) The development and application of environmentally sound technologies, production and consumption patterns;
- d) The phasing out and/or substitution of substances likely to have transboundary impact;
- e) Environmentally sound methods of disposal of hazardous substances;



- f) Special methods for improving the conditions of transboundary waters;
  - g) The development of environmentally sound water-construction works and water-regulation techniques;
  - h) The physical and financial assessment of damage resulting from transboundary impact.
- The results of these research programmes shall be exchanged among the Parties in accordance with article 6 of this Convention.

#### **Article 6** *Exchange Of Information*

The Parties shall provide for the widest exchange of information, as early as possible, on issues covered by the provisions of this Convention.

#### **Article 7** *Responsibility And Liability*

The Parties shall support appropriate international efforts to elaborate rules, criteria and procedures in the field of responsibility and liability.

#### **Article 8** *Protection Of Information*

The provisions of this Convention shall not affect the rights or the obligations of Parties in accordance with their national legal systems and applicable supranational regulations to protect information related to industrial and commercial secrecy, including intellectual property, or national security.

## PART II PROVISIONS RELATING TO RIPARIAN PARTIES

#### **Article 9** *Bilateral And Multilateral Cooperation*

1. The Riparian Parties shall on the basis of equality and reciprocity enter into bilateral or multilateral agreements or other arrangements, where these do not yet exist, or adapt existing ones, where necessary to eliminate the contradictions with the basic principles of this Convention, in order to define their mutual relations and conduct regarding the prevention, control and reduction of transboundary impact. The Riparian Parties shall specify the catchment area, or part(s) thereof, subject to cooperation. These agreements or arrangements shall embrace relevant issues covered by this Convention, as well as any other issues on which the Riparian Parties may deem it necessary to cooperate.
2. The agreements or arrangements mentioned in paragraph 1 of this article shall provide for the establishment of joint bodies. The tasks of these joint bodies shall be, inter alia, and without prejudice to relevant existing agreements or arrangements, the following:
  - a) To collect, compile and evaluate data in order to identify pollution sources likely to cause transboundary impact;
  - b) To elaborate joint monitoring programmes concerning water quality and quantity;
  - c) To draw up inventories and exchange information on the pollution sources mentioned in paragraph 2 (a) of this article;
  - d) To elaborate emission limits for waste water and evaluate the effectiveness of control programmes;
  - e) To elaborate joint water-quality objectives and criteria having regard to the provisions of article 3, paragraph 3 of this Convention, and to propose relevant measures for maintaining and, where necessary, improving the existing water quality;
  - f) To develop concerted action programmes for the reduction of pollution loads from both point sources (e.g. municipal and industrial sources) and diffuse sources (particularly from agriculture);
  - g) To establish warning and alarm procedures;
  - h) To serve as a forum for the exchange of information on existing and planned uses of water and related installations that are likely to cause transboundary impact;

- i) To promote cooperation and exchange of information on the best available technology in accordance with the provisions of article 13 of this Convention, as well as to encourage cooperation in scientific research programmes;
  - j) To participate in the implementation of environmental impact assessments relating to transboundary waters, in accordance with appropriate international regulations.
3. In cases where a coastal State, being Party to this Convention, is directly and significantly affected by transboundary impact, the Riparian Parties can, if they all so agree, invite that coastal State to be involved in an appropriate manner in the activities of multilateral joint bodies established by Parties riparian to such transboundary waters.
4. Joint bodies according to this Convention shall invite joint bodies, established by coastal States for the protection of the marine environment directly affected by transboundary impact, to cooperate in order to harmonize their work and to prevent, control and reduce the transboundary impact.
5. Where two or more joint bodies exist in the same catchment area, they shall endeavour to coordinate their activities in order to strengthen the prevention, control and reduction of transboundary impact within that catchment area.

#### **Article 10** *Consultations*

Consultations shall be held between the Riparian Parties on the basis of reciprocity, good faith and good-neighbourliness, at the request of any such Party. Such consultations shall aim at cooperation regarding the issues covered by the provisions of this Convention. Any such consultations shall be conducted through a joint body established under article 9 of this Convention, where one exists.

#### **Article 11** *Joint Monitoring And Assessment*

1. In the framework of general cooperation mentioned in article 9 of this Convention, or specific arrangements, the Riparian Parties shall establish and implement joint programmes for monitoring the conditions of transboundary waters, including floods and ice drifts, as well as transboundary impact.
2. The Riparian Parties shall agree upon pollution parameters and pollutants whose discharges and concentration in transboundary waters shall be regularly monitored.
3. The Riparian Parties shall, at regular intervals, carry out joint or coordinated assessments of the conditions of transboundary waters and the effectiveness of measures taken for the prevention, control and reduction of transboundary impact. The results of these assessments shall be made available to the public in accordance with the provisions set out in article 16 of this Convention.
4. For these purposes, the Riparian Parties shall harmonize rules for the setting up and operation of monitoring programmes, measurement systems, devices, analytical techniques, data processing and evaluation procedures, and methods for the registration of pollutants discharged.

In the framework of general cooperation mentioned in article 9 of this Convention, or specific arrangements, the Riparian Parties shall undertake specific research and development activities in support of achieving and maintaining the water-quality objectives and criteria which they have agreed to set and adopt.

#### **Article 13**

1. The Riparian Parties shall, within the framework of relevant agreements or other arrangements according to article 9 of this Convention, exchange reasonably available data, inter alia, on:
- a) Environmental conditions of transboundary waters;
  - b) Experience gained in the application and operation of best available technology and results of research and development;
  - c) Emission and monitoring data;

- d) Measures taken and planned to be taken to prevent, control and reduce transboundary impact;
  - e) Permits or regulations for waste-water discharges issued by the competent authority or appropriate body.
2. In order to harmonize emission limits, the Riparian Parties shall undertake the exchange of information on their national regulations.
  3. If a Riparian Party is requested by another Riparian Party to provide data or information that is not available, the former shall endeavour to comply with the request but may condition its compliance upon the payment, by the requesting Party, of reasonable charges for collecting and, where appropriate, processing such data or information.
  4. For the purposes of the implementation of this Convention, the Riparian Parties shall facilitate the exchange of best available technology, particularly through the promotion of: the commercial exchange of available technology; direct industrial contacts and cooperation, including joint ventures; the exchange of information and experience; and the provision of technical assistance. The Riparian Parties shall also undertake joint training programmes and the organization of relevant seminars and meetings.

#### **Article 14** *Warning And Alarm Systems*

The Riparian Parties shall without delay inform each other about any critical situation that may have transboundary impact. The Riparian Parties shall set up, where appropriate, and operate coordinated or joint communication, warning and alarm systems with the aim of obtaining and transmitting information. These systems shall operate on the basis of compatible data transmission and treatment procedures and facilities to be agreed upon by the Riparian Parties. The Riparian Parties shall inform each other about competent authorities or points of contact designated for this purpose.

#### **Article 15** *Mutual Assistance*

1. If a critical situation should arise, the Riparian Parties shall provide mutual assistance upon request, following procedures to be established in accordance with paragraph 2 of this article.
2. The Riparian Parties shall elaborate and agree upon procedures for mutual assistance addressing, inter alia, the following issues:
  - a) The direction, control, coordination and supervision of assistance;
  - b) Local facilities and services to be rendered by the Party requesting assistance, including, where necessary, the facilitation of border-crossing formalities;
  - c) Arrangements for holding harmless, indemnifying and/or compensating the assisting Party and/or its personnel, as well as for transit through territories of third Parties, where necessary;
  - d) Methods of reimbursing assistance services.
1. The Riparian Parties shall ensure that information on the conditions of transboundary waters, measures taken or planned to be taken to prevent, control and reduce transboundary impact, and the effectiveness of those measures, is made available to the public. For this purpose, the Riparian Parties shall ensure that the following information is made available to the public:
  - a) Water-quality objectives;
  - b) Permits issued and the conditions required to be met;
  - c) Results of water and effluent sampling carried out for the purposes of monitoring and assessment, as well as results of checking compliance with the water-quality objectives or the permit conditions.
2. The Riparian Parties shall ensure that this information shall be available
  - to the public at all reasonable times for inspection free of charge, and shall provide members of the public with reasonable facilities for obtaining from the Riparian Parties, on payment of reasonable charges, copies of such information.

## PART III

### INSTITUTIONAL AND FINAL PROVISIONS

#### *Article 17 Meeting Of Parties*

1. The first meeting of the Parties shall be convened no later than one year after the date of the entry into force of this Convention. Thereafter, ordinary meetings shall be held every three years, or at shorter intervals as laid down in the rules of procedure. The Parties shall hold an extraordinary meeting if they so decide in the course of an ordinary meeting or at the written request of any Party, provided that, within six months of it being communicated to all Parties, the said request is supported by at least one third of the Parties.
2. At their meetings, the Parties shall keep under continuous review the implementation of this Convention, and, with this purpose in mind, shall:
  - a) Review the policies for and methodological approaches to the protection and use of transboundary waters of the Parties with a view to further improving the protection and use of transboundary waters;
  - b) Exchange information regarding experience gained in concluding and implementing bilateral and multilateral agreements or other arrangements regarding the protection and use of transboundary waters to which one or more of the Parties are party;
  - c) Seek, where appropriate, the services of relevant ECE bodies as well as other competent international bodies and specific committees in all aspects pertinent to the achievement of the purposes of this Convention;
  - d) At their first meeting, consider and by consensus adopt rules of procedure for their meetings;
  - e) Consider and adopt proposals for amendments to this Convention;
  - f) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention.

#### *Article 18 Right To Vote*

1. Except as provided for in paragraph 2 of this article, each Party to this Convention shall have one vote.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

#### **Article 19 Secretariat**

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

- a) The convening and preparing of meetings of the Parties;
- b) The transmission to the Parties of reports and other information received in accordance with the provisions of this Convention;
- c) The performance of such other functions as may be determined by the Parties.

#### **Article 20 Annexes**

Annexes to this Convention shall constitute an integral part thereof.

#### **Article 21 Amendments To The Convention**

1. Any Party may propose amendments to this Convention.
2. Proposals for amendments to this Convention shall be considered at a meeting of the Parties.
3. The text of any proposed amendment to this Convention shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate it to all Parties at least ninety days before the meeting at which it is proposed for adoption.
4. An amendment to the present Convention shall be adopted by consensus of the representatives of the Parties to this Convention present at a meeting of the Parties, and shall enter into force for the Parties to the Convention which have accepted it on the ninetieth day after the date on which two thirds of those Parties have

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

#### **Article 22**

1. If a dispute arises between two or more Parties about the interpretation or application of this Convention, they shall seek a solution by negotiation or by any other means of dispute settlement acceptable to the parties to the dispute.
2. When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:
  - a) Submission of the dispute to the International Court of Justice;
  - b) Arbitration in accordance with the procedure set out in annex IV.
3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of this article, the dispute may be submitted only to the International Court of Justice, unless the parties agree otherwise.

#### **Article 23 *Signature***

This Convention shall be open for signature at Helsinki from 17 to 18 March 1992 inclusive, and thereafter at United Nations Headquarters in New York until 18 September

1992, by States members of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence over matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

#### **Article 24 *Depositary***

The Secretary-General of the United Nations shall act as the Depositary of this Convention.

#### **Article 25 *Ratification, Acceptance, Approval And Accession***

1. This Convention shall be subject to ratification, acceptance or approval by signatory States and regional economic integration organizations.
2. This Convention shall be open for accession by the States and organizations referred to in article 23.
3. Any organization referred to in article 23 which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under this Convention concurrently.
4. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in article 23 shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depositary of any substantial modification to the extent of their competence.

#### **Article 26 *Entry Into Force***

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.
2. For the purposes of paragraph 1 of this article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of such an organization.
3. For each State or organization referred to in article 23 which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

#### **Article 27 *Withdrawal***

At any time after three years from the date on which this Convention has come into force with respect to a Party, that Party may withdraw from the Convention by giving written notification to the Depository. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depository.

#### **Article 28 *Authentic Texts***

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

*IN WITNESS WHEREOF* the undersigned, being duly authorized thereto, have signed this Convention.

*DONE* at Helsinki, this seventeenth day of March one thousand nine hundred and ninety-two.

### **ANNEX I DEFINITION OF THE TERM "BEST AVAILABLE TECHNOLOGY"**

1. The term "best available technology" is taken to mean the latest stage of development of processes, facilities or methods of operation which indicate the practical suitability of a particular measure for limiting discharges, emissions and waste. In determining whether a set of processes, facilities and methods of operation constitute the best available technology in general or individual cases, special consideration is given to:
  - a) Comparable processes, facilities or methods of operation which have recently been successfully tried out;
  - b) Technological advances and changes in scientific knowledge and understanding;
  - c) The economic feasibility of such technology;
  - d) Time limits for installation in both new and existing plants;
  - e) The nature and volume of the discharges and effluents concerned;
  - f) Low- and non-waste technology.
2. It therefore follows that what is "best available technology" for a particular process will change with time in the light of technological advances, economic and social factors, as well as in the light of changes in scientific knowledge and understanding.

### **ANNEX II GUIDELINES FOR DEVELOPING BEST ENVIRONMENTAL PRACTICES**

3. In selecting for individual cases the most appropriate combination of measures which may constitute the best environmental practice, the following graduated range of measures should be considered:
  - a) Provision of information and education to the public and to users about the environmental consequences of the choice of particular activities and products, their use and ultimate disposal;

- b) The development and application of codes of good environmental practice which cover all aspects of the product's life;
  - c) Labels informing users of environmental risks related to a product, its use and ultimate disposal;
  - d) Collection and disposal systems available to the public;
  - e) Recycling, recovery and reuse;
  - f) Application of economic instruments to activities, products or groups of products;
  - g) A system of licensing, which involves a range of restrictions or a ban.
4. in determining what combination of measures constitute best environmental practices, in general or in individual cases, particular consideration should be given to:
- a) The environmental hazard of:
    - i) **The product;**
    - ii) **The product's production;**
    - iii) **The product's use;**
    - iv) **The product's ultimate disposal;**
  - b) Substitution by less polluting processes or substances;
  - c) Scale of use;
  - d) Potential environmental benefit or penalty of substitute materials or activities;
  - e) Advances and changes in scientific knowledge and understanding;
  - f) Time limits for implementation;
  - g) Social and economic implications.
5. It therefore follows that best environmental practices for a particular source will change with time in the light of technological advances, economic and social factors, as well as in the light of changes in scientific knowledge and understanding.

### **ANNEX III**

#### **GUIDELINES FOR DEVELOPING WATER-QUALITY OBJECTIVES AND CRITERIA**

Water-quality objectives and criteria shall:

- a) Take into account the aim of maintaining and, where necessary, improving the existing water quality;
- b) Aim at the reduction of average pollution loads (in particular hazardous substances) to a certain degree within a certain period of time;
- c) Take into account specific water-quality requirements (raw water for drinking-water purposes, irrigation, etc.);
- d) Take into account specific requirements regarding sensitive and specially protected waters and their environment, e.g. lakes and groundwater resources;
- e) Be based on the application of ecological classification methods and chemical indices for the medium- and long-term review of water-quality maintenance and improvement;
- f) Take into account the degree to which objectives are reached and the additional protective measures, based on emission limits, which may be required in individual cases.

### **ANNEXIV**

#### **ARBITRATION**

1. In the event of a dispute being submitted for arbitration pursuant to article 22, paragraph 2 of this Convention, a party or parties shall notify the secretariat of the subject-matter of arbitration and indicate, in particular, the articles of this Convention whose interpretation or application is at issue. The secretariat shall forward the information received to all Parties to this Convention.
2. The arbitral tribunal shall consist of three members. Both the claimant party or parties and the other party or parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common

agreement the third arbitrator, who shall be the president of the arbitral tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. If the president of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Executive Secretary of the Economic Commission for Europe shall, at the request of either party to the dispute, designate the president within a further two-month period.

4. If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may so inform the Executive Secretary of the Economic Commission for Europe, who shall designate the president of the arbitral tribunal within a further two-month period. Upon designation, the president of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the president shall so inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

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

6. Any arbitral tribunal constituted under the provisions set out in this annex shall draw up its own rules of procedure.

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

8. The tribunal may take all appropriate measures to establish the facts.

9. The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

a) Provide it with all relevant documents, facilities and information;

b) Enable it, where necessary, to call witnesses or experts and receive their evidence.

10. The parties and the arbitrators shall protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

11. The arbitral tribunal may, at the request of one of the parties, recommend interim measures of protection.

12. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to render its final decision. Absence of a party or failure of a party to defend its case shall not constitute a bar to the proceedings.

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

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

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

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

17. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the secretariat. The secretariat will forward the information received to all Parties to this Convention. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.





# Convention on Wetlands of International Importance especially as Waterfowl Habitat 1971

Ramsar, 02 February 1971

The Contracting Parties, *RECOGNIZING* the interdependence of man and his environment; *CONSIDERING* the fundamental ecological functions of wetlands as regulators of water regimes and as habitats supporting a characteristic flora and fauna, especially waterfowl; *BEING CONVINCED* that wetlands constitute a resource of great economic, cultural, scientific and recreational value, the loss of which would be irreparable; *DESIRING* to stem the progressive encroachment on and loss of wetlands now and in the future; *RECOGNIZING* that waterfowl in their seasonal migrations may transcend frontiers and so should be regarded as an international resource; *BEING CONFIDENT* that the conservation of wetlands and their flora and fauna can be ensured by combining far-sighted national policies with coordinated international action; *HAVE AGREED* as follows:

## Article 1

1. For the purpose of this Convention wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.
2. For the purpose of this Convention waterfowl are birds ecologically dependent on wetlands.

## Article 2

1. Each Contracting Party shall designate suitable wetlands within its territory for inclusion in a List of Wetlands of International Importance, herein- after referred to as 'the List' which is maintained by the bureau established under Article 8. The boundaries of each wetland shall be precisely described and also delimited on a map and they may incorporate riparian and coastal zones adjacent to the wetlands, and islands or bodies of marine water deeper than six metres at low tide lying within the wetlands, especially where these have importance as waterfowl habitat.
2. Wetlands should be selected for the List on account of their international significance in terms of ecology, botany, zoology, limnology or hydrology. In the first instance wetlands of international importance to waterfowl at any season should be included.
3. The inclusion of a wetland in the List does not prejudice the exclusive sovereign rights of the Contracting Party in whose territory the wetland is situated.
4. Each Contracting Party shall designate at least one wetland to be included in the List when signing this Convention or when depositing its instrument of ratification or accession, as provided in Article 9.
5. Any Contracting Party shall have the right to add to the List further wetlands situated within its territory, to extend the boundaries of those wetlands already included by it in the List, or, because of its urgent national interests, to delete or restrict the boundaries of wetlands already included by it in the List and shall, at the earliest possible time, inform the organization or government responsible for the continuing bureau duties specified in Article 8 of any such changes.
6. Each Contracting Party shall consider its international responsibilities for the conservation, management and wise use of migratory stocks of waterfowl, both when designating entries for the List and when exercising its right to change entries in the List relating to wetlands within its territory.

## ARTICLE 3

*Depositary:*

UNESCO  
Opened for Signature:

Belgium	19 March 1975
El Salvador	14 May 1998
Finland	19 April 1973
Germany (Federal Republic of)	28 November
Iran	<sup>1974</sup> 25 August 1972
Ireland	14 February 1975
Italy	10 January 1975
Netherlands	7 July 1975
Pakistan	17 November
Portugal	<sup>1975</sup> 15 July 1976
Switzerland	21 February 1974
Union of Soviet Socialist Republics	13 February 1974
United Kingdom	6 September 1973

Entry into force :

21 December 1975, in accordance with Article 10

Authoritative texts : English

Registration at the UN :

17 February 1976, No. 14583

States Parties

List in alphabetical order

List in chronological order

Declarations and Reservations:

*BULGARIA*

(Translation) The Government of the People's Republic of Bulgaria considers it necessary to state that Article 9 of the Convention restricts the possibility of some States to become parties to it and contradicts the universally recognized principle of the sovereign equality of States. (See letter LA/Depositary/1975/5 of 21 November 1975)

*DENMARK*

(Translation). In spite of the great importance attached by the Danish Government to the Yadehavet (a marshy maritime plain situation in the southern part of the west coast of Jutland) as a wetland, it has decided not to include the Yadehavet for the time being in the above-mentioned List.

"This decision has been taken on account of the negotiations under way between the Governments of the Kingdom of Denmark and the Federal Republic of Germany concerning the construction of an advanced dyke in that area, and also on account of the trilateral negotiations between the Governments of Denmark, the Netherlands and the Federal Republic of Germany concerning a special agreement for the protection of the Vadehavet. The Danish

Government is convinced, however, that the Vadehavet, or certain parts thereof, should be included in the aforesaid List once the above-mentioned negotiations have been concluded". (See letter LA/Depositary /1977/27 of 30 December 1977.)

*GERMANY (FEDERAL REPUBLIC OF)*

"The Federal Republic of Germany in becoming a party to the Convention interprets and understands the provisions of this Convention as being of a nature not to prevent measures to be taken to protect the population of the regions concerned against floods nor to interfere with well-established rights the inhabitants of these regions may have." (See letter LA/Depositary/1976/13 of 21 June 1976)

*HUNGARY*

"Article 9 of the Convention, which restricts the freedom of certain countries to become Parties to the Convention, contradicts the generally accepted principle of the sovereignty of States." (See letter LA/Depositary/1979/12 of 13 July 1979)

*SYRIAN ARAB REPUBLIC*

"Accession to this Convention shall not under any circumstances be taken to mean that Syria recognizes Israel or establishes with it any relations that may derive from the provisions of this Convention". (See letter LA/Depositary/1998/05)

*UNION OF SOVIET SOCIALIST REPUBLICS [AT THE TIME OF SIGNATURE]*

(Translation) "The Government of the Union of Soviet Socialist Republics deems it necessary to declare that the provisions of Article 9 of the Convention, restricting the possibility of some countries becoming Parties to it, contradict the universally recognized principle of the sovereign equality of States." (See letter CL/2365 of 28 May 1974.) in its instrument of ratification, the Government of the Union of Soviet Socialist Republics indicated that it ratified the Convention while maintaining that declaration. (See letter LA/Depositary/1976/18 of 31 December 1976.)

Territorial Application:

Notification by	Date of receipt of notification	Extension to
Netherlands	12 October 1983	The Kingdom in Europe and the Netherlands Antilles (see LA/DEP/1983/32)
	16 January 1986	Aruba (see note 1)
New-Zealand	13 July 1976	Cook Islands (including Niue) Tokelau Islands (see letter LA/Depositary/1976/23 of 13 October 1976)
United Kingdom	5 January 1976	United Kingdom of Great Britain and Northern Ireland, Antigua, Bailiwick of Jersey, Belize, Bermuda, Cayman Islands, Falkland Islands and dependencies (see note 2), Gibraltar, Montserrat, Pitcairn Islands, St Helena and dependencies, Solomon Islands, Turks and Caicos Islands, Brunei (see letter LA/Depositary/1976/5 of 9 February 1976) 10 May 1979 Hong Kong (see letter LA/States Parties/1976/16 of II July 1979) (see note 3)
	8 September 1998	Bailiwick of Guernsey and British Indian Ocean Territory

28 June 2002

United Kingdom Sovereign Base Areas of  
Dhekelia and Akrotiri (see letter  
LA/Depositary/2002/30)

NOTES:

- 1) Notification of the Netherlands (16 January 1986, Letter LA/DEP/1986/5): The island of Aruba, which is at present still part of the Netherlands Antilles, will obtain internal autonomy as a country within the Kingdom of Netherlands as of 1 January 1986. Consequently the Kingdom will from then on no longer consist of two countries, namely the Netherlands (The Kingdom in Europe) and the Netherlands Antilles (situated in the Caribbean region), but will consist of three countries, namely the said two countries and the country of Aruba. As the changes being made on 1 January 1986 concern a shift only in the internal constitutional relations within the Kingdom of the Netherlands, and as the Kingdom as such will remain the subject under international law with treaties are concluded, the said changes will have no consequences in international law regarding to treaties concluded by the Kingdom which already apply to the Netherlands Antilles, including Aruba. These treaties will remain in force for Aruba in its capacity of country within the Kingdom. Therefore these treaties will as of 1 January 1986, as concerns the Kingdom of the Netherlands, apply to the Netherlands Antilles (without Aruba) and Aruba. Consequently the treaties referred to in the annex, to which the Kingdom of the Netherlands is a party and which apply to the Netherlands Antilles, will as of 1 January 1986 as concerns the Kingdom of the of the Netherlands apply to the Netherlands Antilles and Aruba.
- 2) With regard to this declaration by the United Kingdom, the Government of Argentina, by a communication dated 26 July 1976, contested the mention, in the instrument deposited by the United Kingdom, of the Malouines Islands, the South Georgia Islands and the South Sandwich Islands under the erroneous denomination of Falkland Islands and dependencies' and their being presented as part of the overseas territories which the United Kingdom administrates, and it declared that this mention in no way affected the Argentine Government's rights over these islands, which are an integral part of its territory and which are under forceful occupation by a foreign power, a situation concerning which the General Assembly of the United Nations, by Resolutions 2065(XX) and 3160(XXVIII) noted a conflict of sovereignty over the archipelago and asked that negotiations be opened immediately between the Argentine Republic and the occupying State in order to find a definitive solution to that conflict. (See letter LA/Depositary/1976/25 of 18 November 1976.)
- 3) By a communication dated 6 August 1979, the Government of the United Kingdom made it known that: "The United Kingdom's interpretation of paragraph 2 of Article 10 is that the Convention will come into force for Hong Kong from 10 September 1979". (See letter LA/States Parties/1979/19 of 12 October 1979.)

# **Basel convention on the control of transboundary movements of hazardous wastes and their disposal (1989)**

**Entered into Force May 5,1992**

## **PREAMBLE**

The Parties to this Convention,

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

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

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

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

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

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

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

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

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

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

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

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

Taking into account the Declaration of the United Nations Conference on the Human Environment (Stockholm, 1972), the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous

Wastes adopted by the Governing Council of the United Nations Environment Programme (UNEP) by decision 14/30 of 17 June 1987, the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods (formulated in 1957 and updated biennially), relevant recommendations, declarations, instruments and regulations adopted within the United Nations system and the work and studies done within other international and regional organizations,

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

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

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

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

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

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

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

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

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

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

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

## **HAVE AGREED AS FOLLOWS:**

### **Article 1 Scope of the Convention**

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

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

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

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

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

4. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another

international instrument, are excluded from the scope of this Convention.

## **Article 2 Definitions**

For the purposes of this Convention:

1. "Wastes" are substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;
2. "Management" means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites;
3. "Transboundary movement" means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;
4. "Disposal" means any operation specified in Annex IV to this Convention;
5. "Approved site or facility" means a site or facility for the disposal of hazardous wastes or other wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;
6. "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification, as provided in Article 6;
7. "Focal point" means the entity of a Party referred to in Article 5 responsible for receiving and submitting information as provided for in Articles 13 and 16;
8. "Environmentally sound management of hazardous wastes or other wastes" means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;
9. "Area under the national jurisdiction of a State" means any land, marine area or airspace within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;
10. "State of export" means a Party from which a transboundary movement of hazardous wastes or other wastes is planned to be initiated or is initiated;
11. "State of import" means a Party to which a transboundary movement of hazardous wastes or other wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;
12. "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned or takes place;
13. "States concerned" means Parties which are States of export or import, or transit States, whether or not Parties;
14. "Person" means any natural or legal person;
15. "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported;
16. "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported;
17. "Carrier" means any person who carries out the transport of hazardous wastes or other wastes;
18. "Generator" means any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and/or control of those wastes;
19. "Disposer" means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes;
20. "Political and/or economic integration organization" means an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;
21. "Illegal traffic" means any transboundary movement of hazardous wastes or other wastes as specified in Article 9.

## **Article 3 National Definitions of Hazardous Wastes**

1. Each Party shall, within six months of becoming a Party to this Convention, inform the Secretariat of the



convention of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.

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

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

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

#### **Article 4 General Obligations**

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

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

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

2. Each Party shall take the appropriate measures to:

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

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

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

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

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

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

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

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

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

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

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

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

7. Furthermore, each Party shall:

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

(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement

be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

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

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

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

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

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

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

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

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

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

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

#### **Article 5 Designation of Competent Authorities and Focal Point**

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

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

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

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

#### **Article 6 Transboundary Movement between Parties**

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

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

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

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

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

4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not

allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

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

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

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

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

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

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

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

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

10. The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties.

11. Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party.

#### **Article 7 Transboundary Movement from a Party through States which are not Parties**

Paragraph 2 of Article 6 of the Convention shall apply mutatis mutandis to transboundary movement of hazardous wastes or other wastes from a Party through a State or States which are not Parties.

#### **Article 8 Duty to Re-import**

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

#### **Article 9 Illegal Traffic**

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

- (a) without notification pursuant to the provisions of this Convention to all States concerned; or
- (b) without the consent pursuant to the provisions of this Convention of a State concerned; or
- (c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or
- (d) that does not conform in a material way with the documents; or
- (e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law, shall be deemed to be illegal traffic.

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

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

(b) are otherwise disposed of in accordance with the provisions of this Convention, within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

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

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

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

#### **Article 10 International Co-operation**

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

2. To this end, the Parties shall:

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

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

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

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

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

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

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

#### **Article 11 Bilateral, Multilateral and Regional Agreements**

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

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 and those which they have entered into prior to the entry into force of this Convention for

them, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention.

#### **Article 12 Consultations on Liability**

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

#### **Article 13 Transmission of Information**

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

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

- (a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5;
- (b) Changes in their national definition of hazardous wastes, pursuant to Article 3; and, as soon as possible,
- (c) Decisions made by them not to consent totally or partially to the import of hazardous wastes or other wastes for disposal within the area under their national jurisdiction;
- (d) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes;
- (e) Any other information required pursuant to paragraph 4 of this Article.

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

- (a) Competent authorities and focal points that have been designated by them pursuant to Article 5;
- (b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including:
  - (i) The amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the response to notification;
  - (ii) The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods;
  - (iii) Disposals which did not proceed as intended;
  - (iv) Efforts to achieve a reduction of the amount of hazardous wastes or other wastes subject to transboundary movement;
- (c) Information on the measures adopted by them in implementation of this Convention;
- (d) Information on available qualified statistics which have been compiled by them on the effects on human health and the environment of the generation, transportation and disposal of hazardous wastes or other wastes;
- (e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;
- (f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them;
- (g) Information on disposal options operated within the area of their national jurisdiction;
- (h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and
- (i) Such other matters as the Conference of the Parties shall deem relevant.

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

#### **Article 14 Financial Aspects**

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

2. The Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of

emergency situations to minimize damage from accidents arising from transboundary movements of hazardous wastes and other wastes or during the disposal of those wastes.

### **Article 15 Conference of the Parties**

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.
2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.
3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties under this Convention.
4. The Parties at their first meeting shall consider any additional measures needed to assist them in fulfilling their responsibilities with respect to the protection and the preservation of the marine environment in the context of this Convention.
5. The Conference of the Parties shall keep under continuous review and evaluation the effective implementation of this Convention, and, in addition, shall:
  - (a) Promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes and other wastes;
  - (a) Consider and adopt, as required, amendments to this Convention and its annexes, taking into consideration, inter alia, available scientific, technical, economic and environmental information;
  - (b) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation and in the operation of the agreements and arrangements envisaged in Article 11;
  - (c) Consider and adopt protocols as required; and
  - (d) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention.
6. The United Nations, its specialized agencies, as well as any State not party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to hazardous wastes or other wastes which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the conference of the Parties.
7. The Conference of the Parties shall undertake three years after the entry into force of this Convention, and at least every six years thereafter, an evaluation of its effectiveness and, if deemed necessary, to consider the adoption of a complete or partial ban of transboundary movements of hazardous wastes and other wastes in light of the latest scientific, environmental, technical and economic information.

### **Article 16 Secretariat**

1. The functions of the Secretariat shall be:
  - (a) To arrange for and service meetings provided for in Articles 15 and 17;
  - (b) To prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11 and 13 as well as upon information derived from meetings of subsidiary bodies established under Article 15 as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;
  - (c) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;
  - (d) To ensure the necessary coordination with relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;
  - (e) To communicate with focal points and competent authorities established by the Parties in accordance with Article 5 of this Convention;
  - (f) To compile information concerning authorized national sites and facilities of Parties available for the disposal of their hazardous wastes and other wastes and to circulate this information among Parties;
  - (g) To receive and convey information from and to Parties on:
    - sources of technical assistance and training;
    - available technical and scientific know-how;

- sources of advice and expertise; and
  - availability of resources with a view to assisting them, upon request, in such areas as:
  - the handling of the notification system of this Convention;
  - the management of hazardous wastes and other wastes;
  - environmentally sound technologies relating to hazardous wastes and other wastes, such as low- and non-waste technology;
  - the assessment of disposal capabilities and sites;
  - the monitoring of hazardous wastes and other wastes; and
  - emergency responses;
- (h) To provide Parties, upon request, with information on consultants or consulting firms having the necessary technical competence in the field, which can assist them to examine a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes or other wastes with the relevant notification, and/or the fact that the proposed disposal facilities for hazardous wastes or other wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examination would not be at the expense of the Secretariat;
- (i) To assist Parties upon request in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic;
- (j) To co-operate with Parties and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; and
- (k) To perform such other functions relevant to the purposes of this Convention as may be determined by the Conference of the Parties.
2. The secretariat functions will be carried out on an interim basis by UNEP until the completion of the first meeting of the Conference of the Parties held pursuant to Article 15.
3. At its first meeting, the Conference of the Parties shall designate the Secretariat from among those existing competent intergovernmental organizations which have signified their willingness to carry out the secretariat functions under this Convention. At this meeting, the Conference of the Parties shall also evaluate the implementation by the interim Secretariat of the functions assigned to it, in particular under paragraph 1 above, and decide upon the structures appropriate for those functions.

#### **Article 17 Amendment of the Convention**

1. Any Party may propose amendments to this Convention and any Party to a protocol may propose amendments to that protocol. Such amendments shall take due account, inter alia, of relevant scientific and technical considerations.
2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the Signatories to this Convention for information.
3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval, formal confirmation or acceptance.
4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that protocol present and voting at the meeting shall suffice for their adoption.
5. Instruments of ratification, approval, formal confirmation or acceptance of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between Parties having accepted them on the ninetieth day after the receipt by the Depositary of their instrument of ratification, approval, formal confirmation or acceptance by at least three-fourths of the Parties who accepted the amendments to the protocol concerned, except as may otherwise be provided in such protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval, formal confirmation or acceptance of the amendments.
6. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

## **Article 18 Adoption and Amendment of Annexes**

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:
  - (a) Annexes to this Convention and its protocols shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs 2, 3 and 4;
  - (b) Any Party that is unable to accept an additional annex to this Convention or an annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;
  - (c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned, which have not submitted a notification in accordance with the provision of subparagraph (b) above.
3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical considerations.
4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention or to the protocol enters into force.

## **Article 19 Verification**

Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Convention may inform the Secretariat thereof, and in such an event, shall simultaneously and immediately inform, directly or through the Secretariat, the Party against whom the allegations are made. All relevant information should be submitted by the Secretariat to the Parties.

## **Article 20 Settlement of Disputes**

1. In case of a dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any protocol thereto, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.
2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute, if the parties to the dispute agree, shall be submitted to the International Court of Justice or to arbitration under the conditions set out in Annex VI on Arbitration. However, failure to reach common agreement on submission of the dispute to the International Court of Justice or to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by the means referred to in paragraph 1.
3. When ratifying, accepting, approving, formally confirming or acceding to this Convention, or at any time thereafter, a State or political and/or economic integration organization may declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:
  - (a) submission of the dispute to the International Court of Justice; and/or
  - (b) arbitration in accordance with the procedures set out in Annex VI. Such declaration shall be notified in writing to the Secretariat which shall communicate it to the Parties.

## **Article 21 Signature**

This Convention shall be open for signature by States, by Namibia represented by the United Nations Council for Namibia and by political and/or economic integration organizations, in Basel on 22 March 1989, at the Federal Department of Foreign Affairs of Switzerland in Berne from 23

March 1989 to 30 June 1989, and at United Nations Headquarters in New York from 1 July 1989 to 22 March 1990.



## **Article 22 Ratification, Acceptance, Formal Confirmation or Approval**

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

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

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

## **Article 23 Accession**

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

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

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

## **Article 24 Right to Vote**

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

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

## **Article 25 Entry into Force**

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

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

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

## **Article 26 Reservations and Declarations**

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

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

## **Article 27 Withdrawal**

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

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

### **Article 28 Depositary**

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

### **Article 29 Authentic texts**

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

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

Done at on the day of 1989

## **Annex I CATEGORIES OF WASTES TO BE CONTROLLED**

### Waste Streams

Y1 Clinical wastes from medical care in hospitals, medical centers and clinics Y2 Wastes from the production and preparation of pharmaceutical products Y3 Waste pharmaceuticals, drugs and medicines Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals Y6 Wastes from the production, formulation and use of organic solvents Y7 Wastes from heat treatment and tempering operations containing cyanides Y8 Waste mineral oils unfit for their originally intended use Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions

Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)

Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known Y15 Wastes of an explosive nature not subject to other legislation

Y16 Wastes from production, formulation and use of photographic chemicals and processing materials Y17 Wastes resulting from surface treatment of metals and plastics Y18 Residues arising from industrial waste disposal operations

### Wastes having as constituents:

Y19 Metal carbonyls Y20 Beryllium; beryllium compounds Y21 Hexavalent chromium compounds Y22 Copper compounds Y23 Zinc compounds Y24 Arsenic; arsenic compounds Y25 Selenium, selenium compounds Y26 Cadmium; cadmium compounds Y27 Antimony; antimony compounds Y28 Tellurium; tellurium compounds Y29 Mercury; mercury compounds Y30 Thallium; thallium compounds Y31 Lead, lead compounds

Y32 Inorganic fluorine compounds excluding calcium fluoride

Y33 Inorganic cyanides

Y34 Acidic solutions or acids in solid form

Y35 Basic solutions or bases in solid form

Y36 Asbestos (dust and fibres)

Y37 Organic phosphorous compounds

Y38 Organic cyanides

Y39 Phenols; phenol compounds including chlorophenols Y40 Ethers

Y41 Halogenated organic solvents Y42 Organic solvents excluding halogenated solvents Y43 Any congener of polychlorinated dibenzo-furan Y44 Any congener of polychlorinated dibenzo-p-dioxin

Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43,

Y44).

Annex II CATEGORIES OF WASTES REQUIRING SPECIAL CONSIDERATION

Y46 Wastes collected from households

Y47 Residues arising from the incineration of household

Annex III LIST OF HAZARDOUS CHARACTERISTICS UN

Class*	Code	Characteristics
1	1	<p><b>Explosive</b></p> <p>An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.</p>
3	3	<p><b>Flammable liquids</b></p> <p>The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5 deg. C, closed-cup test, or not more than 65.6 deg C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.)</p>
1	4.1	<p><b>Flammable solids</b></p> <p>, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.</p>
2	4.2	<p><b>Solids</b></p> <p>Substances or wastes liable to spontaneous combustion Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.</p>
3	4.2	<p>Substances or wastes which, in contact with water emit flammable gases Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.</p>
1	5.1	<p><b>Oxidizing</b></p> <p>Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.</p>
2	5.2	<p><b>Organic Peroxides</b></p> <p>Organic substances or wastes which contain the bivalent-o-o-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.</p>
	6.	<p><b>Poisonous (Acute)</b></p>

1	6.1		Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
2	6.	6.2	H Infectious substances Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
	8	8	H Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
	9	10	H Liberation of toxic gases in contact with air or water Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
	9	11	H Toxic (Delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
	9	12	H Ecotoxic Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
	9	13	H Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

#### Tests

The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterize potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in Annex 1, in order to decide if these materials exhibit any of the characteristics listed in this Annex.

\* Corresponds to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/ AC. 10/1/Rev.5, United Nations, New York, 1988).

### Annex IV DISPOSAL OPERATIONS

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

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

D1 Deposit into or onto land, (e.g., landfill, etc.)

D2 Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)

D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)

D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)

D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)

D6 Release into a water body except seas/oceans

D7 Release into seas/oceans including sea-bed insertion

D8 Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section.

9 Physico chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A, (e.g., evaporation, drying, calcination, neutralisation, precipitation, etc.)

DIO Incineration on land

- D11 Incineration at sea
- D12 Permanent storage (e.g., emplacement of containers in a mine, etc.)
- D13 Blending or mixing prior to submission to any of the operations in Section A
- D14 Repackaging prior to submission to any of the operations in Section A
- D15 Storage pending any of the operations in Section A

## **B. OPERATIONS WHICH MAY LEAD TO RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES**

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

- R1 Use as a fuel (other than in direct incineration) or other means to generate energy
- R2 Solvent reclamation/regeneration
- R3 Recycling/reclamation of organic substances which are not used as solvents
- R4 Recycling/reclamation of metals and metal compounds
- R5 Recycling/reclamation of other inorganic materials
- R6 Regeneration of acids or bases
- R7 Recovery of components used for pollution abatement
- R8 Recovery of components from catalysts
- R9 Used oil re-refining or other reuses of previously used oil
- R10 Land treatment resulting in benefit to agriculture or ecological improvement
- R11 Uses of residual materials obtained from any of the operations numbered R1-R10
- R12 Exchange of wastes for submission to any of the operations numbered R1-R10
- R13 Accumulation of material intended for any operation in Section B

### **Annex V A<sub>5</sub> INFORMATION TO BE PROVIDED ON NOTIFICATION**

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

### **Notes**

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

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

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

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

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

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

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

### **Annex V B. INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT**

1. Exporter of the waste/1
2. Generator(s) of the waste and site of generation/1
3. Disposer of the waste and actual site of disposal/1
4. Carrier(s) of the waste/1 or his agent(s)
5. Subject of general or single notification
6. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste
7. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated
8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)
9. Information on special handling requirements including emergency provision in case of accidents
10. Type and number of packages
11. Quantity in weight/volume
12. Declaration by the generator or exporter that the information is correct
13. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties.
14. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal.

### **Notes**

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

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

### **Annex VI ARBITRATION**

#### **Article 1**

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

#### **Article 2**

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

### **Article 3**

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

### **Article 4**

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

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

### **Article 5**

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

international law and in accordance with

Annex shall draw up its own rules of

2. Any arbitral tribunal constituted under the provisions of this procedure.

### **Article 6**

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

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

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

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

### **Article 7**

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

### **Article 8**

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

### **Article 9**

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

### **Article 10**

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

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

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

## **Convention on long range transboundary air pollution**

### **The Parties to the present Convention,**

Determined to promote relations and cooperation in the field of environmental protection, Aware of the significance of the activities of the United Nations Economic Commission for Europe in strengthening such relations and cooperation, particularly in the field of air pollution including long-range transport of air pollutants,

Recognizing the contribution of the Economic Commission for Europe to the multilateral implementation of the pertinent provisions of the Final Act of the Conference on Security and Cooperation in Europe,

Cognizant of the references in the chapter on environment of the Final Act of the Conference on Security and Cooperation in Europe calling for cooperation to control air pollution and its effects, including long-range transport of air pollutants, and to the development through international cooperation of an extensive programme for the monitoring and evaluation of long-range transport of air pollutants, starting with sulphur dioxide and with possible extension to other pollutants,

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

Recognizing the existence of possible adverse effects, in the short and long term, of air pollution including transboundary air pollution,

Concerned that a rise in the level of emissions of air pollutants within the region as forecast may increase such adverse effects,

Recognizing the need to study the implications of the long-range transport of air pollutants and the need to seek solutions for the problems identified,

Affirming their willingness to reinforce active international cooperation to develop appropriate national policies and by means of exchange of information, consultation, research and monitoring to co-ordinate national action for combating air pollution including long-range transboundary air pollution,

Have agreed as follows:

### ***Article 1: DEFINITIONS***

For the purposes of the present Convention:

(a) "Air Pollution" means the introduction by man, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment, and "air pollutants" shall be construed accordingly;

(b) "Long-range transboundary air pollution" means air pollution whose physical origin is situated wholly or in part within the area under the national jurisdiction of one State and which has adverse effects in the area under the jurisdiction of another State at such a distance that it is not generally possible to distinguish the contribution of individual emission sources or groups of sources.

### ***Article 2: FUNDAMENTAL PRINCIPLES***

The Contracting Parties, taking due account of the facts and problems involved, are determined to protect man and his environment against air pollution and shall endeavour to limit and, as far as possible, gradually reduce and prevent air pollution including long-range transboundary air pollution.



**Article 3:**

The Contracting Parties, within the framework of the present Convention, shall by means of exchanges of information, consultation, research and monitoring, develop without undue delay policies and strategies which shall serve as a means of combating the discharge of air pollutants, taking into account efforts already made at national and international levels.

**Article 4:**

The Contracting Parties shall exchange information on and review their policies, scientific activities and technical measures aimed at combating, as far as possible, the discharge of air pollutants which may have adverse effects, thereby contributing to the reduction of air pollution including long- range transboundary air pollution.

**Article 5:**

Consultations shall be held, upon request, at an early stage between, on the one hand, Contracting Parties which are actually affected by or exposed to a significant risk of long-range transboundary air pollution and, on the other hand, Contracting Parties within which and subject to whose jurisdiction a significant contribution to long-range transboundary air pollution originates, or could originate, in connection with activities carried on or contemplated therein.

**Article 6: AIR QUALITY MANAGEMENT**

Taking into account articles 2 to 5, the ongoing research, exchange of information and monitoring and the results thereof, the cost and effectiveness of local and other remedies and, in order to combat air pollution, in particular that originating from new or rebuilt installations, each Contracting Party undertakes to develop the best policies and strategies including air quality management systems and, as part of them, control measures compatible with balanced development, in particular by using the best available technology which is economically feasible and low- and non-waste technology.

**Article 7: RESEARCH AND DEVELOPMENT**

The Contracting Parties, as appropriate to their needs, shall initiate and co-operate in the conduct of research into and/or development of:

- (a) Existing and proposed technologies for reducing emissions of sulphur compounds and other major air pollutants, including technical and economic feasibility, and environmental consequences;
- (b) Instrumentation and other techniques for monitoring and measuring emission rates and ambient concentrations of air pollutants;
- (c) Improved models for a better understanding of the transmission of long-range transboundary air pollutants;
- (d) The effects of sulphur compounds and other major air pollutants on human health and the environment, including agriculture, forestry, materials, aquatic and other natural ecosystems and visibility, with a view to establishing a scientific basis for dose/effect relationships designed to protect the environment;
- (e) The economic, social and environmental assessment of alternative measures for attaining environmental objectives including the reduction of long-range transboundary air pollution;
- (f) Education and training programmes related to the environmental aspects of pollution by sulphur compounds and other major air pollutants.

**Article 8: EXCHANGE OF INFORMATION**

The Contracting Parties, within the framework of the Executive Body referred to in article 10 and bilaterally, shall, in their common interests, exchange available information on:

- (a) Data on emissions at periods of time to be agreed upon, of agreed air pollutants, starting with sulphur dioxide, coming from grid-units of agreed size; or on the fluxes of agreed air pollutants, starting with sulphur dioxide, across national borders, at distances and at periods of time to be agreed upon;
- (b) Major changes in national policies and in general industrial development, and their potential impact, which would be likely to cause significant changes in long-range transboundary air pollution;
- (c) Control technologies for reducing air pollution relevant to long-range transboundary air pollution;
- (d) The projected cost of the emission control of sulphur compounds and other major air pollutants on a

national scale;

- (e) Meteorological and physico-chemical data relating to the processes during transmission;
- (f) Physico-chemical and biological data relating to the effects of long-range transboundary air pollution and the extent of the damage <sup>11</sup> which these data indicate can be attributed to long-range transboundary air pollution;
- (g) National, sub-regional and regional policies and strategies for the control of sulphur compounds and other major air pollutants.

**Article 9: IMPLEMENTATION AND FURTHER DEVELOPMENT OF THE COOPERATIVE PROGRAMME FOR THE MONITORING AND EVALUATION OF THE LONG-RANGE TRANSMISSION OF AIR POLLUTANTS IN EUROPE**

The Contracting Parties stress the need for the implementation of the existing "Cooperative programme for the monitoring and evaluation of the long-range transmission of air pollutants in Europe" (hereinafter referred to as EMEP) and, with regard to the further development of this programme, agree to emphasize:

- (a) The desirability of Contracting Parties joining in and fully implementing EMEP which, as a first step, is based on the monitoring of sulphur dioxide and related substances;
- (b) The need to use comparable or standardized procedures for monitoring whenever possible;
- (c) The desirability of basing the monitoring programme on the framework of both national and international programmes. The establishment of monitoring stations and the collection of data shall be carried out under the national jurisdiction of the country in which the monitoring stations are located;
- (d) The desirability of establishing a framework for a cooperative environmental monitoring programme, based on and taking into account present and future national, sub-regional, regional and other international programmes;
- (e) The need to exchange data on emissions at periods of time to be agreed upon, of agreed air pollutants, starting with sulphur dioxide, coming from grid-units of agreed size; or on the fluxes of agreed air pollutants, starting with sulphur dioxide, across national borders, at distances and at periods of time to be agreed upon. The method, including the model, used to determine the fluxes, as well as the method, including the model used to determine the transmission of air pollutants based on the emissions per grid-unit, shall be made available and periodically reviewed, in order to improve the methods and the models;
- (f) Their willingness to continue the exchange and periodic updating of national data on total emissions of agreed air pollutants, starting with sulphur dioxide;
- (g) the need to provide meteorological and physico-chemical data relating to processes during transmission;
- (h) the need to monitor chemical components in other media such as water, soil and vegetation, as well as a similar monitoring programme to record effects on health and environment;
- (i) the desirability of extending the national EMEP networks to make them operational for control and surveillance purposes.

**Article 10: EXECUTIVE BODY**

1. The representatives of the Contracting Parties shall, within the framework of the Senior Advisers to ECE Governments on Environmental Problems, constitute the Executive Body of the present Convention, and shall meet at least annually in that capacity.

2. The Executive Body shall:

- (a) view the implementation of the present Convention;
- (b) Establish, as appropriate, working groups to consider matters related to the implementation and development of the present Convention and to this end to prepare appropriate studies and other documentation and to submit recommendations to be considered by the Executive Body;
- (c) Fulfil such other functions as may be appropriate under the provisions of the present Convention.

3. The Executive Body shall utilize the Steering Body for the EMEP to play an integral part in the operation of the present Convention, in particular with regard to data collection and scientific cooperation.

4. The Executive Body, in discharging its functions, shall, when it deems appropriate, also make use of information from other relevant international organizations.

**Article 11 SECRETARIAT**

The Executive Secretary of the Economic Commission for Europe shall carry out, for the Executive Body, the following secretariat functions:

- (a) To convene and prepare the meetings of the Executive Body;
- (b) To transmit to the Contracting Parties reports and other information received in accordance with the provisions of the present Convention;
- (c) To discharge the functions assigned by the Executive Body.

**Article 12: AMENDMENTS TO THE CONVENTION**

1. Any Contracting Party may propose amendments to the present Convention.
2. The text of proposed amendments shall be submitted in writing to the Executive Secretary of the Economic Commission for Europe, who shall communicate them to all Contracting Parties. The Executive Body shall discuss proposed amendments at its next annual meeting provided that such proposals have been circulated by the Executive Secretary of the Economic Commission for Europe to the Contracting Parties at least ninety days in advance.
3. An amendment to the present Convention shall be adopted by consensus of the representatives of the Contracting Parties, and shall enter into force for the Contracting Parties which have accepted it on the ninetieth day after the date on which two-thirds of the Contracting Parties have deposited their instruments of acceptance with the depositary. Thereafter, the amendment shall enter into force for any other Contracting Party on the ninetieth day after the date on which that Contracting Party deposits its instrument of acceptance of the amendment.

**Article 13: SETTLEMENT OF DISPUTES**

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

**Article 14: SIGNATURE**

1. The present Convention shall be open for signature at the United Nations Office at Geneva from 13 to 16 November 1979 on the occasion of the High-level Meeting within the framework of the Economic Commission for Europe on the Protection of the Environment, by the member States of the Economic Commission for Europe as well as States having consultative status with the Economic Commission for Europe, pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations, constituted by sovereign States members of the Economic Commission for Europe, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the present Convention.

2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the present Convention attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

**Article 15: RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION**

1. The present Convention shall be subject to ratification, acceptance or approval.
2. The present Convention shall be open for accession as from 17 November 1979 by the States and organizations referred to in article 14, paragraph 1.
3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Secretary-General of the United Nations, who will perform the functions of the depositary.

**Article 16: ENTRY INTO FORCE**

1. The present Convention shall enter into force on the ninetieth day after the date of deposit of the twenty-fourth instrument of ratification, acceptance, approval or accession.
2. For each Contracting Party which ratifies, accepts or approves the present Convention or accedes thereto after the deposit of the twenty-fourth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such Contracting Party of its instrument of ratification, acceptance, approval or accession.

**Article 17: WITHDRAWAL**

At any time after five years from the date on which the present Convention has come into force with respect to a Contracting Party, that Contracting Party may withdraw from the Convention by giving written notification to the depositary. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the depositary.

*Article 18: AUTHENTIC TEXTS*

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

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

DONE at Geneva, this thirteenth day of November, one thousand nine hundred and seventy-nine.

## **Stockholm convention on persistent organic pollutants**

The Parties to this Convention,

Recognizing that persistent organic pollutants possess toxic properties, resist degradation, bioaccumulate and are transported, through air, water and migratory species, across international boundaries and deposited far from their place of release, where they accumulate in terrestrial and aquatic ecosystems,

Aware of the health concerns, especially in developing countries, resulting from local exposure to persistent organic pollutants, in particular impacts upon women and, through them, upon future generations,

Acknowledging that the Arctic ecosystems and indigenous communities are particularly at risk because of the biomagnification of persistent organic pollutants and that contamination of their traditional foods is a public health issue,

Conscious of the need for global action on persistent organic pollutants,

Mindful of decision 19/13 C of 7 February 1997 of the Governing Council of the United Nations Environment Programme to initiate international action to protect human health and the environment through measures which will reduce and/or eliminate emissions and discharges of persistent organic pollutants,

Recalling the pertinent provisions of the relevant international environmental conventions, especially the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal including the regional agreements developed within the framework of its Article 11,

Recalling also the pertinent provisions of the Rio Declaration on Environment and Development and Agenda 21,

Acknowledging that precaution underlies the concerns of all the Parties and is embedded within this Convention,

Recognizing that this Convention and other international agreements in the field of trade and the environment are mutually supportive,

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

Taking into account the circumstances and particular requirements of developing countries, in particular the least developed among them, and countries with economies in transition, especially the need to strengthen their national capabilities for the management of chemicals, including through the transfer of technology, the provision of financial and technical assistance and the promotion of cooperation among the Parties,

Taking full account of the Programme of Action for the Sustainable Development of Small Island Developing States, adopted in Barbados on 6 May 1994,

Noting the respective capabilities of developed and developing countries, as well as the common but differentiated responsibilities of States as set forth in Principle 7 of the Rio Declaration on Environment and Development,

Recognizing the important contribution that the private sector and non-governmental organizations can make to achieving the reduction and/or elimination of emissions and discharges of persistent organic pollutants,

Underlining the importance of manufacturers of persistent organic pollutants taking responsibility for reducing adverse effects caused by their products and for providing information to users, Governments and the public on the hazardous properties of those chemicals,

Conscious of the need to take measures to prevent adverse effects caused by persistent organic pollutants at all stages of their life cycle,

Reaffirming Principle 16 of the Rio Declaration on Environment and Development which states that national authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment,

Encouraging Parties not having regulatory and assessment schemes for pesticides and industrial chemicals to develop such schemes,

Recognizing the importance of developing and using environmentally sound alternative processes and chemicals,

Determined to protect human health and the environment from the harmful impacts of persistent organic pollutants,

Have agreed as follows:

## **Article 1**

### **Objective**

Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants.

## **Article 2**

### **Definitions**

For the purposes of this Convention:

- (a) “Party” means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;
- (b) “Regional economic integration organization” means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;
- (c) “Parties present and voting” means Parties present and casting an affirmative or negative vote.

## **Article 3**

### **Measures to reduce or eliminate releases from intentional production and use**

1. Each Party shall:
  - (a) Prohibit and/or take the legal and administrative measures necessary to eliminate:
    - (i) Its production and use of the chemicals listed in Annex A subject to the provisions of that Annex; and
    - (ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and
  - (b) Restrict its production and use of the chemicals listed in Annex B in accordance with the provisions of that Annex.
2. Each Party shall take measures to ensure:
  - (a) That a chemical listed in Annex A or Annex B is imported only:
    - (i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6; or
    - (ii) For a use or purpose which is permitted for that Party under Annex A or Annex B;
  - (b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only:
    - (i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

(ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or  
(iii) To a State not Party to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to:

a. Protect human health and the environment by taking the necessary measures to minimize or prevent releases;

b. Comply with the provisions of paragraph 1 of Article 6; and

c. Comply, where appropriate, with the provisions of paragraph 2 of Part II of Annex B.

The certification shall also include any appropriate supporting documentation, such as legislation, regulatory instruments, or administrative or policy guidelines. The exporting Party shall transmit the certification to the Secretariat within sixty days of receipt.

(c) That a chemical listed in Annex A, for which production and use specific exemptions are no longer in effect for any Party, is not exported from it except for the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

(d) For the purposes of this paragraph, the term "State not Party to this Convention" shall include, with respect to a particular chemical, a State or regional economic integration organization that has not agreed to be bound by the Convention with respect to that chemical.

3. Each Party that has one or more regulatory and assessment schemes for new pesticides or new industrial chemicals shall take measures to regulate with the aim of preventing the production and use of new pesticides or new industrial chemicals which, taking into consideration the criteria in paragraph 1 of Annex D, exhibit the characteristics of persistent organic pollutants.

4. Each Party that has one or more regulatory and assessment schemes for pesticides or industrial chemicals shall, where appropriate, take into consideration within these schemes the criteria in paragraph 1 of Annex D when conducting assessments of pesticides or industrial chemicals currently in use.

5. Except as otherwise provided in this Convention, paragraphs 1 and 2 shall not apply to quantities of a chemical to be used for laboratory-scale research or as a reference standard.

6. Any Party that has a specific exemption in accordance with Annex A or a specific exemption or an acceptable purpose in accordance with Annex B shall take appropriate measures to ensure that any production or use under such exemption or purpose is carried out in a manner that prevents or minimizes human exposure and release into the environment. For exempted uses or acceptable purposes that involve intentional release into the environment under conditions of normal use, such release shall be to the minimum extent necessary, taking into account any applicable standards and guidelines.

#### **Article 4** **Register of specific exemptions**

1. A Register is hereby established for the purpose of identifying the Parties that have specific exemptions listed in Annex A or Annex B. It shall not identify Parties that make use of the provisions in Annex A or Annex B that may be exercised by all Parties. The Register shall be maintained by the Secretariat and shall be available to the public.

2. The Register shall include:

(a) list of the types of specific exemptions reproduced from Annex A and Annex B;

(b) A list of the Parties that have a specific exemption listed under Annex A or Annex B; and

(c) A list of the expiry dates for each registered specific exemption.

3. Any State may, on becoming a Party, by means of a notification in writing to the Secretariat, register for one or more types of specific exemptions listed in Annex A or Annex B.

4. Unless an earlier date is indicated in the Register by a Party, or an extension is granted pursuant to paragraph 7, all registrations of specific exemptions shall expire five years after the date of entry into force of this Convention with respect to a particular chemical.

5. At its first meeting, the Conference of the Parties shall decide upon its review process for the entries in the Register.

6. Prior to a review of an entry in the Register, the Party concerned shall submit a report to the Secretariat justifying its continuing need for registration of that exemption. The report shall be circulated by the Secretariat to all Parties. The review of a registration shall be carried out on the basis of all available information. Thereupon, the Conference of the Parties may make such recommendations to the Party concerned as it deems appropriate.

7. The Conference of the Parties may, upon request from the Party concerned, decide to extend the expiry date of a specific exemption for a period of up to five years. In making its decision, the Conference of the Parties

shall take due account of the special circumstances of the developing country Parties and Parties with economies in transition.

8. A Party may, at any time, withdraw an entry from the Register for a specific exemption upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

9. When there are no longer any Parties registered for a particular type of specific exemption, no new registrations may be made with respect to it.

## **Article 5**

### **Measures to reduce or eliminate releases from unintentional production**

Each Party shall at a minimum take the following measures to reduce the total releases derived from anthropogenic sources of each of the chemicals listed in Annex C, with the goal of their continuing minimization and, where feasible, ultimate elimination:

(a) Develop an action plan or, where appropriate, a regional or subregional action plan within two years of the date of entry into force of this Convention for it, and subsequently implement it as part of its implementation plan specified in Article 7, designed to identify, characterize and address the release of the chemicals listed in Annex C and to facilitate implementation of subparagraphs (b) to (e). The action plan shall include the following elements:

(i) An evaluation of current and projected releases, including the development and maintenance of source inventories and release estimates, taking into consideration the source categories identified in Annex C;

(ii) An evaluation of the efficacy of the laws and policies of the Party relating to the management of such releases;

(iii) Strategies to meet the obligations of this paragraph, taking into account the evaluations in (i) and (ii);

(iv) Steps to promote education and training with regard to, and awareness of, those strategies;

(v) A review every five years of those strategies and of their success in meeting the obligations of this paragraph; such reviews shall be included in reports submitted pursuant to Article 15;

(vi) A schedule for implementation of the action plan, including for the strategies and measures identified therein;

(b) Promote the application of available, feasible and practical measures that can expeditiously achieve a realistic and meaningful level of release reduction or source elimination;

(c) Promote the development and, where it deems appropriate, require the use of substitute or modified materials, products and processes to prevent the formation and release of the chemicals listed in Annex C, taking into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines to be adopted by decision of the Conference of the Parties;

(d) Promote and, in accordance with the implementation schedule of its action plan, require the use of best available techniques for new sources within source categories which a Party has identified as warranting such action in its action plan, with a particular initial focus on source categories identified in Part II of Annex C. In any case, the requirement to use best available techniques for new sources in the categories listed in Part II of that Annex shall be phased in as soon as practicable but no later than four years after the entry into force of the Convention for that Party. For the identified categories, Parties shall promote the use of best environmental practices. When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in that Annex and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(e) Promote, in accordance with its action plan, the use of best available techniques and best environmental practices:

(i) For existing sources, within the source categories listed in Part II of Annex C and within source categories such as those in Part III of that Annex; and

(ii) For new sources, within source categories such as those listed in Part III of Annex C which a Party has not addressed under subparagraph (d).

When applying best available techniques and best environmental practices, Parties should take into consideration the general guidance on prevention and release reduction measures in Annex C and guidelines on best available techniques and best environmental practices to be adopted by decision of the Conference of the Parties;

(f) For the purposes of this paragraph and Annex C:

(i) "Best available techniques" means the most effective and advanced stage in the development of activities and their methods of operation which indicate the practical suitability of particular techniques for providing in principle the basis for release limitations designed to prevent and, where that is not practicable, generally to reduce releases of chemicals listed in Part I of Annex C and their impact on the environment as a whole. In this regard:

(ii) "Techniques" includes both the technology used and the way in which the installation is designed, built,



maintained, operated and decommissioned;

(iii) "Available" techniques means those techniques that are accessible to the operator and that are developed on a scale that allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into consideration the costs and advantages; and

(iv) "Best" means most effective in achieving a high general level of protection of the environment as a whole;

(v) "Best environmental practices" means the application of the most appropriate combination of environmental control measures and strategies;

(vi) "New source" means any source of which the construction or substantial modification is commenced at least one year after the date of:

a. Entry into force of this Convention for the Party concerned; or

b. Entry into force for the Party concerned of an amendment to Annex C where the source becomes subject to the provisions of this Convention only by virtue of that amendment.

(g) Release limit values or performance standards may be used by a Party to fulfill its commitments for best available techniques under this paragraph.

## Article 6

### Measures to reduce or eliminate releases from stockpiles and wastes

1. In order to ensure that stockpiles consisting of or containing chemicals listed either in Annex A or Annex B and wastes, including products and articles upon becoming wastes, consisting of, containing or contaminated with a chemical listed in Annex A, B or C, are managed in a manner protective of human health and the environment, each Party shall:

(a) Develop appropriate strategies for identifying:

(i) Stockpiles consisting of or containing chemicals listed either in Annex A or Annex B; and

(ii) Products and articles in use and wastes consisting of, containing or contaminated with a chemical listed in Annex A, B or C;

(b) Identify, to the extent practicable, stockpiles consisting of or containing chemicals listed either in Annex A or Annex B on the basis of the strategies referred to in subparagraph (a);

(c) Manage stockpiles, as appropriate, in a safe, efficient and environmentally sound manner. Stockpiles of chemicals listed either in Annex A or Annex B, after they are no longer allowed to be used according to any specific exemption specified in Annex A or any specific exemption or acceptable purpose specified in Annex B, except stockpiles which are allowed to be exported according to paragraph 2 of Article 3, shall be deemed to be waste and shall be managed in accordance with subparagraph (d);

(d) Take appropriate measures so that such wastes, including products and articles upon becoming wastes, are:

(i) Handled, collected, transported and stored in an environmentally sound manner;

(ii) Disposed of in such a way that the persistent organic pollutant content is destroyed or irreversibly transformed so that they do not exhibit the characteristics of persistent organic pollutants or otherwise disposed of in an environmentally sound manner when destruction or irreversible transformation does not represent the environmentally preferable option or the persistent organic pollutant content is low, taking into account international rules, standards, and guidelines, including those that may be developed pursuant to paragraph 2, and relevant global and regional regimes governing the management of hazardous wastes;

(iii) Not permitted to be subjected to disposal operations that may lead to recovery, recycling, reclamation, direct reuse or alternative uses of persistent organic pollutants; and

(iv) Not transported across international boundaries without taking into account relevant international rules, standards and guidelines;

(e) Endeavour to develop appropriate strategies for identifying sites contaminated by chemicals listed in Annex A, B or C; if remediation of those sites is undertaken it shall be performed in an environmentally sound manner.

2. The Conference of the Parties shall cooperate closely with the appropriate bodies of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal to, inter alia:

(a) Establish levels of destruction and irreversible transformation necessary to ensure that the characteristics of persistent organic pollutants as specified in paragraph 1 of Annex D are not exhibited;

(b) Determine what they consider to be the methods that constitute environmentally sound disposal referred to above; and

(c) Work to establish, as appropriate, the concentration levels of the chemicals listed in Annexes A, B and C

in order to define the low persistent organic pollutant content referred to in paragraph 1 (d) (ii).

## **Article 7 Implementation plans**

1. Each Party shall:

(a) Develop and endeavour to implement a plan for the implementation of its obligations under this Convention;

(b) Transmit its implementation plan to the Conference of the Parties within two years of the date on which this Convention enters into force for it; and

(c) Review and update, as appropriate, its implementation plan on a periodic basis and in a manner to be specified by a decision of the Conference of the Parties.

2. The Parties shall, where appropriate, cooperate directly or through global, regional and subregional organizations, and consult their national stakeholders, including women's groups and groups involved in the health of children, in order to facilitate the development, implementation and updating of their implementation plans.

3. The Parties shall endeavour to utilize and, where necessary, establish the means to integrate national implementation plans for persistent organic pollutants in their sustainable development strategies where appropriate.

## **Article 8 Listing of chemicals in Annexes A, B and C**

1. A Party may submit a proposal to the Secretariat for listing a chemical in Annexes A, B and/or C. The proposal shall contain the information specified in Annex D. In developing a proposal, a Party may be assisted by other Parties and/or by the Secretariat.

2. The Secretariat shall verify whether the proposal contains the information specified in Annex D. If the Secretariat is satisfied that the proposal contains the information so specified, it shall forward the proposal to the Persistent Organic Pollutants Review Committee.

3. The Committee shall examine the proposal and apply the screening criteria specified in Annex D in a flexible and transparent way, taking all information provided into account in an integrative and balanced manner.

4. If the Committee decides that:

(a) It is satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, make the proposal and the evaluation of the Committee available to all Parties and observers and invite them to submit the information specified in Annex E; or

(b) It is not satisfied that the screening criteria have been fulfilled, it shall, through the Secretariat, inform all Parties and observers and make the proposal and the evaluation of the Committee available to all Parties and the proposal shall be set aside.

5. Any Party may resubmit a proposal to the Committee that has been set aside by the Committee pursuant to paragraph 4. The resubmission may include any concerns of the Party as well as a justification for additional consideration by the Committee. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the screening criteria in Annex D and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed.

6. Where the Committee has decided that the screening criteria have been fulfilled, or the Conference of the Parties has decided that the proposal should proceed, the Committee shall further review the proposal, taking into account any relevant additional information received, and shall prepare a draft risk profile in accordance with Annex E. It shall, through the Secretariat, make that draft available to all Parties and observers, collect technical comments from them and, taking those comments into account, complete the risk profile.

7. If, on the basis of the risk profile conducted in accordance with Annex E, the Committee decides:

(a) That the chemical is likely as a result of its long-range environmental transport to lead to significant adverse human health and/or environmental effects such that global action is warranted, the proposal shall proceed. Lack of full scientific certainty shall not prevent the proposal from proceeding. The Committee shall, through the Secretariat, invite information from all Parties and observers relating to the considerations specified in Annex F. It shall then prepare a risk management evaluation that includes an analysis of possible control measures for the chemical in accordance with that Annex; or

(b) That the proposal should not proceed, it shall, through the Secretariat, make the risk profile available to all Parties and observers and set the proposal aside.

8. For any proposal set aside pursuant to paragraph 7 (b), a Party may request the Conference of the Parties to

consider instructing the Committee to invite additional information from the proposing Party and other Parties during a period not to exceed one year. After that period and on the basis of any information received, the Committee shall reconsider the proposal pursuant to paragraph 6 with a priority to be decided by the Conference of the Parties. If, following this procedure, the Committee again sets the proposal aside, the Party may challenge the decision of the Committee and the Conference of the Parties shall consider the matter at its next session. The Conference of the Parties may decide, based on the risk profile prepared in accordance with Annex E and taking into account the evaluation of the Committee and any additional information provided by any Party or observer, that the proposal should proceed. If the Conference of the Parties decides that the proposal shall proceed, the Committee shall then prepare the risk management evaluation.

9. The Committee shall, based on the risk profile referred to in paragraph 6 and the risk management evaluation referred to in paragraph 7 (a) or paragraph 8, recommend whether the chemical should be considered by the Conference of the Parties for listing in Annexes A, B and/or C. The Conference of the Parties, taking due account of the recommendations of the Committee, including any scientific uncertainty, shall decide, in a precautionary manner, whether to list the chemical, and specify its related control measures, in Annexes A, B and/or C.

## **Article 9**

### **Information exchange**

1. Each Party shall facilitate or undertake the exchange of information relevant to:
  - (a) The reduction or elimination of the production, use and release of persistent organic pollutants; and
  - (b) Alternatives to persistent organic pollutants, including information relating to their risks as well as to their economic and social costs.
2. The Parties shall exchange the information referred to in paragraph 1 directly or through the Secretariat.
3. Each Party shall designate a national focal point for the exchange of such information.
4. The Secretariat shall serve as a clearing-house mechanism for information on persistent organic pollutants, including information provided by Parties, intergovernmental organizations and non-governmental organizations.
5. For the purposes of this Convention, information on health and safety of humans and the environment shall not be regarded as confidential. Parties that exchange other information pursuant to this Convention shall protect any confidential information as mutually agreed.

## **Article 10**

### **Public information, awareness and education**

1. Each Party shall, within its capabilities, promote and facilitate:
  - (a) Awareness among its policy and decision makers with regard to persistent organic pollutants;
  - (b) Provision to the public of all available information on persistent organic pollutants, taking into account paragraph 5 of Article 9;
  - (c) Development and implementation, especially for women, children and the least educated, of educational and public awareness programmes on persistent organic pollutants, as well as on their health and environmental effects and on their alternatives;
  - (d) Public participation in addressing persistent organic pollutants and their health and environmental effects and in developing adequate responses, including opportunities for providing input at the national level regarding implementation of this Convention;
  - (e) Training of workers, scientists, educators and technical and managerial personnel;
  - (f) Development and exchange of educational and public awareness materials at the national and international levels; and
  - (g) Development and implementation of education and training programmes at the national and international levels.
2. Each Party shall, within its capabilities, ensure that the public has access to the public information referred to in paragraph 1 and that the information is kept up-to-date.
3. Each Party shall, within its capabilities, encourage industry and professional users to promote and facilitate the provision of the information referred to in paragraph 1 at the national level and, as appropriate, subregional, regional and global levels.
4. In providing information on persistent organic pollutants and their alternatives, Parties may use safety data sheets, reports, mass media and other means of communication, and may establish information centres at national and regional levels.
5. Each Party shall give sympathetic consideration to developing mechanisms, such as pollutant release and transfer registers, for the collection and dissemination of information on estimates of the annual quantities of the

chemicals listed in Annex A, B or C that are released or disposed of.

## **Article 11** **Research, development and monitoring**

1. The Parties shall, within their capabilities, at the national and international levels, encourage and/or undertake appropriate research, development, monitoring and cooperation pertaining to persistent organic pollutants and, where relevant, to their alternatives and to candidate persistent organic pollutants, including on their:

- (a) Sources and releases into the environment;
- (b) Presence, levels and trends in humans and the environment;
- (c) Environmental transport, fate and transformation;
- (d) Effects on human health and the environment;
- (e) Socio-economic and cultural impacts;
- (f) Release reduction and/or elimination; and
- (g) Harmonized methodologies for making inventories of generating sources and analytical techniques for the measurement of releases.

2. In undertaking action under paragraph 1, the Parties shall, within their capabilities:

(a) Support and further develop, as appropriate, international programmes, networks and organizations aimed at defining, conducting, assessing and financing research, data collection and monitoring, taking into account the need to minimize duplication of effort;

(b) Support national and international efforts to strengthen national scientific and technical research capabilities, particularly in developing countries and countries with economies in transition, and to promote access to, and the exchange of, data and analyses;

(c) Take into account the concerns and needs, particularly in the field of financial and technical resources, of developing countries and countries with economies in transition and cooperate in improving their capability to participate in the efforts referred to in subparagraphs (a) and (b);

(d) Undertake research work geared towards alleviating the effects of persistent organic pollutants on reproductive health;

(e) Make the results of their research, development and monitoring activities referred to in this paragraph accessible to the public on a timely and regular basis; and

(f) Encourage and/or undertake cooperation with regard to storage and maintenance of information generated from research, development and monitoring.

## **Article 12** **Technical assistance**

1. The Parties recognize that rendering of timely and appropriate technical assistance in response to requests from developing country Parties and Parties with economies in transition is essential to the successful implementation of this Convention.

2. The Parties shall cooperate to provide timely and appropriate technical assistance to developing country Parties and Parties with economies in transition, to assist them, taking into account their particular needs, to develop and strengthen their capacity to implement their obligations under this Convention.

3. In this regard, technical assistance to be provided by developed country Parties, and other Parties in accordance with their capabilities, shall include, as appropriate and as mutually agreed, technical assistance for capacity-building relating to implementation of the obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.

4. The Parties shall establish, as appropriate, arrangements for the purpose of providing technical assistance and promoting the transfer of technology to developing country Parties and Parties with economies in transition relating to the implementation of this Convention. These arrangements shall include regional and subregional centres for capacity-building and transfer of technology to assist developing country Parties and Parties with economies in transition to fulfil their obligations under this Convention. Further guidance in this regard shall be provided by the Conference of the Parties.

5. The Parties shall, in the context of this Article, take full account of the specific needs and special situation of least developed countries and small island developing states in their actions with regard to technical assistance.

### **Article 13**

#### **Financial resources and mechanisms**

1. Each Party undertakes to provide, within its capabilities, financial support and incentives in respect of those national activities that are intended to achieve the objective of this Convention in accordance with its national plans, priorities and programmes.

2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties and Parties with economies in transition to meet the agreed full incremental costs of implementing measures which fulfill their obligations under this Convention as agreed between a recipient Party and an entity participating in the mechanism described in paragraph 6. Other Parties may also on a voluntary basis and in accordance with their capabilities provide such financial resources. Contributions from other sources should also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability, the timely flow of funds and the importance of burden sharing among the contributing Parties.

3. Developed country Parties, and other Parties in accordance with their capabilities and in accordance with their national plans, priorities and programmes, may also provide and developing country Parties and Parties with economies in transition avail themselves of financial resources to assist in their implementation of this Convention through other bilateral, regional and multilateral sources or channels.

4. The extent to which the developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention relating to financial resources, technical assistance and technology transfer. The fact that sustainable economic and social development and eradication of poverty are the first and overriding priorities of the developing country Parties will be taken fully into account, giving due consideration to the need for the protection of human health and the environment.

5. The Parties shall take full account of the specific needs and special situation of the least developed countries and the small island developing states in their actions with regard to funding.

6. A mechanism for the provision of adequate and sustainable financial resources to developing country Parties and Parties with economies in transition on a grant or concessional basis to assist in their implementation of the Convention is hereby defined. The mechanism shall function under the authority, as appropriate, and guidance of, and be accountable to the Conference of the Parties for the purposes of this Convention. Its operation shall be entrusted to one or more entities, including existing international entities, as may be decided upon by the Conference of the Parties. The mechanism may also include other entities providing multilateral, regional and bilateral financial and technical assistance. Contributions to the mechanism shall be additional to other financial transfers to developing country Parties and Parties with economies in transition as reflected in, and in accordance with, paragraph 2.

7. Pursuant to the objectives of this Convention and paragraph 6, the Conference of the Parties shall at its first meeting adopt appropriate guidance to be provided to the mechanism and shall agree with the entity or entities participating in the financial mechanism upon arrangements to give effect thereto. The guidance shall address, inter alia:

(a) The determination of the policy, strategy and programme priorities, as well as clear and detailed criteria and guidelines regarding eligibility for access to and utilization of financial resources including monitoring and evaluation on a regular basis of such utilization;

(b) The provision by the entity or entities of regular reports to the Conference of the Parties on adequacy and sustainability of funding for activities relevant to the implementation of this Convention;

(c) The promotion of multiple-source funding approaches, mechanisms and arrangements;

(d) The modalities for the determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention, keeping in mind that the phasing out of persistent organic pollutants might require sustained funding, and the conditions under which that amount shall be periodically reviewed; and

(e) The modalities for the provision to interested Parties of assistance with needs assessment, information on available sources of funds and on funding patterns in order to facilitate coordination among them.

8. The Conference of the Parties shall review, not later than its second meeting and thereafter on a regular basis, the effectiveness of the mechanism established under this Article, its ability to address the changing needs of the developing country Parties and Parties with economies in transition, the criteria and guidance referred to in paragraph 7, the level of funding as well as the effectiveness of the performance of the institutional entities entrusted to operate the financial mechanism. It shall, based on such review, take appropriate action, if necessary, to improve the effectiveness of the mechanism, including by means of recommendations and guidance

### **Article 14**

## **Interim financial arrangements**

The institutional structure of the Global Environment Facility, operated in accordance with the Instrument for the Establishment of the Restructured Global Environment Facility, shall, on an interim basis, be the principal entity entrusted with the operations of the financial mechanism referred to in Article 13, for the period between the date of entry into force of this Convention and the first meeting of the Conference of the Parties, or until such time as the Conference of the Parties decides which institutional structure will be designated in accordance with Article 13. The institutional structure of the Global Environment Facility should fulfill this function through operational measures related specifically to persistent organic pollutants taking into account that new arrangements for this area may be needed.

### **Article 15 Reporting**

1. Each Party shall report to the Conference of the Parties on the measures it has taken to implement the provisions of this Convention and on the effectiveness of such measures in meeting the objectives of the Convention.
2. Each Party shall provide to the Secretariat:
  - (a) Statistical data on its total quantities of production, import and export of each of the chemicals listed in Annex A and Annex B or a reasonable estimate of such data; and
  - (b) To the extent practicable, a list of the States from which it has imported each such substance and the States to which it has exported each such substance.
3. Such reporting shall be at periodic intervals and in a format to be decided by the Conference of the Parties at its first meeting.

### **Article 16 Effectiveness evaluation**

1. Commencing four years after the date of entry into force of this Convention, and periodically thereafter at intervals to be decided by the Conference of the Parties, the Conference shall evaluate the effectiveness of this Convention.
2. In order to facilitate such evaluation, the Conference of the Parties shall, at its first meeting, initiate the establishment of arrangements to provide itself with comparable monitoring data on the presence of the chemicals listed in Annexes A, B and C as well as their regional and global environmental transport. These arrangements:
  - (a) Should be implemented by the Parties on a regional basis when appropriate, in accordance with their technical and financial capabilities, using existing monitoring programmes and mechanisms to the extent possible and promoting harmonization of approaches;
  - (b) May be supplemented where necessary, taking into account the differences between regions and their capabilities to implement monitoring activities; and
  - (c) Shall include reports to the Conference of the Parties on the results of the monitoring activities on a regional and global basis at intervals to be specified by the Conference of the Parties.
3. The evaluation described in paragraph 1 shall be conducted on the basis of available scientific, environmental, technical and economic information, including:
  - (a) Reports and other monitoring information provided pursuant to paragraph 2;
  - (b) National reports submitted pursuant to Article 15; and
  - (c) Non-compliance information provided pursuant to the procedures established under Article 17.

### **Article 17 Non-compliance**

The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for the treatment of Parties found to be in non-compliance.

### **Article 18 Settlement of disputes**

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

2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

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

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

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

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

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

6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the Conference of the Parties no later than at its second meeting.

## **Article 19** **Conference of the Parties**

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme no later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be decided by the Conference.

3. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party provided that it is supported by at least one third of the Parties.

4. The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.

5. The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall:

(a) Establish, further to the requirements of paragraph 6, such subsidiary bodies as it considers necessary for the implementation of the Convention;

(b) Cooperate, where appropriate, with competent international organizations and intergovernmental and nongovernmental bodies; and

(c) Regularly review all information made available to the Parties pursuant to Article 15, including consideration of the effectiveness of paragraph 2 (b) (iii) of Article 3;

(d) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention.

6. The Conference of the Parties shall, at its first meeting, establish a subsidiary body to be called the Persistent Organic Pollutants Review Committee for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:

(a) The members of the Persistent Organic Pollutants Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of government-designated experts in chemical assessment or management. The members of the Committee shall be appointed on the basis of equitable geographical distribution;

(b) The Conference of the Parties shall decide on the terms of reference, organization and operation of the Committee; and

(c) The Committee shall make every effort to adopt its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.

7. The Conference of the Parties shall, at its third meeting, evaluate the continued need for the procedure contained in paragraph 2 (b) of Article 3, including consideration of its effectiveness.

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

## **Article 20 Secretariat**

1. A Secretariat is hereby established.

2. The functions of the Secretariat shall be:

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

(b) To facilitate assistance to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the implementation of this Convention;

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

(d) To prepare and make available to the Parties periodic reports based on information received pursuant to Article 15 and other available information;

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

(f) To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.

3. The secretariat functions for this Convention shall be performed by the Executive Director of the United Nations Environment Programme, unless the Conference of the Parties decides, by a three-fourths majority of the Parties present and voting, to entrust the secretariat functions to one or more other international organizations.

## **Article 21 Amendments to the Convention**

1. Amendments to this Convention may be proposed by any Party.

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

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

4. The amendment shall be communicated by the depositary to all Parties for ratification, acceptance or approval.

5. Ratification, acceptance or approval of an amendment shall be notified to the depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three-fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment.

## **Article 22 Adoption and amendment of annexes**

1. Annexes to this Convention shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annexes thereto.

2. Any additional annexes shall be restricted to procedural, scientific, technical or administrative matters.



3. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

(a) Additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1, 2 and 3 of Article 21;

(b) Any Party that is unable to accept an additional annex shall so notify the depositary, in writing, within one year from the date of communication by the depositary of the adoption of the additional annex. The depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance in respect of any additional annex, and the annex shall thereupon enter into force for that Party subject to subparagraph (c); and

(c) On the expiry of one year from the date of the communication by the depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification in accordance with the provisions of subparagraph (b).

4. The proposal, adoption and entry into force of amendments to Annex A, B or C shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to this Convention, except that an amendment to Annex A, B or C shall not enter into force with respect to any Party that has made a declaration with respect to amendment to those Annexes in accordance with paragraph 4 of Article 25, in which case any such amendment shall enter into force for such a Party on the ninetieth day after the date of deposit with the depositary of its instrument of ratification, acceptance, approval or accession with respect to such amendment.

5. The following procedure shall apply to the proposal, adoption and entry into force of an amendment to Annex D, E or F:

(a) Amendments shall be proposed according to the procedure in paragraphs 1 and 2 of Article 21;

(b) The Parties shall take decisions on an amendment to Annex D, E or F by consensus; and

(c) A decision to amend Annex D, E or F shall forthwith be communicated to the Parties by the depositary. The amendment shall enter into force for all Parties on a date to be specified in the decision.

6. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enters into force.

### **Article 23**

#### **Right to vote**

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

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

### **Article 24**

#### **Signature**

This Convention shall be open for signature at Stockholm by all States and regional economic integration organizations on 23 May 2001, and at the United Nations Headquarters in New York from 24 May 2001 to 22 May 2002.

### **Article 25**

#### **Ratification, acceptance, approval or accession**

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

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

3. In its instrument of ratification, acceptance, approval or accession, a regional economic integration

organization shall declare the extent of its competence in respect of the matters governed by this Convention. Any such organization shall also inform the depositary, who shall in turn inform the Parties, of any relevant modification in the extent of its competence.

4. In its instrument of ratification, acceptance, approval or accession, any Party may declare that, with respect to it, any amendment to Annex A, B or C shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto.

#### **Article 26**

##### **Entry into force**

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

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

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

#### **Article 27**

##### **Reservations**

No reservations may be made to this Convention.

#### **Article 28**

##### **Withdrawal**

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

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

#### **Article 29**

##### **Depositary**

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

#### **Article 30**

##### **Authentic texts**

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

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

Done at Stockholm on this twenty-second day of May, two thousand and one.

**Annex A ELIMINATION Parti**

Chemical	Activity	Specific exemption
Aldrin* CAS No: 309-00-2	Production	None
	Use	Local ectoparasiticide Insecticide
Chlordanc* CAS No: 57-74-9	Production	As allowed for the Parties listed in the Register
	Use	Local ectoparasiticide Insecticide Termiticide Termiticide in buildings and dams Termiticide in roads
Dieldrin* CAS No: 60-57-1	Production	None
	Use	In agricultural operations
Endrin* CAS No: 72-20-8	Production	None
	Use	None
Heptachlor* CAS No: 76-44-8	Production	None
	Use	Termiticide Termiticide in structures of houses Termiticide (subterranean) Wood treatment
Hexachlorobenzene CAS No: 118-74-1	Production	As allowed for the Parties listed in the Register
	Use	Intermediate Solvent in pesticide Closed system site limited intermediate

Mirex* CAS No: 2385-85-5	Production	As allowed for the Parties listed in the Register
	Use	Termiticide
Toxaphene* CAS No: 8001-35-2	Production	None
	Use	None
Polychlorinated Biphenyls (PCB)*	Production	None
	Use	Articles in use in accordance with the provisions of Part II of this Annex

Notes:

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note, which does not apply to a chemical that has an asterisk following its name in the Chemical column in Part I of this Annex, shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public. Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered exemptions in respect of them in accordance with Article 4 with the exception of the use of polychlorinated biphenyls in articles in use in accordance with the provisions of Part II of this Annex, which may be exercised by all Parties.

## **Part II Polychlorinated biphenyls**

Each Party shall:

(a) With regard to the elimination of the use of polychlorinated biphenyls in equipment (e.g. transformers, capacitors or other receptacles containing liquid stocks) by 2025, subject to review by the Conference of the Parties, take action in accordance with the following priorities:

(i) Make determined efforts to identify, label and remove from use equipment containing greater than 10 per cent polychlorinated biphenyls and volumes greater than 5 litres;

(ii) Make determined efforts to identify, label and remove from use equipment containing greater than 0.05

per cent polychlorinated biphenyls and volumes greater than 5 litres;

(iii) Endeavour to identify and remove from use equipment containing greater than 0.005 percent polychlorinated biphenyls and volumes greater than 0.05 litres;

(b) Consistent with the priorities in subparagraph (a), promote the following measures to reduce exposures and risk to control the use of polychlorinated biphenyls:

(i) Use only in intact and non-leaking equipment and only in areas where the risk from environmental release can be minimised and quickly remedied;

(ii) Not use in equipment in areas associated with the production or processing of food or feed;

(iii) When used in populated areas, including schools and hospitals, all reasonable measures to protect from electrical failure which could result in a fire, and regular inspection of equipment for leaks;

(c) Notwithstanding paragraph 2 of Article 3, ensure that equipment containing polychlorinated biphenyls, as described in subparagraph (a), shall not be exported or imported except for the purpose of environmentally sound waste management;

(d) Except for maintenance and servicing operations, not allow recovery for the purpose of reuse in other equipment of liquids with polychlorinated biphenyls content above 0.005 per cent;

(e) Make determined efforts designed to lead to environmentally sound waste management of liquids containing polychlorinated biphenyls and equipment contaminated with polychlorinated biphenyls having a polychlorinated biphenyls content above 0.005 per cent, in accordance with paragraph 1 of Article 6, as soon as possible but no later than 2028, subject to review by the Conference of the Parties;

(f) In lieu of note (ii) in Part I of this Annex, endeavour to identify other articles containing more than 0.005 per cent polychlorinated biphenyls (e.g. cable-sheaths, cured caulk and painted objects) and manage them in accordance with paragraph 1 of Article 6;

(g) Provide a report every five years on progress in eliminating polychlorinated biphenyls and submit it to the Conference of the Parties pursuant to Article 15;

(h) The reports described in subparagraph (g) shall, as appropriate, be considered by the Conference of the Parties in its reviews relating to polychlorinated biphenyls. The Conference of the Parties shall review progress towards elimination of polychlorinated biphenyls at five year intervals or other period, as appropriate, taking into account such reports.

**Annex B RESTRICTION**  
**Part I**

Chemical	Activity	Acceptable purpose or specific exemption
DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane) CAS No: 50-29-3	Production	Acceptable purpose: Disease vector control use in accordance with Part II of this Annex Specific exemption: Intermediate in production of dicofol Intermediate
	Use	Acceptable purpose: Disease vector control in accordance with Part II of this Annex Specific exemption: Production of dicofol Intermediate

**Notes:**

(i) Except as otherwise specified in this Convention, quantities of a chemical occurring as unintentional trace contaminants in products and articles shall not be considered to be listed in this Annex;

(ii) This note shall not be considered as a production and use acceptable purpose or specific exemption for purposes of paragraph 2 of Article 3. Quantities of a chemical occurring as constituents of articles manufactured or already in use before or on the date of entry into force of the relevant obligation with respect to that chemical, shall not be considered as listed in this Annex, provided that a Party has notified the Secretariat that a particular type of article remains in use within that Party. The Secretariat shall make such notifications publicly available;

(iii) This note shall not be considered as a production and use specific exemption for purposes of paragraph 2 of Article 3. Given that no significant quantities of the chemical are expected to reach humans and the environment during the production and use of a closed-system site-limited intermediate, a Party, upon notification to the Secretariat, may allow the production and use of quantities of a chemical listed in this Annex as a closed-system site-limited intermediate that is chemically transformed in the manufacture of other chemicals that, taking into consideration the criteria in paragraph 1 of Annex D, do not exhibit the characteristics of persistent organic pollutants. This notification shall include information on total production and use of such chemical or a reasonable estimate of such information and information regarding the nature of the closed-system site-limited process including the amount of any non-transformed and unintentional trace contamination of the persistent organic pollutant-starting material in the final product. This procedure applies except as otherwise specified in this Annex. The Secretariat shall make such notifications available to the Conference of the Parties and to the public. Such production or use shall not be considered a production or use specific exemption. Such production and use shall cease after a ten-year period, unless the Party concerned submits a new notification to the Secretariat, in which case the period will be extended for an additional ten years unless the Conference of the Parties, after a review of the production and use decides otherwise. The notification procedure can be repeated;

(iv) All the specific exemptions in this Annex may be exercised by Parties that have registered in respect of them in accordance with Article 4.

## **Part II** **DDT (1,1,1-trichloro-2,2-bis(4-chlorophenyl)ethane)**

1. The production and use of DDT shall be eliminated except for Parties that have notified the Secretariat of their intention to produce and/or use it. A DDT Register is hereby established and shall be available to the public. The Secretariat shall maintain the DDT Register.

2. Each Party that produces and/or uses DDT shall restrict such production and/or use for disease vector control in accordance with the World Health Organization recommendations and guidelines on the use of DDT and when locally safe, effective and affordable alternatives are not available to the Party in question.

3. In the event that a Party not listed in the DDT Register determines that it requires DDT for disease vector control, it shall notify the Secretariat as soon as possible in order to have its name added forthwith to the DDT Register. It shall at the same time notify the World Health Organization.

4. Every three years, each Party that uses DDT shall provide to the Secretariat and the World Health Organization information on the amount used, the conditions of such use and its relevance to that Party's disease management strategy, in a format to be decided by the Conference of the Parties in consultation with the World Health Organization.

5. With the goal of reducing and ultimately eliminating the use of DDT, the Conference of the Parties shall encourage:

(a) Each Party using DDT to develop and implement an action plan as part of the implementation plan specified in Article 7. That action plan shall include:

(i) Development of regulatory and other mechanisms to ensure that DDT use is restricted to disease vector control;

(ii) Implementation of suitable alternative products, methods and strategies, including resistance management strategies to ensure the continuing effectiveness of these alternatives;

(iii) Measures to strengthen health care and to reduce the incidence of the disease.

(b) The Parties, within their capabilities, to promote research and development of safe alternative chemical and non-chemical products, methods and strategies for Parties using DDT, relevant to the conditions of those countries and with the goal of decreasing the human and economic burden of disease. Factors to be promoted when

considering alternatives or combinations of alternatives shall include the human health risks and environmental implications of such alternatives. Viable alternatives to DDT shall pose less risk to human health and the environment, be suitable for disease control based on conditions in the Parties in question and be supported with monitoring data.

6. Commencing at its first meeting, and at least every three years thereafter, the Conference of the Parties shall, in consultation with the World Health Organization, evaluate the continued need for DDT for disease vector control on the basis of available scientific, technical, environmental and economic information, including:

- (a) The production and use of DDT and the conditions set out in paragraph 2;
- (b) The availability, suitability and implementation of the alternatives to DDT; and
- (c) Progress in strengthening the capacity of countries to transfer safely to reliance on such alternatives.

7. A Party may, at any time, withdraw its name from the DDT Registry upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.

## **Annex C UNINTENTIONAL PRODUCTION**

### **Part I: Persistent organic pollutants subject to the requirements of Article 5**

This Annex applies to the following persistent organic pollutants when formed and released unintentionally from anthropogenic sources:

#### **Chemical**

Polychlorinated dibenzo-p-dioxins and dibenzofurans (PCDD/PCDF) Hexachlorobenzene (HCB) (CAS No: 118-74-1)

Polychlorinated biphenyls (PCB)

#### **Part II: Source categories**

Polychlorinated dibenzo-p-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls are unintentionally formed and released from thermal processes involving organic matter and chlorine as a result of incomplete combustion or chemical reactions. The following industrial source categories have the potential for comparatively high formation and release of these chemicals to the environment:

- (a) Waste incinerators, including co-incinerators of municipal, hazardous or medical waste or of sewage sludge;
- (b) Cement kilns firing hazardous waste;

#### **Part III: Source categories**

Polychlorinated dibenzo-p-dioxins and dibenzofurans, hexachlorobenzene and polychlorinated biphenyls may also be unintentionally formed and released from the following source categories, including:

- (c) Production of pulp using elemental chlorine or chemicals generating elemental chlorine for bleaching;
- (d) The following thermal processes in the metallurgical industry:
  - (i) Secondary copper production;
  - (ii) Sinter plants in the iron and steel industry; (iii) Secondary aluminium production;
  - (iv) Secondary zinc production.

- (a) ..... Open burning of waste, including burning of landfill sites;
- (b) ..... Thermal processes in the metallurgical industry not mentioned in Part II;
- (c) ..... Residential combustion sources;
- (d) ..... Fossil fuel-fired utility and industrial boilers;
- (e) ..... Firing

installations for wood and other biomass fuels;

Specific chemical production processes releasing unintentionally formed persistent organic pollutants, especially production of chlorophenols and chloranil;

- (g) Crematoria;
- (h) Motor vehicles, particularly those burning leaded gasoline; (i). Destruction of animal carcasses;
- (j) Textile and leather dyeing (with chloranil) and finishing (with alkaline extraction);
- (k) Shredder plants for the treatment of end of life vehicles;
- (l) Smouldering of copper cables;
- (m) Waste oil refineries.

#### **Part IV: Definitions**

1. For the purposes of this Annex:

(a) "Polychlorinated biphenyls" means aromatic compounds formed in such a manner that the hydrogen atoms on the biphenyl molecule (two benzene rings bonded together by a single carbon-carbon bond) may be replaced by up to ten chlorine atoms; and

(b) "Polychlorinated dibenzo-p-dioxins" and "polychlorinated dibenzofurans" are tricyclic, aromatic compounds formed by two benzene rings connected by two oxygen atoms in polychlorinated dibenzo-p-dioxins and by one oxygen atom and one carbon-carbon bond in polychlorinated dibenzofurans and the hydrogen atoms of which may be replaced by up to eight chlorine atoms.

2. In this Annex, the toxicity of polychlorinated dibenzo-p-dioxins and dibenzofurans is expressed using the concept of toxic equivalency which measures the relative dioxin-like toxic activity of different congeners of polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls in comparison to 2,3,7,8-tetrachlorodibenzo-p-dioxin. The toxic equivalent factor values to be used for the purposes of this Convention shall be consistent with accepted international standards, commencing with the World Health Organization 1998 mammalian toxic equivalent factor values for polychlorinated dibenzo-p-dioxins and dibenzofurans and coplanar polychlorinated biphenyls. Concentrations are expressed in toxic equivalents.

#### **Part V: General guidance on best available techniques and best environmental practices**

This Part provides general guidance to Parties on preventing or reducing releases of the chemicals listed in Part I.

##### **A. General prevention measures relating to both best available techniques and best environmental practices**

Priority should be given to the consideration of approaches to prevent the formation and release of the chemicals listed in Part I. Useful measures could include:

- (a) ..... The use of low-waste technology;
- (b) The use of less hazardous substances;
- (c) The promotion of the recovery and recycling of waste and of substances generated and used in a process;
- (d) Replacement of feed materials which are persistent organic pollutants or where there is a direct link between the materials and releases of persistent organic pollutants from the source;
- (e) Good housekeeping and preventive maintenance programmes;
- (f) Improvements in waste management with the aim of the cessation of open and other uncontrolled burning of wastes, including the burning of landfill sites. When considering proposals to construct new waste disposal facilities, consideration should be given to alternatives such as activities to minimize the generation of municipal and medical waste, including resource recovery, reuse, recycling, waste separation and promoting products that generate less waste. Under this approach, public health concerns should be carefully considered;



- (g) Minimization of these chemicals as contaminants in products;
- (h) Avoiding elemental chlorine or chemicals generating elemental chlorine for bleaching.

### **B. Best available techniques**

The concept of best available techniques is not aimed at the prescription of any specific technique or technology, but at taking into account the technical characteristics of the installation concerned, its geographical location and the local environmental conditions. Appropriate control techniques to reduce releases of the chemicals listed in Part I are in general the same. In determining best available techniques, special consideration should be given, generally or in specific cases, to the following factors, bearing in mind the likely costs and benefits of a measure and consideration of precaution and prevention:

- (a) General considerations:
  - (i) The nature, effects and mass of the releases concerned: techniques may vary depending on source size;
  - (ii) The commissioning dates for new or existing installations;
  - (iii) The time needed to introduce the best available technique;
  - (iv) The consumption and nature of raw materials used in the process and its energy efficiency;
  - (v) The need to prevent or reduce to a minimum the overall impact of the releases to the environment and the risks to it;
  - (vi) The need to prevent accidents and to minimize their consequences for the environment;
  - (vii) The need to ensure occupational health and safety at workplaces;
  - (viii) Comparable processes, facilities or methods of operation which have been tried with success on an industrial scale;
  - (ix) Technological advances and changes in scientific knowledge and understanding.

(b) General release reduction measures: When considering proposals to construct new facilities or significantly modify existing facilities using processes that release chemicals listed in this Annex, priority consideration should be given to alternative processes, techniques or practices that have similar usefulness but which avoid the formation and release of such chemicals. In cases where such facilities will be constructed or significantly modified, in addition to the prevention measures outlined in section A of Part V the following reduction measures could also be considered in determining best available techniques:

- (i) Use of improved methods for flue-gas cleaning such as thermal or catalytic oxidation, dust precipitation, or adsorption;
- (ii) Treatment of residuals, wastewater, wastes and sewage sludge by, for example, thermal treatment or rendering them inert or chemical processes that detoxify them;
- (iii) Process changes that lead to the reduction or elimination of releases, such as moving to closed systems;
- (iv) Modification of process designs to improve combustion and prevent formation of the chemicals listed in this Annex, through the control of parameters such as incineration temperature or residence time.

### **C. Best environmental practices**

The Conference of the Parties may develop guidance with regard to best environmental practices.

### **Annex D**

#### **INFORMATION REQUIREMENTS AND SCREENING CRITERIA**

1. A Party submitting a proposal to list a chemical in Annexes A, B and/or C shall identify the chemical in the manner described in subparagraph (a) and provide the information on the chemical, and its transformation products where relevant, relating to the screening criteria set out in subparagraphs (b) to (e):

- (a) Chemical identity:
  - (i) Names, including trade name or names, commercial name or names and synonyms, Chemical Abstracts Service (CAS) Registry number, International Union of Pure and Applied Chemistry (IUPAC) name; and

(ii) Structure, including specification of isomers, where applicable, and the structure of the chemical class;

(b) Persistence:

(i) Evidence that the half-life of the chemical in water is greater than two months, or that its half-life in soil is greater than six months, or that its half-life in sediment is greater than six months; or

(ii) Evidence that the chemical is otherwise sufficiently persistent to justify its consideration within the scope of this Convention;

(c) Bio-accumulation:

(i) Evidence that the bio-concentration factor or bio-accumulation factor in aquatic species for the chemical is greater than 5,000 or, in the absence of such data, that the log K<sub>ow</sub> is greater than 5;

(ii) Evidence that a chemical presents other reasons for concern, such as high bio-accumulation in other species, high toxicity or ecotoxicity; or

(iii) Monitoring data in biota indicating that the bio-accumulation potential of the chemical is sufficient to justify its consideration within the scope of this Convention;

(d) Potential for long-range environmental transport:

(i) Measured levels of the chemical in locations distant from the sources of its release that are of potential concern;

(ii) Monitoring data showing that long-range environmental transport of the chemical, with the potential for transfer to a receiving environment, may have occurred via air, water or migratory species; or

(iii) Environmental fate properties and/or model results that demonstrate that the chemical has a potential for long-range environmental transport through air, water or migratory species, with the potential for transfer to a receiving environment in locations distant from the sources of its release. For a chemical that migrates significantly through the air, its half-life in air should be greater than two days; and

(e) Adverse effects:

(i) Evidence of adverse effects to human health or to the environment that justifies consideration of the chemical within the scope of this Convention; or

(ii) Toxicity or ecotoxicity data that indicate the potential for damage to human health or to the environment.

2. The proposing Party shall provide a statement of the reasons for concern including, where possible, a comparison of toxicity or ecotoxicity data with detected or predicted levels of a chemical resulting or anticipated from its long-range environmental transport, and a short statement indicating the need for global control.

3. The proposing Party shall, to the extent possible and taking into account its capabilities, provide additional information to support the review of the proposal referred to in paragraph 6 of Article 8. In developing such a proposal, a Party may draw on technical expertise from any source.

## Annex E INFORMATION REQUIREMENTS FOR THE RISK PROFILE

The purpose of the review is to evaluate whether the chemical is likely, as a result of its long-range environmental transport, to lead to significant adverse human health and/or environmental effects, such that global action is warranted. For this purpose, a risk profile shall be developed that further elaborates on, and evaluates, the information referred to in Annex D and includes, as far as possible, the following types of information:

(a) Sources, including as appropriate:

(i) Production data, including quantity and location;

(ii) Uses; and

(iii) Releases, such as discharges, losses and emissions;

(b) Hazard assessment for the endpoint or endpoints of concern, including a consideration of toxicological interactions involving multiple chemicals;

(c) Environmental fate, including data and information on the chemical and physical properties of a chemical as well as its persistence and how they are linked to its environmental transport, transfer within and between environmental compartments, degradation and transformation to other chemicals. A determination of the bio-concentration factor or bio-accumulation factor, based on measured values, shall be available, except when monitoring data are judged to meet this need;

(d) Monitoring data;

(e) Exposure in local areas and, in particular, as a result of long-range environmental transport, and including information regarding bio-availability;

(f) National and international risk evaluations, assessments or profiles and labelling information and hazard classifications, as available; and

(g) Status of the chemical under international conventions.

## **Annex F** **INFORMATION ON SOCIO-ECONOMIC CONSIDERATIONS**

An evaluation should be undertaken regarding possible control measures for chemicals under consideration for inclusion in this Convention, encompassing the full range of options, including management and elimination. For this purpose, relevant information should be provided relating to socio-economic considerations associated with possible control measures to enable a decision to be taken by the Conference of the Parties. Such information should reflect due regard for the differing capabilities and conditions among the Parties and should include consideration of the following indicative list of items:

(a) Efficacy and efficiency of possible control measures in meeting risk reduction goals:

(i) Technical feasibility; and

(ii) Costs, including environmental and health costs;

(b) Alternatives (products and processes):

(i) Technical feasibility;

(ii) Costs, including environmental and health costs;

(iii) Efficacy;

(iv) Risk;

(v) Availability; and

(vi) Accessibility;

(c) Positive and/or negative impacts on society of implementing possible control measures:

(i) Health, including public, environmental and occupational health;

(ii) Agriculture, including aquaculture and forestry;

(iii) Biota (biodiversity);

(iv) Economic aspects;

(v) Movement towards sustainable development; and

(vi) Social costs;

(d) Waste and disposal implications (in particular, obsolete stocks of pesticides and clean-up of contaminated sites):

(i) Technical feasibility; and

(ii) Cost;

- (e) Access to information and public education;
- (f) Status of control and monitoring capacity; and
- (g) Any national or regional control actions taken, including information on alternatives, and other relevant risk management information.

**Annex G**  
**ARBITRATION AND CONCILIATION PROCEDURES**  
**FOR SETTLEMENT OF DISPUTES**  
**1 Decision SC-1/2 of the Conference of the Parties!**  
**Part I: Arbitration procedure**

The arbitration procedure for purposes of paragraph 2 (a) of Article 18 of the Convention shall be as follows:

**Article 1**

1. A Party may initiate recourse to arbitration in accordance with Article 18 of the Convention by written notification addressed to the other party to the dispute. The notification shall be accompanied by a statement of the claim, together with any supporting documents, and state the subject-matter of arbitration and include, in particular, the articles of the Convention the interpretation or application of which are at issue.
2. The claimant party shall notify the Secretariat that the parties are referring a dispute to arbitration pursuant to Article 18. The notification shall be accompanied by the written notification of the claimant party, the statement of claim and the supporting documents referred to in paragraph 1 above. The Secretariat shall forward the information thus received to all Parties.

**Article 2**

1. If a dispute is referred to arbitration in accordance with Article 1 above, an arbitral tribunal shall be established. It shall consist of three members.
2. Each of the parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the President of the tribunal. The President of the tribunal shall not be a national of one of the parties to the dispute, nor have his or her usual place of residence in the territory of one of those parties, nor be employed by any of them, nor have dealt with the case in any other capacity.
3. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement.
4. Any vacancy shall be filled in the manner prescribed for the initial appointment.
5. If the parties do not agree on the subject-matter of the dispute before the President of the arbitral tribunal is designated, the arbitral tribunal shall determine the subject-matter.

**Article 3**

1. If one of the parties to the dispute does not appoint an arbitrator within two months of the date on which the respondent party receives the notification of the arbitration, the other party may inform the Secretary-General of the United Nations, who shall make the designation within a further two-month period.
2. If the President of the arbitral tribunal has not been designated within two months of the date of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a party, designate the President within a further two-month period.

**Article 4**

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

**Article 5**

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of

procedure.

#### **Article 6**

The arbitral tribunal may, at the request of one of the parties, indicate essential interim measures of protection.

#### **Article 7**

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

- (a) Provide it with all relevant documents, information and facilities; and
- (b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

#### **Article 8**

The parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

#### **Article 9**

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

#### **Article 10**

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

#### **Article 11**

The tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.

#### **Article 12**

Decisions both on procedure and substance of the arbitral tribunal shall be taken by a majority vote of its members.

#### **Article 13**

1. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings.

2. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

#### **Article 14**

The tribunal shall render its final decision within five months of the date on which it is fully constituted unless it finds it necessary to extend the time limit for a period which should not exceed five more months.

#### **Article 15**

The final decision of the arbitral tribunal shall be confined to the subject matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the

final decision. Any member of the tribunal may attach a separate or dissenting opinion to the final decision.

### **Article 16**

The award shall be binding on the parties to the dispute. The interpretation of the Convention given by the award shall also be binding upon a Party intervening under Article 10 above insofar as it relates to matters in respect of which that Party intervened. The award shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

### **Article 17**

Any controversy which may arise between those bound by the final decision in accordance with Article 16 above, as regards the interpretation or manner of implementation of that decision, may be submitted by any of them for decision to the arbitral tribunal which rendered it.

## **Part II: Conciliation procedure**

The conciliation procedure for purposes of paragraph 6 of Article 18 of the Convention shall be as follows:

### **Article 1**

1. A request by a party to a dispute to establish a conciliation commission in consequence of paragraph 6 of Article 18 shall be addressed in writing to the Secretariat. The Secretariat shall forthwith inform all Parties to the Convention accordingly.

2. The conciliation commission shall, unless the parties otherwise agree, be composed of three members, one appointed by each party concerned and a President chosen jointly by those members.

### **Article 2**

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement.

### **Article 3**

If any appointments by the parties are not made within two months of the date of receipt by the Secretariat of the written request referred to in Article 1, the Secretary-General of the United Nations shall, upon request by a party, make those appointments within a further two- month period.

### **Article 4**

If the President of the conciliation commission has not been chosen within two months of the second member of the commission being appointed, the Secretary-General of the United Nations shall, upon request by a party, designate the President within a further two- month period.

### **Article 5**

1. The conciliation commission shall, unless the parties to the dispute otherwise agree, determine its own rules of procedure.

2. The parties and members of the commission are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the commission.

## **Article 6**

The conciliation commission shall take its decisions by a majority vote of its members.

## **Article 7**

The conciliation commission shall render a report with recommendations for resolution of the dispute within twelve months of being established, which the parties shall consider in good faith.

## **Article 8**

Any disagreement as to whether the conciliation commission has competence to consider a matter referred to it shall be decided by the commission.

## **Article 9**

The costs of the commission shall be borne by the parties to the dispute in shares agreed by them. The commission shall keep the record of all its costs and shall furnish a final statement thereof to the parties.

# Convention on the transboundary effects of industrial accidents

(Helsinki, 17 March 1992)

## Preamble

The Parties to this Convention,

Mindful of the special importance, in the interest of present and future generations, of protecting human beings and the environment against the effects of industrial accidents, Recognizing the importance and urgency of preventing serious adverse effects of industrial accidents on human beings and the environment, and of promoting all measures that stimulate the rational, economic and efficient use of preventive, preparedness and response measures to enable environmentally sound and sustainable economic development,

Taking into account the fact that the effects of industrial accidents may make themselves felt across borders, and require cooperation among States,

Affirming the need to promote active international cooperation among the States concerned before, during, and after an accident, to enhance appropriate policies and to reinforce and coordinate action at all appropriate levels for promoting the prevention of, preparedness for and response to the transboundary effects of industrial accidents,

Noting the importance and usefulness of bilateral and multilateral arrangements for the prevention of, preparedness for and response to the effects of industrial accidents,

Conscious of the role played in this respect by the United Nations Economic Commission for Europe (ECE) and recalling, inter alia, the ECE Code of Conduct on Accidental Pollution of Transboundary Inland Waters and the Convention on Environmental Impact Assessment in a Transboundary Context,

Having regard to the relevant provisions of the Final Act of the Conference on Security and Cooperation in Europe (CSCE), the Concluding Document of the Vienna Meeting of Representatives of the Participating States of the CSCE, and the outcome of the Sofia Meeting on the Protection of the Environment of the CSCE, as well as to pertinent activities and mechanisms in the United Nations Environment Programme (UNEP), in particular the APELL programme, in the International Labour Organisation (ILO), in particular the Code of Practice on the Prevention of Major Industrial Accidents, and in other relevant international organizations,

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

Taking account of the polluter pays principle as a general principle of international environmental law,

Underlining the principles of international law and custom, in particular the principles of good- neighbourliness, reciprocity, non-discrimination and good faith,

Have agreed as follows:

For the purposes of this Convention,

(a) "Industrial accident" means an event resulting from an uncontrolled development in the course of any activity involving hazardous substances either:

- (i) In an installation, for example during manufacture, use, storage, handling, or disposal; or
- (ii) During transportation in so far as it is covered by paragraph 2 (d) of Article 2;

(b) "Hazardous activity" means any activity in which one or more hazardous substances are present or may be present in quantities at or in excess of the threshold quantities listed in Annex I hereto, and which is capable of causing transboundary effects;

(c) "Effects" means any direct or indirect, immediate or delayed adverse consequences caused by an industrial accident on, inter alia:

- (i) Human beings, flora and fauna;
- (ii) Soil, water, air and landscape;
- (iii) The interaction between the factors in (i) and (ii);
- (iv) Material assets and cultural heritage, including historical monuments;



(d) "Transboundary effects" means serious effects within the jurisdiction of a Party as a result of an industrial accident occurring within the jurisdiction of another Party;

(e) "Operator" means any natural or legal person, including public authorities, in charge of an activity, e.g. supervising, planning to carry out or carrying out an activity;

(f) "Party" means, unless the text otherwise indicates, a Contracting Party to this Convention;

(g) "Party of origin" means any Party or Parties under whose jurisdiction an industrial accident occurs or is capable of occurring; (h) "Affected Party" means any Party or Parties affected or capable of being affected by transboundary effects of an industrial accident;

(i) "Parties concerned" means any Party of origin and any affected Party;

(j) "The public" means one or more natural or legal persons.

## Article 2

### Scope

1. This Convention shall apply to the prevention of, preparedness for and response to industrial accidents capable of causing transboundary effects, including the effects of such accidents caused by natural disasters, and to international cooperation concerning mutual assistance, research and development, exchange of information and exchange of technology in the area of prevention of, preparedness for and response to industrial accidents.

2. This Convention shall not apply to:

(a) Nuclear accidents or radiological emergencies;

(b) Accidents at military installations;

(c) Dam failures, with the exception of the effects of industrial accidents caused by such failures;

(d) Land-based transport accidents with the exception of:

(i) Emergency response to such accidents;

(ii) Transportation on the site of the hazardous activity;

(e) Accidental release of genetically modified organisms;

(f) Accidents caused by activities in the marine environment, including seabed exploration or exploitation;

(g) Spills of oil or other harmful substances at sea.

## Article 3

### General provisions

1. The Parties shall, taking into account efforts already made at national and international levels, take appropriate measures and cooperate within the framework of this Convention, to protect human beings and the environment against industrial accidents by preventing such accidents as far as possible, by reducing their frequency and severity and by mitigating their effects. To this end, preventive, preparedness and response measures, including restoration measures, shall be applied.

2. The Parties shall, by means of exchange of information, consultation and other cooperative measures and without undue delay, develop and implement policies and strategies for reducing the risks of industrial accidents and improving preventive, preparedness and response measures, including restoration measures, taking into account, in order to avoid unnecessary duplication, efforts already made at national and international levels.

3. The Parties shall ensure that the operator is obliged to take all measures necessary for the safe performance of the hazardous activity and for the prevention of industrial accidents.

4. To implement the provisions of this Convention, the Parties shall take appropriate legislative, regulatory, administrative and financial measures for the prevention of, preparedness for and response to industrial accidents.

5. The provisions of this Convention shall not prejudice any obligations of the Parties under international law with regard to industrial accidents and hazardous activities.

## Article 4

### Identification, consultation and advice

1. For the purpose of undertaking preventive measures and setting up preparedness measures, the Party of origin shall take measures, as appropriate, to identify hazardous activities within its jurisdiction and to ensure that affected Parties are notified of any such proposed or existing activity.

2. Parties concerned shall, at the initiative of any such Party, enter into discussions on the identification of those hazardous activities that are, reasonably, capable of causing transboundary effects. If the Parties concerned do not agree on whether an activity is such a hazardous activity, any such Party may, unless the Parties concerned agree on another method of resolving the question, submit that question to an inquiry commission in accordance with the provisions of Annex II hereto for

advice.

3. The Parties shall, with respect to proposed or existing hazardous activities, apply the procedures set out in Annex III hereto.

4. When a hazardous activity is subject to an environmental impact assessment in accordance with the Convention on Environmental Impact Assessment in a Transboundary Context and that assessment includes an evaluation of the transboundary effects of industrial accidents from the hazardous activity which is performed in conformity with the terms of this Convention, the final decision taken for the purposes of the Convention on Environmental Impact Assessment in a Transboundary Context shall fulfil the relevant requirements of this Convention.

## **Article 5**

### **Voluntary Extension**

Parties concerned should, at the initiative of any of them, enter into discussions on whether to treat an activity not covered by Annex I as a hazardous activity. Upon mutual agreement, they may use an advisory mechanism of their choice, or an inquiry commission in accordance with Annex II, to advise them. Where the Parties concerned so agree, this Convention, or any part thereof, shall apply to the activity in question as if it were a hazardous activity.

### **Prevention**

The Parties shall take appropriate measures for the prevention of industrial accidents, including measures to induce action by operators to reduce the risk of industrial accidents. Such measures may include, but are not limited to those referred to in Annex IV hereto.

1. With regard to any hazardous activity, the Party of origin shall require the operator to demonstrate the safe performance of the hazardous activity by the provision of information such as basic details of the process, including but not limited to, analysis and evaluation as detailed in Annex V hereto.

## **Article 7**

### **Decision-making on Siting**

Within the framework of its legal system, the Party of origin shall, with the objective of minimizing the risk to the population and the environment of all affected Parties, seek the establishment of policies on the siting of new hazardous activities and on significant modifications to existing hazardous activities. Within the framework of their legal systems, the affected Parties shall seek the establishment of policies on significant developments in areas which could be affected by transboundary effects of an industrial accident arising out of a hazardous activity so as to minimize the risks involved. In elaborating and establishing these policies, the Parties should consider the matters set out in Annex V, paragraph 2, subparagraphs (1) to (8), and Annex VI hereto.

## **Article 8**

### **Emergency Preparedness**

1. The Parties shall take appropriate measures to establish and maintain adequate emergency preparedness to respond to industrial accidents. The Parties shall ensure that preparedness measures are taken to mitigate transboundary effects of such accidents, on-site duties being undertaken by operators. These measures may include, but are not limited to those referred to in Annex VII hereto. In particular, the Parties concerned shall inform each other of their contingency plans.

2. The Party of origin shall ensure for hazardous activities the preparation and implementation of on-site contingency plans, including suitable measures for response and other measures to prevent and minimize transboundary effects. The Party of origin shall provide to the other Parties concerned the elements it has for the elaboration of contingency plans.

3. Each Party shall ensure for hazardous activities the preparation and implementation of off-site contingency plans covering measures to be taken within its territory to prevent and minimize transboundary effects. In preparing these plans, account shall be taken of the conclusions of analysis and evaluation, in particular the matters set out in Annex V, paragraph 2, subparagraphs (1) to (5). Parties concerned shall endeavour to make such plans compatible. Where appropriate, joint off-site contingency plans shall be drawn up in order to facilitate the adoption of adequate response measures.

4. Contingency plans should be reviewed regularly, or when circumstances so require, taking into account the experience gained in dealing with actual emergencies.

## **Article 9**

### **Information to, and Participation of the Public**

1. The Parties shall ensure that adequate information is given to the public in the areas capable of being affected by an industrial accident arising out of a hazardous activity. This information shall be transmitted through such channels as the Parties deem appropriate, shall include the elements contained in Annex VIII hereto and should take into account matters set out in Annex V, paragraph 2, subparagraphs (1) to (4) and (9).

2. The Party of origin shall, in accordance with the provisions of this Convention and whenever possible and appropriate, give the public in the areas capable of being affected an opportunity to participate in relevant procedures with the aim of making known its views and concerns on prevention and preparedness measures, a shall ensure that the opportunity given to the public of the affected Party is equivalent to that given to the public of the Party of origin.

3. The Parties shall, in accordance with their legal systems and, if desired, on a reciprocal basis provide natural or legal persons who are being or are capable of being adversely affected by the transboundary effects of an industrial accident in the territory of a Party, with access to, and treatment in the relevant administrative and judicial proceedings, including the possibilities of starting a legal action and appealing a decision affecting their rights, equivalent to those available to persons within their own jurisdiction.

## **Article 10**

### Industrial Accident Notification Systems

1. The Parties shall, with the aim of obtaining and transmitting industrial accident notifications containing information needed to counteract transboundary effects, provide for the establishment and operation of compatible and efficient industrial accident notification systems at appropriate levels.

2. In the event of an industrial accident, or imminent threat thereof, which causes or is capable of causing transboundary effects, the Party of origin shall ensure that affected Parties are, without delay, notified at appropriate levels through the industrial accident notification systems. Such notification shall include the elements contained in Annex IX hereto.

3. The Parties concerned shall ensure that, in the event of an industrial accident or imminent threat thereof, the contingency plans prepared in accordance with Article 8 are activated as soon as possible and to the extent appropriate to the circumstances.

## **Article 11**

### Response

1. The Parties shall ensure that, in the event of an industrial accident, or imminent threat thereof, adequate response measures are taken, as soon as possible and using the most efficient practices, to contain and minimize effects.

2. In the event of an industrial accident, or imminent threat thereof, which causes or is capable of causing transboundary effects, the Parties concerned shall ensure that the effects are assessed, where appropriate, jointly for the purpose of taking adequate response measures. The Parties concerned shall endeavour to coordinate their response measures.

## **Article 12**

### Mutual Assistance

1. If a Party needs assistance in the event of an industrial accident, it may ask for assistance from other Parties, indicating the scope and type of assistance required. A Party to whom a request for assistance is directed shall promptly decide and inform the requesting Party whether it is in a position to render the assistance required and indicate the scope and terms of the assistance that might be rendered.

2. The Parties concerned shall cooperate to facilitate the prompt provision of assistance agreed to under paragraph 1 of this Article, including, where appropriate, action to minimize the consequences and effects of the industrial accident, and to provide general assistance. Where Parties do not have bilateral or multilateral agreements which cover their arrangements for providing mutual assistance, the assistance shall be rendered in accordance with Annex X hereto, unless the Parties agree otherwise.

### Responsibility and Liability

he Parties shall support appropriate international efforts to elaborate rules, criteria and procedures in the field of responsibility and liability.

## **Article 14**

### Research and Development

The Parties shall, as appropriate, initiate and cooperate in the conduct of research into, and in the development of methods and technologies for the prevention of, preparedness for and response to industrial accidents. For these purposes, the Parties shall encourage and actively promote scientific and technological cooperation, including research into less hazardous processes aimed at limiting accident hazards and preventing and limiting the consequences of industrial accidents.

## **Article 15**

### Exchange of Information

The Parties shall, at the multilateral or bilateral level, exchange reasonably obtainable information, including the elements contained in Annex XI hereto.

## **Article 16**

### Exchange of Technology

1. The Parties shall, consistent with their laws, regulations and practices, facilitate the exchange of technology for the prevention of, preparedness for and response to the effects of industrial accidents, particularly through the promotion of:

- (a) Exchange of available technology on various financial bases;
- (b) Direct industrial contacts and cooperation;
- (c) Exchange of information and experience;
- (d) Provision of technical assistance.

2. In promoting the activities specified in paragraph 1, subparagraphs (a) to (d) of this Article, the Parties shall create favourable conditions by facilitating contacts and cooperation among appropriate organizations and individuals in both the private and the public sectors that are capable of providing technology, design and engineering services, equipment or finance.

## **Article 17**

### Competent Authorities and Points of Contact

Each Party shall designate or establish one or more competent authorities for the purposes of this Convention.

2. Without prejudice to other arrangements at the bilateral or multilateral level, each Party shall designate or establish one point of contact for the purpose of industrial accident notifications pursuant to Article 10, and one point of contact for the purpose of mutual assistance pursuant to Article 12. These points of contact should preferably be the same.

3. Each Party shall, within three months of the date of entry into force of this Convention for that Party, inform the other Parties, through the secretariat referred to in Article 20, which body or bodies it has designated as its point(s) of contact and as its competent authority or authorities.

4. Each Party shall, within one month of the date of decision, inform the other Parties, through the secretariat, of any changes regarding the designation(s) it has made under paragraph 3 of this Article.

5. Each Party shall keep its point of contact and industrial accident notification systems pursuant to Article 10 operational at all times. 6. Each Party shall keep its point of contact and the authorities responsible for making and receiving requests for, and accepting offers of assistance pursuant to Article 12 operational at all times.

## **Article 18**

### Conference of the Parties

1. The representatives of the Parties shall constitute the Conference of the Parties of this Convention and hold their meetings on a regular basis. The first meeting of the Conference of the Parties shall be convened not later than one year after the date of the entry into force of this Convention. Thereafter, a meeting of the Conference of the Parties shall be held at least once a year or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

2. The Conference of the Parties shall:

(a) Review the implementation of this Convention;

(b) Carry out advisory functions aimed at strengthening the ability of Parties to prevent, prepare for and respond to the transboundary effects of industrial accidents, and at facilitating the provision of technical assistance and advice at the request of Parties faced with industrial accidents;

(c) Establish, as appropriate, working groups and other appropriate mechanisms to consider matters related to the implementation and development of this Convention and, to this end, to prepare appropriate studies and other documentation and submit recommendations for consideration by the Conference of the Parties;

(d) Fulfil such other functions as may be appropriate under the provisions of this Convention;

(e) At its first meeting, consider and, by consensus, adopt rules of procedure for its meetings.

3. The Conference of the Parties, in discharging its functions, shall, when it deems appropriate, also cooperate with other relevant international organizations.

4. The Conference of the Parties shall, at its first meeting, establish a programme of work, in particular with regard to the items contained in Annex XII hereto. The Conference of the Parties shall also decide on the method of work, including the use of national centres and cooperation with relevant international organizations and the establishment of a system with a view to facilitating the implementation of this Convention, in particular for mutual assistance in the event of an industrial accident, and building upon pertinent existing activities within relevant international organizations. As part of the programme of work, the Conference of the Parties shall review existing national, regional and international centres, and other bodies and programmes aimed at coordinating information and efforts in the prevention of, preparedness for and response to industrial accidents, with a view to determining what additional international institutions or centres may be needed to carry out the tasks

listed in Annex XII.

5. The Conference of the Parties shall, at its first meeting, commence consideration of procedures to create more favourable conditions for the exchange of technology for the prevention of, preparedness for and response to the effects of industrial accidents.

6. The Conference of the Parties shall adopt guidelines and criteria to facilitate the identification of hazardous activities for the purposes of this Convention.

### **Article 19**

#### Right to Vote

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

2. Regional economic integration organizations as defined in Article 27 shall, in matters within their competence, exercise their right to vote with a number of votes equal to the number of their member States which are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

### **Article 20**

#### Secretariat

The Executive Secretary of the Economic Commission for Europe shall carry out the following secretariat functions:

- (a) Convene and prepare meetings of the Parties;
- (b) Transmit to the Parties reports and other information received in accordance with the provisions of this Convention;
- (c) Such other functions as may be determined by the Parties.

### **Article 21**

#### Settlement of Disputes

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

2. When signing, ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Submission of the dispute to the International Court of Justice; (b) Arbitration in accordance with the procedure set out in Annex XIII hereto.

3. If the parties to the dispute have accepted both means of dispute settlement referred to in paragraph 2 of this Article, the dispute may be submitted only to the International Court of Justice, unless the parties to the dispute agree otherwise.

### **Article 22**

#### Limitations on the Supply of Information

1. The provisions of this Convention shall not affect the rights or the obligations of Parties in accordance with their national laws, regulations, administrative provisions or accepted legal practices and applicable international regulations to protect information related to personal data, industrial and commercial secrecy, including intellectual property, or national security.

2. If a Party nevertheless decides to supply such protected information to another Party, the Party receiving such protected information shall respect the confidentiality of the information received and the conditions under which it is supplied, and shall only use that information for the purposes for which it was supplied.

### **Article 23**

#### Implementation

The Parties shall report periodically on the implementation of this Convention.

### **Article 24**

#### Bilateral and Multilateral Agreements

1. The Parties may, in order to implement their obligations under this Convention, continue existing or enter into new

bilateral or multilateral agreements or other arrangements.

2. The provisions of this Convention shall not affect the right of Parties to take, by bilateral or multilateral agreement where appropriate, more stringent measures than those required by this Convention.

## **Article 25**

### Status of Annexes

The Annexes to this Convention form an integral part of the Convention.

## **Article 26**

### Amendments to the Convention

1. Any Party may propose amendments to this Convention.

2. The text of any proposed amendment to this Convention shall be submitted in writing, to the Executive Secretary of the Economic Commission for Europe, who shall circulate it to all Parties. The Conference of the Parties shall discuss proposed amendments at its next annual meeting, provided that such proposals have been circulated to the Parties by the Executive Secretary of the Economic Commission for Europe at least ninety days in advance.

3. For amendments to this Convention - other than those to Annex I, for which the procedure is described in paragraph 4 of this Article: (a) Amendments shall be adopted by consensus of the Parties present at the meeting and shall be submitted by the Depositary to all Parties for ratification, acceptance or approval;

(b) Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with this Article shall enter into force for Parties that have accepted them on the ninetieth day following the day of receipt by the Depositary of the sixteenth instrument of ratification, acceptance or approval;

(c) Thereafter, amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instruments of ratification, acceptance or approval of the amendments.

4. For amendments to Annex I:

(a) The Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted and no agreement reached, the amendments shall, as a last resort, be adopted by a nine-tenths majority vote of the Parties present and voting at the meeting. If adopted by the Conference of the Parties, the amendments shall be communicated to the Parties and recommended for approval;

(b) On the expiry of twelve months from the date of their communication by the Executive Secretary of the Economic Commission for Europe, the amendments to Annex I shall become effective for those Parties to this Convention which have not submitted a notification in accordance with the provisions of paragraph 4 (c) of this Article, provided that at least sixteen Parties have not submitted such a notification;

(c) Any Party that is unable to approve an amendment to Annex I of this Convention shall so notify the Executive Secretary of the Economic Commission for Europe in writing within twelve months from the date of the communication of the adoption. The Executive Secretary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for its previous notification and the amendment to Annex I shall thereupon enter into force for that Party.

(d) For the purpose of this paragraph "Parties present and voting" means Parties present and casting an affirmative or negative vote.

### Signature

This Convention shall be open for signature at Helsinki from 17 to 18 March 1992 inclusive, and thereafter at United Nations Headquarters in New York until 18 September 1992, by States members of the Economic Commission for Europe, as well as States having consultative status with the Economic Commission for Europe pursuant to paragraph 8 of Economic and Social Council resolution 36 (IV) of 28 March 1947, and by regional economic integration organizations constituted by sovereign States members of the Economic Commission for Europe to which their member States have transferred competence in respect of matters governed by this Convention, including the competence to enter into treaties in respect of these matters.

## **Article 28**

### Depositary

The Secretary-General of the United Nations shall act as the Depositary of this Convention.

## **Article 29**

### Ratification, Acceptance, Approval and Accession

1. This Convention shall be subject to ratification, acceptance or approval by the signatory States and regional economic integration organizations referred to in Article 27.

2. This Convention shall be open for accession by the States and organizations referred to in Article 27.

3. Any organization referred to in Article 27 which becomes Party to this Convention without any of its member States being a Party shall be bound by all the obligations under this Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under this Convention concurrently.

4. In their instruments of ratification, acceptance, approval or accession, the regional economic integration organizations referred to in Article 27 shall declare the extent of their competence with respect to the matters governed by this Convention. These organizations shall also inform the Depositary of any substantial modification to the extent of their competence.

### **Article 30**

#### Entry into Force

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

2. For the purposes of paragraph 1 of this Article, any instrument deposited by an organization referred to in Article 27 shall not be counted as additional to those deposited by States members of such an organization.

3. For each State or organization referred to in Article 27 which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the sixteenth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the ninetieth day after the date of deposit by such State or organization of its instrument of ratification, acceptance, approval or accession.

### **Article 31**

#### Withdrawal

At any time after three years from the date on which this Convention has come into force with respect to a Party, that Party may withdraw from this Convention by giving written notification to the Depositary. Any such withdrawal shall take effect on the ninetieth day after the date of the receipt of the notification by the Depositary.

1. Any such withdrawal shall not affect the application of Article 4 to an activity in respect of which a notification has been made pursuant to Article 4, paragraph 1, or a request for discussions has been made pursuant to Article 4, paragraph 2.

### **Article 32**

#### Authentic Texts

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

Annex I - Hazardous Substances for the Purposes of Defining Hazardous Activities

omissis

Annex II - Inquiry Commission Procedure Pursuant to Articles 4 and 5 omissis

Annex III - Procedures Pursuant to Article 4 omissis

Annex IV - Preventive Measures Pursuant to Article 6

omissis

Annex V - Analysis and Evaluation omissis

Annex VI - Decision-Making on Siting Pursuant to Article 7 omissis

Annex VII - Emergency Preparedness Measures Pursuant to Article 8 omissis

Annex VIII - Information to the Public Pursuant to Article 9 omissis

Annex IX - Industrial Accident Notification Systems Pursuant to Article 10 omissis

Annex X - Mutual Assistance Pursuant to Article 12 omissis

Annex XI - Exchange of Information Pursuant to Article 15 omissis

Annex XII - Tasks for Mutual Assistance Pursuant to Article 18, Paragraph 4 omissis

Annex XIII - Arbitration omissis.



# **International convention for the prevention of pollution from ships, 1973**

**London, 2 November 1973**

The Parties to the Convention,

Being conscious of the need to preserve the human environment in general and the marine environment in particular,

Recognizing that deliberate, negligent or accidental release of oil and other harmful substances from ships constitutes a serious source of pollution,

Recognizing also the importance of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as being the first multilateral instrument to be concluded with the prime objective of protecting the environment, and appreciating the significant contribution which that Convention has made in preserving the seas and coastal environment from pollution,

Desiring to achieve the complete elimination of intentional pollution of the marine environment by oil and other harmful substances and the minimization of accidental discharge of such substances,

Considering that this object may best be achieved by establishing rules not limited to oil pollution having a universal purport,

Have agreed as follows:

## **Article 1**

### **GENERAL OBLIGATIONS UNDER THE CONVENTION**

1 The Parties to the Convention undertake to give effect to the provisions of the present Convention and those Annexes thereto by which they are bound, in order to prevent the pollution of the marine environment by the discharge of harmful substances or effluents containing such substances in contravention of the Convention.

2. Unless expressly provided otherwise, a reference to the present Convention constitutes at the same time a reference to its Protocol and to the Annexes.

## **Article 2**

### **DEFINITIONS**

For the purposes of the present Convention, unless expressly provided otherwise:

1. "Regulations" means the Regulations contained in the Annexes to the present Convention
2. "Harmful substance" means any substance which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes any substance subject to control by the present Convention.
  3. a) "Discharge", in relation to harmful substances or effluents containing such substances, means any release howsoever caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying;
  4. b) "Discharge" does not include:
    - (i) dumping within the meaning of the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, done at London on 13 November 1972; or
    - (ii) release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or
    - (iii) release of harmful substances for purpose of legitimate scientific research into pollution abatement or control.
5. "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and fixed or floating platforms.
6. "Administration" means the Government of the State under whose authority the ship is operating. With respect to a ship entitled to fly a flag of any State, the Administration is the Government of that State. With respect to fixed or floating platforms engaged in exploration and exploitation of the sea-bed and subsoil thereof adjacent to the coast over which the coastal State exercises sovereign rights for the purposes of exploration and exploitation of their natural resources, the

Administration is the Government of the coastal State concerned.

7. "Incident" means an event involving the actual or probable discharge into the sea of a harmful substance, or effluents containing such a substance.

8. "Organization" means the Inter-Governmental Maritime Consultative Organization.

### **Article 3**

#### **APPLICATION**

1. The present Convention shall apply to:

- a) ships entitled to fly the flag of a Party to the Convention; and
- b) ships not entitled to fly the flag of a Party but which operate under the authority of a Party.

2. Nothing in the present Article shall be construed as derogating from or extending the sovereign rights of the Parties under international law over the sea-bed and subsoil thereof adjacent to their coasts for the purposes of exploration and exploitation of their natural resources.

3. The present Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with the present Convention.

### **Article 4**

#### **VIOLATION**

1. Any violation of the requirements of the present Convention shall be prohibited and sanctions shall be established therefor under the law of the Administration of the ship concerned wherever the violation occurs. If the Administration is informed of such a violation and is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken as soon as possible, in accordance with its law.

2. Any violation of the requirements of the present Convention within the jurisdiction of any Party to the Convention shall be prohibited and sanctions shall be established therefore under the law of that Party. Whenever a violation occurs, the Party shall either:

- a) cause proceedings to be taken in accordance with its law; or
- b) furnish to the Administration of the ship such information and evidence as may be in its possession that a violation has occurred.

3. Where information or evidence with respect to any violation of the present Convention by a ship is furnished to the Administration of that ship, the Administration shall promptly inform the Party which has furnished the information or evidence and the Organization, of the action taken.

4. The penalties specified under the law of a Party pursuant to the present Article shall be adequate in severity to discharge violations of the present Convention and shall be equally severe irrespective of where the violations occur.

### **Article 5**

#### **CERTIFICATES AND SPECIAL RULES ON INSPECTION OF SHIPS**

1. Subject to the provisions of paragraph (2) of the present Article a certificate issued under the authority of a Party to the Convention in accordance with the provisions of the Regulations shall be accepted by the other Parties and regarded for all purposes covered by the present Convention as having the same validity as a certificate issued by them.

2. A ship required to hold a certificate in accordance with the provisions of the Regulations is subject, while in the ports or off-shore terminals under the jurisdiction of a Party, to inspection by officers duly authorized by that Party. Any such inspection shall be limited to verifying that there is on board a valid certificate, unless there are clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with the particulars of that certificate. In that case, or if the ship does not carry a valid certificate the Party carrying out the inspection shall take such steps as will ensure that the ship shall not sail until it can proceed to sea without presenting an unreasonable threat of harm to the marine environment. That Party may, however, grant such a ship permission to leave the port or off-shore terminal for the purpose of proceedings to the nearest appropriate repair yard available.

3. If a Party denies a foreign ship entry to the ports or off-shore terminals under its jurisdiction or takes any action against such a ship for the reason that the ship does not comply with the provisions of the present Convention, the Party shall immediately inform the consul or diplomatic representative of the Party whose flag the ship is entitled to fly, or if this is not possible, the Administration of the ship concerned. Before denying entry or taking such action the Party may request

consultation with the Administration of the ship concerned. Information shall also be given to the Administration when a ship does not carry a valid certificate in accordance with the provisions of the Regulations.

4. With respect to the ships of non-Parties to the Convention, Parties shall apply the requirements of the present Convention as may be necessary to ensure that no more favourable treatment is given to such ships.

## **Article 6**

### **DETECTION OF VIOLATIONS AND ENFORCEMENT OF THE CONVENTION**

1. Parties to the Convention shall co-operate in the detection of violations and the enforcement of the provisions of the present Convention, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

2. A ship to which the present Convention applies may, in any port or off-shore terminal of a Party, be subject to inspection by officers appointed or authorized by that Party for the purpose of verifying whether the ship has discharged any harmful substances in violation of the provisions of the Regulations. If an inspection indicates a violation of the Convention, a report shall be forwarded to the Administration for any appropriate action.

3. Any Party shall furnish to the Administration evidence, if any, that the ship had discharged harmful substances in violation of the provisions of the Regulations. If it is practicable to do so, the competent authority of the former Party shall notify the Master of the ship of the alleged violation.

4. Upon receiving such evidence, the Administration so informed shall investigate the matter, and may request the other Party to furnish further or better evidence of the alleged contravention. If the Administration is satisfied that sufficient evidence is available to enable proceedings to be brought in respect of the alleged violation, it shall cause such proceedings to be taken in accordance with its law as soon as possible. The Administration shall promptly inform the Party which has reported the alleged violation, as well as the Organization, of the action taken.

5. A Party may also inspect a ship to which the present Convention applies when it enters the ports or offshore terminals under its jurisdiction, if a request for an investigation is received from any Party together with sufficient evidence that the ship has discharged harmful substances or effluents containing such substances in any place. The report of such investigation shall be sent to the Party requesting it and to the Administration so that the appropriate action may be taken under the present Convention.

## **Article 7**

### **UNDUE DELAY TO SHIPS**

1. All possible efforts shall be made to avoid a ship being unduly detained or delayed under Article 4, 5, or 6 of the present Convention.

2. When a ship is unduly detained or delayed under Article 4, 5, 6 of the present Convention, it shall be entitled to compensation for any loss or damage suffered.

## **Article 8**

### **REPORTS ON INCIDENTS INVOLVING HARMFUL SUBSTANCES**

1. A report of an incident shall be made without delay to the fullest extent possible in accordance with the provisions of Protocol I to the present Convention.

2. Each Party to the Convention shall:

- a) make all arrangements necessary for an appropriate officer or agency to receive and process all reports on incidents; and
- b) notify the Organization with complete details of such arrangements for circulation to other Parties and Member States of the Organization.

3. Whenever a Party receives a report under the provisions of the present Article, the Party shall relay the report without delay to:

- a) the Administration of the ship involved; and
- b) any other State which may be affected.

4. Each Party to the Convention undertakes to issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incident referred to in Protocol I to the present Convention. That Party shall, if it considers it appropriate, report accordingly to the Organization and to any other party concerned.

## **Article 9**

### **OTHER TREATIES AND INTERPRETATION**

1. Upon its entry into force, the present Convention supersedes the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended, as between Parties to that Convention.

2. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

3. The term "jurisdiction" in the present Convention shall be construed in the light of international law in force at the time of application or interpretation of the present Convention.

## **Article 10**

### **SETTLEMENT OF DISPUTES**

Any dispute between two or more Parties to the Convention concerning the interpretation or application of the present Convention shall, if settlement by negotiation between the Parties involved has not been possible, and if these Parties do not otherwise agree, be submitted upon request of any of them to arbitration as set out in Protocol II to the present Convention.

## **Article 11**

### **COMMUNICATION OF INFORMATION**

1. The Parties to the Convention undertake to communicate to the Organization:

- a) the text of laws, orders, decrees and regulations and other instruments which have been promulgated on the various matters within the scope of the present Convention;
- b) a list of non-governmental agencies which are authorized to act on their behalf in matters relating to the design, construction and equipment of ships carrying harmful substances in accordance with the provisions of the Regulations;
- c) a sufficient number of specimens of their certificates issued under the provisions of the Regulations;
- d) a list of reception facilities including their location, capacity and available facilities and other characteristics;
- e) official reports or summaries of official reports in so far as they show the results of the application of the present Convention; and
- f) an annual statistical report, in a form standardized by the Organization, of penalties actually imposed for infringement of the present Convention.

2. The Organization shall notify Parties of the receipt of any communications under the present Article and circulate to all Parties any information communicated to it under sub-paragraphs (1) (b) to (f) of the present Article.

## **Article 12**

### **CASUALTIES TO SHIPS**

1. Each Administration undertakes to conduct an investigation of any casualty occurring to any of its ships subject to the provisions of the Regulations if such casualty has produced a major deleterious effect upon the marine environment.

2. Each Party to the Convention undertakes to supply the Organization with information concerning the findings of such investigation, when it judges that such information may assist in determining what changes in the present Convention might be desirable.

## **Article 13**

### **SIGNATURES, RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION**

1. The present Convention shall remain open for signature at the Headquarters of the Organization from 15 January 1974 until 31 December 1974 and shall thereafter remain open for accession. States may become Parties to the present Convention by:

- a) signature without reservation as to ratification, acceptance or approval; or
- b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- c) accession.

2. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General of the Organization.

3. The Secretary-General of the Organization shall inform all States which have signed the present Convention or acceded to it of any signature or of the deposit of any new instrument of ratification, acceptance, approval or accession and the date of its deposit.

## **Article 14**

### **OPTIONAL ANNEXES**

1. A State may at the time of signing, ratifying, accepting, approving or acceding to the present Convention declare that it does not accept any one or all of Annexes III, IV, and V (hereinafter referred to as "Optional Annexes") of the present Convention. Subject to the above, Parties to the Convention shall be bound by any Annex in its entirety.

2. A State which has declared that it is not bound by an Optional Annex may at any time accept such Annex by depositing with the Organization an instrument of the kind referred to in Article 13 (2).

3. A State which makes a declaration under paragraph (1) of the present Article in respect of an Optional Annex and which has not subsequently accepted that Annex in accordance with paragraph (2) of the present Article shall not be under any obligation nor entitled to claim any privileges under the present Convention in respect of matters related to such Annex and all reference to Parties in the present Convention shall include that State in so far as matters related to such Annex are concerned.

4. The Organization shall inform the States which have signed or acceded to the present Convention of any declaration under the present Article as well as the receipt of any instrument deposited in accordance with the provisions of paragraph (2) of the present Article.

## **Article 15**

### **ENTRY INTO FORCE**

1. The Convention shall enter into force twelve months after the date on which not less than 15 States, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant shipping, have become parties to it in accordance with Article 13.

2. An Optional Annex shall enter into force twelve months after the date on which the conditions stipulated in paragraph (1) of the present Article have been satisfied in relation to that Annex.

3. The Organization shall inform the States which have signed the present Convention or acceded to it of the date on which it enters into force and of the date on which the Optional Annex enters into force in accordance with paragraph (2) of the present Article.

4. For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of the present Convention or any Optional Annex after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of the Convention or such Annex or three months after the date of deposit of the instrument whichever is the later date.

5. For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which the Convention or an Optional Annex entered into force, the Convention or the Optional Annex shall become effective three months after the date of deposit of the instrument.

6. After the date on which all the conditions required under Article 16 to bring an amendment to the present Convention or an Optional Annex into force have been fulfilled, any instrument of ratification, acceptance, approval or accession deposited shall apply to the Convention or Annex as amended.

## **Article 16**

### **AMENDMENTS**

1. The present Convention may be amended by any of the procedures specified in the following paragraphs.

2. Amendments after consideration by the Organization:

a) any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by its Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration;

b) any amendment proposed and circulated as above shall be submitted to an appropriate body by the Organization for consideration;

c) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the appropriate body;

d) amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting;

e) if adopted in accordance with sub-paragraph c) above, amendments shall be communicated by the Secretary-General of the Organization to all the Parties to the Convention for acceptance;

f) an amendment shall be deemed to have been accepted in the following circumstances:

(i) an amendment to an Article of the Convention shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet;

(ii) an amendment to an Annex to the Convention shall be deemed to have been accepted in accordance with the procedure specified in subparagraph (f) (iii) unless the appropriate body, at the time of its adoption, determines that the amendment shall be deemed to have been accepted on the date on which it is accepted by two-thirds of the Parties, the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet. Nevertheless, at any time before the entry into force of an amendment to an Annex to the Convention, a Party may notify the Secretary-General of the Organization that its express approval will be necessary before the amendment enters into force for it. The latter shall bring such notification and the date of its receipt to the notice of Parties.

(iii) an amendment to an Appendix to an Annex to the Convention shall be deemed to have been accepted at the end of a period to be determined by the appropriate body at the time of its adoption, which period shall be not less than ten months, unless within that period an objection is communicated to the Organization by not less than one-third of the Parties or by the Parties the combined merchant fleets of which constitute not less than fifty per cent of the gross tonnage of the world's merchant fleet whichever condition is fulfilled;

(iv) an amendment to Protocol I to the Convention shall be subject to the same procedures as for the amendments to the Annexes to the Convention, as provided for in sub-paragraphs (f) (ii) or (f) (iii), above;

(v) an amendment to Protocol II to the Convention shall be subject to the same procedures as for the amendments to an Article of the Convention, as provided for in sub-paragraph (f) (i) above;

g) the amendment shall enter into force under the following conditions:

(i) in the case of an amendment to an Article of the Convention, to Protocol II, or to Protocol I or to an Annex to the Convention not under the procedure specified in sub-paragraph (f) (iii), the amendment accepted in conformity with the foregoing provisions shall enter into force six months after the date of its acceptance with respect to the Parties which have declared that they have accepted it;

(ii) in the case of an amendment to Protocol I, to an Appendix to an Annex or to an Annex to the Convention under the procedure specified in subparagraph (f) (iii), the amendment deemed to have been accepted in accordance with the foregoing conditions shall enter into force six months after its acceptance for all the Parties with the exception of those which, before that date, have made a declaration that they do not accept it or a declaration under sub-paragraph (f) (ii), that their express approval is necessary.

3. Amendment by a Conference.

a) Upon the request of a Party, concurred in by at least one-third of the Parties, the Organization shall convene a Conference of Parties to the Convention to consider amendments to the present Convention.

b) Every amendment by such a Conference by a two-thirds majority of those present and voting of the Parties shall be communicated by the Secretary-General of the Organization to all Contracting Parties for their acceptance.

c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and to have entered into force in accordance with the procedures specified for that purpose in paragraph (2) (f) and (g) above.

4. a) In the case of an amendment to an Optional Annex, a reference in the present Article to a "Party to the Convention" shall be deemed to mean a reference to a Party bound by that Annex.

b) Any Party which has declined to accept an amendment to an Annex shall be treated as a non-Party only for the purpose of application of that Amendment.

5. The adoption and entry into force of a new Annex shall be subject to the same procedures as for the adoption and entry into force of an Article of the Convention.

6. Unless expressly provided otherwise, any amendment to the present Convention made under this Article, which relates to the structure of a ship, shall apply only to ships for which the building contract is placed, or in the absence of a building contract, the keel of which is laid, on or after the date on which the amendment comes into force.

7. Any amendment to a Protocol or to an Annex shall relate to the substance of that Protocol or Annex and shall be consistent with the Articles of the present Convention.

8. The Secretary-General of the Organization shall inform all Parties of any amendments which enter into force under the present Article, together with the date on which each such amendment enters into force.

9. Any declaration of acceptance or of objection to an amendment under the present Article shall be notified in writing to the Secretary-General of the Organization. The latter shall bring such notification and the date of its receipt to the notice of the Parties to the Convention.

## **Article 17**

### **PROMOTION OF TECHNICAL CO-OPERATION**

The Parties to the Convention shall promote in consultation with the Organization and other international bodies, with assistance and coordination by the Executive Director of the United Nations Environment Programme, support for those

Parties which request technical assistance for:

- a) the training of scientific and technical personnel;
- b) the supply of necessary equipment and facilities for reception and monitoring;
- c) the facilitation of other measures and arrangements to prevent or mitigate pollution of the marine environment by ships; and
- d) the encouragement of research; preferably within the countries concerned, so furthering the aims and purposes of the present Convention.

## **Article 18**

### DENUNCIATION

1. The present Convention or any Optional Annex may be denounced by any Party to the Convention at any time after the expiry of five years from the date on which the Convention or such Annex enters into force for that Party.
2. Denunciation shall be effected by notification in writing to the Secretary-General of the Organization who shall inform all the other Parties of any such notification received and of the date of its receipt as well as the date on which such denunciation takes effect.
3. A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General of the Organization or after the expiry of any other longer period which may be indicated in the notification.

## **Article 19**

### DEPOSIT AND REGISTRATION

1. The present Convention shall be deposited with the Secretary-General of the Organization who shall transmit certified true copies thereof to all States which have signed the present Convention or acceded to it.
2. As soon as the present Convention enters into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretary-General of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

## **Article 20**

### LANGUAGES

The present Convention is established in a single copy in the English, French, Russian and Spanish languages, each text being equally authentic. Official translations in the Arabic, German, Italian and Japanese languages shall be prepared and deposited with the signed original.

In Witness Whereof the undersigned \* being duly authorized by their respective Governments for that purpose have signed the present Convention.

\* Signatures omitted.

Done at London this second day of November, one thousand nine hundred and seventy-three.

## **PROTOCOL I**

Provisions Concerning Reports on Incidents Involving Harmful Substances (in accordance with Article 8 of the Convention)

### **Article I**

#### DUTY TO REPORT

1. The Master of a ship involved in an incident referred to in Article III of this Protocol, or other person having charge of the ship, shall report the particulars of such incident without delay and to the fullest extent possible in accordance with the provisions of this Protocol.
2. In the event of the ship referred to in paragraph (1) of the present Article being abandoned, or in the event of a report from such ship being incomplete or unobtainable, the owner, charterer, manager or operator of the ship, or their agents shall, to the fullest extent possible assume the obligations placed upon the Master under the provisions of this Protocol.

### **Article II**

#### METHODS OF REPORTING

1. Each report shall be made by radio whenever possible, but in any case by the fastest channels available at the time the report is made. Reports made by radio shall be given the highest possible priority.
2. Reports shall be directed to the appropriate officer or agency specified in paragraph (2)(a) of Article 8 of

the Convention.

### **Article III**

#### **WHEN TO MAKE REPORTS**

The report shall be made whenever an incident involves:

- a) a discharge other than as permitted under the present Convention; or
- b) a discharge permitted under the present Convention by virtue of the fact that:
  - (i) it is for the purpose of securing the safety of a ship or saving life at sea; or
  - (ii) it results from damage to the ship or its equipment; or
- c) a discharge of a harmful substance for the purpose of combating a specific pollution incident or for purposes of legitimate scientific research into pollution abatement or control; or
- d) the probability of a discharge referred to in sub-paragraphs (a), (b) or (c) of this Article.

### **Article IV**

#### **CONTENTS OF REPORT**

1. Each report shall contain in general:
  - a) the identity of the ship;
  - b) the time and date of the occurrence of the incident;
  - c) the geographic position of the ship when the incident occurred;
  - d) the wind and sea conditions prevailing at the time of the incident; and
2. Each report shall contain, in particular:
  - a) a clear indication or description of the harmful substances involved, including, if possible, the correct technical names of such substances (trade names should not be used in place of the correct technical names);
  - b) a statement or estimate of quantities, concentrations and likely conditions of harmful substances discharged or likely to be discharged into the sea;
  - c) where relevant, a description of the packaging and identifying marks; and
  - d) if possible the name of the consignor, consignee or manufacturer.
3. Each report shall clearly indicate whether the harmful substance discharged, or likely to be discharged is oil, a noxious liquid substance, a noxious solid substance or a noxious gaseous substance and whether such substance was or is carried in bulk or contained in packaged form, freight containers, portable tanks, or road and rail tank wagons.
4. Each report shall be supplemented as necessary by any other relevant information requested by a recipient of the report or which the person sending the report deems appropriate.

### **Article V**

#### **SUPPLEMENTARY REPORT**

Any person who is obliged under the provisions of this Protocol to send a report shall, when possible:

- a) supplement the initial report, as necessary, with information concerning further developments; and
- b) comply as fully as possible with requests from affected States for additional information concerning the incident.

## **PROTOCOL II**

### **Arbitration**

(in accordance with Article 10 of the Convention)

#### **Article I**

Arbitration procedure, unless the Parties to the dispute decide otherwise, shall be in accordance with the rules set out in this Protocol.

#### **Article II**

1. An Arbitration Tribunal shall be established upon the request of one Party to the Convention addressed to another in application of Article 10 of the present Convention. The request for arbitration shall consist of a statement of the case together with any supporting documents.

2. The requesting Party shall inform the Secretary-General of the Organization of the fact that it has applied for the establishment of a Tribunal, of the names of the Parties to the dispute and of the Articles of the Convention or Regulations over which there is in its opinion disagreement concerning their interpretation or application. The Secretary-General shall transmit this information to all Parties.



### **Article III**

The Tribunal shall consist of three members: one Arbitrator nominated by each Party to the dispute and a third Arbitrator who shall be nominated by agreement between the two first named, and shall act as its Chairman.

### **Article IV**

1. If, at the end of a period of sixty days from the nomination of the second Arbitrator, the Chairman of the Tribunal shall not have been nominated, the Secretary-General of the Organization upon request of either Party shall within a further period of sixty days proceed to such nomination, selecting him from a list of qualified persons previously drawn up by the Council of the Organization.

2. If, within a period of sixty days from the date of the receipt of the request, one of the Parties shall not have nominated the member of the Tribunal for whose designation it is responsible, the other Party may directly inform the Secretary-General of the Organization who shall nominate the Chairman of the Tribunal within a period of sixty days, selecting him from the list prescribed in paragraph (1) of the present Article.

3. The Chairman of the Tribunal shall, upon nomination, request the Party which has not provided an Arbitrator, to do so in the same manner and under the same conditions. If the Party does not make the required nomination, the Chairman of the Tribunal shall request the Secretary-General of the Organization to make the nomination in the form and conditions prescribed in the preceding paragraph.

4. The Chairman of the Tribunal, if nominated under the provisions of the present Article, shall not be or have been a national of one of the Parties concerned, except with the consent of the other Party.

5. In the case of the decease or default of an Arbitrator for whose nomination one of the Parties is responsible, the said Party shall nominate a replacement within a period of sixty days from the date of decease or default. Should the said Party not make the nomination, the arbitration shall proceed under the remaining Arbitrators. In case of the decease or default of the Chairman of the Tribunal, a replacement shall be nominated in accordance with the provisions of Article III above, or in the absence of agreement between the members of the Tribunal within a period of sixty days of the decease or default, according to the provisions of the present Article.

### **Article V**

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

### **Article VI**

Each Party shall be responsible for the remuneration of its Arbitrator and connected costs and for the costs entailed by the preparation of its own case. The remuneration of the Chairman of the Tribunal and of all general expenses incurred by the Arbitration shall be borne equally by the Parties. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof.

### **Article VII**

Any Party to the Convention which has an interest of a legal nature and which may be affected by the decision in the case may, after giving written notice to the Parties which have originally initiated the procedure, join in the arbitration procedure with the consent of the Tribunal.

### **Article VIII**

Any Arbitration Tribunal established under the provision of the present Protocol shall decide its own rules of procedure.

### **Article IX**

1. Decisions of the Tribunal both as to its procedure and its place of meeting and as to any question laid before it, shall be taken by majority votes of its members; the absence or abstention of one of the members of the Tribunal for whose nomination the Parties were responsible shall not constitute an impediment to the Tribunal reaching a decision. In cases of equal voting, the vote of the Chairman shall be decisive.

2. The Parties shall facilitate the work of the Tribunal and in particular, in accordance with their legislation, and using all means at their disposal:

- a) provide the Tribunal with the necessary documents and information;
- b) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene.

3. Absence or default of one Party shall not constitute an impediment to the procedure.

### **Article X**

1. The Tribunal shall render its award within a period of five months from the time it is established unless it decides, in the case of necessity, to extend the time limit for a further period but not exceeding three months. The award of the Tribunal

shall be accompanied by a statement of reasons. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organization. The Parties shall immediately comply with the award.

2. Any controversy which may arise between the Parties as regards interpretation or execution of the award may be submitted by either Party for judgement to the Tribunal which made the award or, if it is not available to another Tribunal constituted for this purpose, in the same manner as the original Tribunal.

## ANNEX I

### REGULATIONS FOR THE PREVENTION OF POLLUTION BY OIL

#### Chapter I C General

##### Regulation 1

##### DEFINITIONS

For the purposes of this Annex:

1. "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products (other than petrochemicals which are subject to the provisions of Annex II of the present Convention) and, without limiting the generality of the foregoing, includes the substances listed in Appendix I to this Annex.

2. "Oily mixture" means a mixture with any oil content.

3. "Oil fuel" means any oil used as fuel in connexion with the propulsion and auxiliary machinery of the ship in which such oil is carried.

4. "Oil tanker" means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes combination carriers and any "chemical tanker" as defined in Annex II of the present Convention when it is carrying a cargo or part cargo of oil in bulk.

5. "Combination carrier" means a ship designed to carry either oil or solid cargoes in bulk.

6. "New ship" means a ship:

a) for which the building contract is placed after 31 December 1975; or

b) in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction after 30 June 1976; or

c) the delivery of which is after 31 December 1979; or

d) which has undergone a major conversion:

(i) for which the contract is placed after 31 December 1975; or

(ii) in the absence of a contract, the construction work of which is begun after 30 June 1976; or

(iii) which is completed after 31 December 1979.

7. "Existing ship" means a ship which is not a new ship.

8. "Major conversion" means a conversion of an existing ship:

a) which substantially alters the dimensions or carrying capacity of the ship; or

b) which changes the type of the ship; or

c) the intent of which in the opinion of the Administration is substantially to prolong its life; or

d) which otherwise so alters the ship that if it were a new ship, it would become subject to relevant provisions of the present Convention not applicable to it as an existing ship.

9. "Nearest land". The term "from the nearest land" means from the baseline from which the territorial sea of the territory in question is established in accordance with international law, except that for the purposes of the present Convention "from the nearest land" off the north eastern coast of Australia shall mean from a line drawn

from a point on the coast of Australia in latitude 11 deg 00 deg South, longitude 142 deg 08 min East to a point in latitude 10 deg 35 min South, longitude 141 deg 55 min East thence to a point latitude 10 deg 00 min South, longitude 142 deg 00 min East, thence to a point latitude 9 deg 10 min South, longitude 143 deg 52 min East, thence to a point latitude 9 deg 00 min South, longitude 144 deg 00 min East, thence to a point latitude 15 deg min South, longitude 147 deg 00 min East, thence to a point latitude 21 deg 00 min South, longitude 153 deg 00 min East, thence to a point on the coast of Australia in latitude 24 deg 42 deg South, longitude 153 deg 15 min East.

10. "Special area" means a sea where for recognized technical reasons in relation to its oceanographical and ecological condition and to the particular character of its traffic the adoption of special mandatory methods for the prevention of sea pollution by oil is required. Special areas shall include those listed in Regulation 10 of this Annex.

11. "Instantaneous rate of discharge of oil content" means the rate of discharge of oil litres per hour at any instant divided by the speed of the ship in knots at the same instant.

12. "Tank" means an enclosed space which is formed by the permanent structure of a ship and which is designed for the carriage of liquid in bulk.
13. "Wing tank" means any tank adjacent to the side shell plating.
14. "Centre tank" means any tank inboard of a longitudinal bulkhead.
15. "Slop tank" means a tank specifically designated for the collection of tank drainings, tank washings and other oily mixtures.
16. "Clean ballast" means the ballast in a tank which since oil was last carried therein, has been so cleaned that effluent therefrom if it were discharged from a ship which is stationary into clean calm water on a clear day would not produce visible traces of oil on the surface of the water or upon adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. If the ballast is discharged through an oil discharge monitoring and control system approved by the Administration, evidence based on such a system to the effect that the oil content of the effluent did not exceed 15 parts per million shall be determinative that the ballast was clean, notwithstanding the presence of visible traces.
17. "Segregated ballast" means the ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious substances as variously defined in the Annexes of the present Convention.
18. "Length" (L) means 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline. The length (L) shall be measured in meters.
19. "Forward and after perpendiculars" shall be taken at the forward and after ends of the length (L). The forward perpendicular shall coincide with the foreside of the stem on the waterline on which the length is measured.
20. "Amidships" is at the middle of the length (L).
21. "Breadth" (B) means the maximum breadth of the ship, measured amidships to the moulded line of the frame in a ship with a metal shell and to the outer surface of the hull in a ship with a shell of any other material. The breadth (B) shall be measured in meters.
22. "Deadweight" (DW) means the difference in metric tons between the displacement of a ship in water of specific gravity of 1.025 at the load waterline corresponding to the assigned number freeboard and the lightweight of the ship.
23. "Lightweight" means the displacement of a ship in metric tons without cargo, oil fuel, lubricating oil, ballast water, fresh water and feed water in tanks, consumable stores, passengers and their effects.
24. "Permeability" of a space means the ratio of the volume within that space which is assumed to be occupied by water to the total volume of that space.
25. "Volumes" and "areas" in a ship shall be calculated in all cases to moulded lines.

## **Regulation 2**

### **APPLICATION**

1. Unless expressly provided otherwise, the provisions of this Annex shall apply to all ships.
2. In ships other than oil tankers fitted with cargo spaces which are constructed and utilized to carry oil in bulk of an aggregate capacity of 200 cubic meters or more, the requirements of Regulations 9, 10, 14, 15 (1), (2) and (3), 18, 20 and 24 (4) of this Annex for oil tankers shall apply to the construction and operation of those spaces, except that where such aggregate capacity is less than 1,000 cubic metres the requirements of Regulation 15(4) of this Annex may apply in lieu of Regulation 15(1), (2) and (3).
3. Where a cargo subject to the provisions of Annex II of the present Convention is carried in a cargo space of an oil tanker, the appropriate requirements of Annex II of the present Convention shall also apply.
4. a) Any hydrofoil, air-cushion vehicle and other new type of vessel (near-surface craft, submarine craft, etc) whose constructional features are such as to render the application of any of the provisions of Chapters II and III of this Annex relating to construction and equipment unreasonable or impracticable may be exempted by the Administration from such provisions, provided that the construction and equipment of that ship provides equivalent protection against pollution by oil, having regard to the service for which it is intended.  
b) Particulars of any such exemption granted by the Administration shall be indicated in the Certificate referred to in Regulation 5 of this Annex.

c) The Administration which allows any such exemption shall, as soon as possible, but not more than ninety days thereafter, communicate to the Organization particulars of same and the reasons therefor, which the Organization shall circulate to the Parties to the Convention for their information and appropriate action, if any.

### **Regulation 3**

#### **EQUIVALENTS**

1. The Administration may allow any fitting, material, appliance or apparatus to be fitted in a ship as an alternative to that required by this Annex if such fitting, material, appliance or apparatus is at least as effective as that required by this Annex. This authority of the Administration shall not extend to substitution of operational methods to effect the control of discharge of oil as equivalent to those design and construction features which are prescribed by Regulations in this Annex.

2. The Administration which allows a fitting, material, appliance or apparatus, as an alternative to that required by this Annex shall communicate to the Organization for circulation to the Parties to the Convention particulars thereof, for their information and appropriate action, if any.

### **Article 4**

#### **SURVEYS**

1. Every oil tanker of 150 tons gross tonnage and above, and every other ship of 400 tons gross tonnage and above shall be subject to the surveys specified below:

a) An initial survey before the ship is put in service or before the Certificate required under Regulation 5 of this Annex is issued for the first time, which shall include a complete survey of its structure, equipment, fittings, arrangements and material in so far as the ship is covered by this Annex. This survey shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex.

b) Periodical surveys at intervals specified by the Administration, but not exceeding five years, which shall be such as to ensure that the structure, equipment, fittings, arrangements and material fully comply with the applicable requirements of this Annex. However, where the duration of the International Oil Pollution Certificate (1973) is extended as specified in Regulation 8 (3) or (4) of this Annex, the interval of the periodical survey may be extended correspondingly.

c) Intermediate surveys at intervals specified by the Administration but not exceeding thirty months, which shall be such as to ensure that the equipment and associated pump and piping systems, including oil discharge monitoring and control systems, oily-water separating equipment and oil filtering systems, fully comply with the applicable requirements of this Annex and are in good working order. Such intermediate surveys shall be endorsed on the International Oil Pollution Prevention Certificate (1973) issued under Regulation 5 of this Annex.

2. The Administration shall establish appropriate measures for ships which are not subject to the provisions of paragraph (1) of this Regulation in order to ensure that the applicable provisions of this Annex are complied with.

3. Surveys of the ship as regards enforcement of the provisions of this Annex shall be carried out by officers of the Administration. The Administration may, however, entrust the surveys either to surveyors nominated for the purpose or to organizations recognized by it. In every case the Administration concerned fully guarantees the completeness and efficiency of the surveys.

4. After any survey of the ship under this Regulation has been completed, no significant change shall be made in the structure, equipment, fittings, arrangements or material covered by the survey without the sanction of the Administration, except the direct replacement of such equipment or fittings.

### **Regulation 5**

#### **ISSUE OF CERTIFICATE**

1. An International Oil Pollution Certificate (1973) shall be issued, after survey in accordance with the provisions of Regulation 4 of this Annex, to any oil tanker of 150 tons gross tonnage and above and any other ships of 400 tons gross tonnage and above which are engaged in voyages to ports or off-shore terminals under the jurisdiction of other Parties to the Convention. In the case of existing ships this requirement shall apply twelve months after the date of entry into force of the present Convention.

2. Such Certificate shall be issued either by the Administration or by any persons or organization duly authorized by it. In every case the Administration assumes full responsibility for the Certificate.

#### **ISSUE OF A CERTIFICATE BY ANOTHER GOVERNMENT**

1. The Government of a Party to the Convention may, at the request of the Administration, cause a ship to be surveyed and, if satisfied that the provisions of this Annex are complied with, shall issue or authorize the issue of an International Oil Pollution Prevention Certificate (1973) to the ship in accordance with this Annex.

2. A copy of the Certificate and a copy of the survey report shall be transmitted as soon as possible to the requesting Administration.

3. A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same force and receive the same recognition as the Certificate issued under Regulation 5 of this Annex.

4. No International Oil Pollution Prevention Certificate (1973) shall be issued to a ship which is entitled to fly the flag of a State which is not a Party.

## **Regulation 7**

### FORM OF CERTIFICATE

The International Oil Pollution Prevention Certificate (1973) shall be drawn up in an official language of the issuing country in the form corresponding to the model given in Appendix II to this Annex. If the language used is neither English nor French, the text shall include a translation into one of these languages.

## **Regulation 8**

### DURATION OF CERTIFICATE

1. An International Oil Pollution Prevention Certificate (1973) shall be issued for a period specified by the Administration, which shall not exceed five years from the date of issue, except as provided in paragraphs (2), (3) and (4) of this Regulation.

2. If a ship at the time when the Certificate expires is not in a port or off-shore terminal under the jurisdiction of the Party to the Convention whose flag the ship is entitled to fly, the Certificate may be extended by the Administration, but such extension shall be granted only for the purpose of allowing the ship to complete its voyage to the State whose flag the ship is entitled to fly or in which it is to be surveyed and then only in cases where it appears proper and reasonable to do so.

3. No Certificate shall be thus extended for a period longer than five months and a ship to which such extension is granted shall not on its arrival in the State whose flag it is entitled to fly or the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port or State without having obtained a new Certificate.

4. A Certificate which has not been extended under the provisions of paragraph (2) of this Regulation may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it.

5. A Certificate shall cease to be valid if significant alterations have taken place in the construction, equipment, fittings, arrangements, or material required without the sanction of the Administration, except the direct replacement of such equipment or fittings, or if intermediate surveys as specified by the Administration under Regulation 4(1)(c) of this Annex are not carried out.

6. A Certificate issued to a ship shall cease to be valid upon transfer of such a ship to the flag of another State, except as provided in paragraph (7) of this Regulation.

7. Upon transfer of a ship to the flag of another Party, the Certificate shall remain in force for a period not exceeding five months provided that it would not have expired before the end of that period, or until the Administration issues a replacement Certificate, whichever is earlier. As soon as possible after the transfer has taken place the Government of the Party whose flag the ship was formerly entitled to fly shall transmit to the Administration a copy of the Certificate carried by the ship before the transfer and, if available, a copy of the relevant survey report.

## **REQUIREMENTS FOR CONTROL OF OPERATIONAL POLLUTION**

## **Regulation 9**

### CONTROL OF DISCHARGE OF OIL

1. Subject to the provisions of Regulations 10 and 11 of this Annex and paragraph (2) of this Regulation, any discharge into the sea of oil or oily mixtures from ships to which this Annex applies shall be prohibited except when all the following conditions are satisfied:

a) for an oil tanker, except as provided for in subparagraph (b) of this paragraph:

(i) the tanker is not within a special area;

(ii) the tanker is more than 50 nautical miles from the nearest land;

(iii) the tanker is proceeding en route;

(iv) the instantaneous rate of discharge of oil content does not exceed 60 litres per nautical mile;

(v) the total quantity of oil discharged into the sea does not exceed for existing tankers 1/15,000 of the total quantity of the particular cargo of which the residue formed a part, and for new tankers 1/30,000 of the total quantity of the particular

cargo of which the residue formed a part; and

(vi) the tanker has in operation, except as provided for in Regulation 15(3) of this Annex, an oil discharge monitoring and control system and a slop tank arrangements as required by Regulation 15 of this Annex;

b) from a ship of 400 tons gross tonnage and above other than an oil tanker and from machinery space bilges excluding cargo pump room bilges of an oil tanker unless mixed with oil cargo residue:

(i) the ship is not within a special area;

(ii) the ship is more than 12 nautical miles from the nearest land;

(iii) the ship is proceeding en route;

(iv) the oil content of the effluent is less than 100 parts per million; and

(v) the ship has in operation an oil discharge monitoring and control system, oily-water separating equipment, oil filtering system or other installation as required by Regulation 16 of this Annex.

2. In the case of a ship of less than 400 tons gross tonnage other than oil tanker whilst outside the special area, the Administration shall ensure that it is equipped as far as practicable and reasonable with installations to ensure the storage of oil residues on board and their discharge to reception facilities or into the sea in compliance with the requirements of paragraph (1) (b) of this Regulation.

3. Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, Governments of Parties to the Convention should, to the extent they are reasonably able to do so, promptly investigate the facts bearing on the issue of whether there has been a violation of the provisions of this Regulation or Regulation 10 of this Annex. The investigation should include, in particular, the wind and sea conditions, the track and speed of the ship, other possible sources of visible traces in the vicinity, and any relevant oil discharge records.

4. The provisions of paragraph (1) of this Regulation shall not apply to the discharge of clean or segregated ballast. The provisions of subparagraph (1)(b) of this Regulation shall not apply to the discharge of oily mixture which without dilution has an oil content not exceeding 15 parts per million.

5. No discharge into the sea shall contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Regulation.

6. The oil residues which cannot be discharged into the sea in compliance with paragraphs (1), (2) and (4) of this Regulation shall be retained on board or discharged to reception facilities.

#### **Regulation 10**

#### **METHODS FOR THE PREVENTION OF OIL POLLUTION FROM SHIPS WHILE OPERATING IN SPECIAL AREAS**

1. For the purposes of this Annex the special areas are the Mediterranean Sea area, the Baltic Sea area, the Black Sea area and the "Gulfs area" which are defined as follows:

a) The Mediterranean Sea area means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41 deg N parallel and bounded to the west by the Straits of Gibraltar at the meridian of 5 deg 36 min W.

b) The Baltic Sea area means the Baltic Sea proper with the Gulf of Bothnia, the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57 deg 44.8 min N.

c) The Black Sea area means the Black Sea proper with the boundary between the Mediterranean and the Black Sea constituted by the parallel 41 deg N.

d) The Red Sea area means the Red Sea proper including the Gulfs of Suez and Aqaba bounded at the South by the rhumb line between Ras si Ane (12 deg 8.5 min N, 43 deg 19.6 min E) and Husn Murad (12 deg 40.4 min N, 43 deg 30.2 min E).

e) The Gulfs area means the sea area located north west of the rhumb line between Ras al Hadd (22 deg 30 min N, 59 deg 48 min E) and RAs Al Fasteh (25 deg 04 min N, 61 deg 25 min E).

2. a) Subject to the provisions of Regulation 11 of this Annex, any discharge into the sea of oil or oily mixture from any oil tanker and any ship or 400 tons gross tonnage and above other than an oil tanker shall be prohibited, while in a special area.

b) Such ships while in a special area shall retain on board all oil drainage and sludge, dirty ballast and tank washing waters and discharge them only to reception facilities.

3. a) Subject to the provisions of Regulation 11 of this Annex, any discharge into the sea of oil or mixture from a ship of less than 400 tons gross tonnage, other than oil tanker, shall be prohibited while in a special area, except when the oil content of the effluent without dilution does not exceed 15 parts per million or alternatively when all of the following conditions are satisfied:

(i) the ship is proceeding en route;

(ii) the oil content of the effluent is less than 100 parts per million; and

(iii) the discharge is made as far as practicable from the land, but in no case less than 12 nautical miles from the nearest land.

b) No discharge into the sea shall contain chemicals or other substances in quantities or concentrations which are hazardous to the marine environment or chemicals or other substances introduced for the purpose of circumventing the conditions of discharge specified in this Regulation.

c) The oil residues which cannot be discharged into the sea in compliance with sub-paragraph (a) of this paragraph shall be retained on board or discharged to reception facilities.

4. The provisions of this Regulation shall not apply to the discharge of clean or segregated ballast.

5. Nothing in this Regulation shall prohibit a ship on a voyage only part of which is in a special area from discharging outside the special area in accordance with Regulation 9 of this Annex.

6. Whenever visible traces of oil are observed on or below the surface of the water in the immediate vicinity of a ship or its wake, the Governments of Parties to the Convention should, to the extent they are reasonably able to do so, promptly investigate the facts bearing on the issue of whether there has been a violation of the provisions of this Regulation or Regulation 9 of this Annex. The investigation should include, in particular, the wind and sea conditions, the track and speed of the ship, other possible sources of the visible traces in the vicinity, and any relevant oil discharge records.

7. Reception facilities within special areas:

a) Mediterranean Sea, Black Sea and Baltic Sea areas:

(i) The Government of each Party to the Convention, the coastline of which borders on any given special area undertakes to ensure that not later than 1 January 1977 all oil loading terminals and repair ports within the special area are provided with facilities adequate for the reception and treatment of all the dirty ballast and tank washing water from oil tankers. In addition all ports within the special area shall be provided with adequate reception facilities for other residues and oily mixtures from all ships. Such facilities shall have adequate capacity to meet the needs of the ships using them without causing undue delay.

(ii) The Government of each Party having under its jurisdiction entrances to seawater courses with low depth contour which might require a reduction of draught by the discharge of ballast undertakes to ensure the provision of the facilities referred to in sub-paragraph (a)(i) of this paragraph but with the proviso that ships required to discharge slops or dirty ballast could be subject to some delay.

(iii) During the period between the entry into force of the present Convention (if earlier than 1 January 1977) and, 1 January 1977 ships while navigating in the special areas shall comply with the requirements of Regulation 9 of this Annex. However, the Governments of Parties the coastlines of which border any of the special areas under this sub-paragraph may establish a date earlier than 1 January 1977, but after the date of entry into force of the present Convention, from which the requirements of this Regulation in respect of the special areas in question shall take effect:

(1) if all the reception facilities required have been provided by the date so established, and

(2) provided that the Parties concerned notify the Organization of the date so established at least six months in advance, for circulation to other Parties.

(iv) After 1 January 1977, or the date established in accordance with sub-paragraph (a)(iii) of this paragraph if earlier, each Party shall notify the Organization for transmission to the Contracting Governments concerned of all cases where the facilities are alleged to be inadequate.

b) Red Sea area and Gulfs area:

(i) The Government of each Party the coastline of which borders on the special areas undertakes to ensure that as soon as possible all oil loading terminals and repair ports within these special areas are provided with facilities adequate for the reception and treatment of all the dirty ballast and tank washing water from tankers. In addition all ports within the special area shall be provided with adequate reception facilities for other residues and oily mixtures from all ships. Such facilities shall have adequate capacity to meet the needs of the ships using them without causing undue delay.

(ii) The Government of each Party having under its jurisdiction entrances to seawater courses with low depth contour which might require a reduction of draught by the discharge of ballast in sub-paragraphs (a)(i) of this paragraph but with the proviso that ships required to discharge slops or dirty ballast could be subject to some delay.

(iii) Each Party concerned shall notify the Organization of the measures taken pursuant to provisions of sub-paragraph (b)(i) and (ii) of this paragraph. Upon receipt of sufficient notifications the Organization shall establish a date from which the requirements of this Regulation in respect of the area in question shall take effect. The Organization shall notify all Parties of the date so established no less than twelve months in advance of that date.

(iv) During the period between the entry into force of the present Convention and the date so established, ships while navigating in the special area shall comply with the requirements of Regulation 9 of this Annex.

(v) After such date oil tankers loading in ports in these special areas where such facilities are not yet available shall also fully comply with the requirements of this Regulation. However, oil tankers entering these special areas for the purpose of loading shall make every effort to enter the area with only clean ballast on board.

(vi) After the date on which the requirements for the special area in question take effect, each Party shall notify the Organization for transmission to the Parties concerned of all cases where the facilities are alleged to be inadequate.

(vii) At least the reception facilities as prescribed in Regulation 12 of this Annex shall be provided by 1 January 1977 or one year after the date of entry into force of the present Convention whichever occurs later.

## EXCEPTIONS

Regulations 9 and 10 of this Annex shall not apply to:

- a) the discharge into the sea of oil or oily mixture necessary for the purpose of securing the safety of a ship or saving life at sea; or
- b) the discharge into the sea of oil or oily mixture resulting from damage to a ship or its equipment:
  - (i) provided that all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimizing the discharge; and
  - (ii) except if the owner or the Master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result; or
- c) the discharge into the sea of substances containing oil, approved by the Administration, when being used for the purpose of combating specific pollution incidents in order to minimize the damage from pollution. Any such discharge shall be subject to the approval of any Government in whose jurisdiction it is contemplated the discharge will occur.

## Regulation 12

### RECEPTION FACILITIES

1. Subject to the provisions of Regulation 10 of this Annex, the Government of each Party undertakes to ensure the provision at oil loading terminals, repair ports, and in other ports in which ships have oily residues to discharge, of facilities for the reception of such residues and oily mixtures as remain from oil tankers and other ships adequate to meet the needs of the ships using them without causing undue delay to ships.

2. Reception facilities in accordance with paragraph (1) of this Regulation shall be provided in:

- a) all ports and terminals in which crude oil is loaded into oil tankers where such tankers have immediately prior to arrival completed a ballast voyage of not more than 72 hours or not more than 1,200 nautical miles;
- b) all ports and terminals in which oil other than crude oil in bulk is loaded at an average quantity of more than 1,000 metric tons per day;
- c) all ports having ship repair yards or tank cleaning facilities;
- d) all ports and terminals which handle ships provided with the sludge tank(s) required by Regulation 17 of this Annex:
- e) all ports in respect of oily bilge waters and other residues, which cannot be discharged in accordance with Regulation 9 of this Annex; and
- f) all loading ports for bulk cargoes in respect of oil residues from combination carriers which cannot be discharged in accordance with Regulation 9 of this Annex.

3. The capacity for the reception facilities shall be as follows:

- a) Crude oil loading terminals shall have sufficient reception facilities to receive oil and oily mixtures which cannot be discharged in accordance with the provisions of Regulation 9(1)(a) of this Annex from all oil tankers on voyages as described in paragraph (2) (a) of this Regulation.
- b) Loading ports and terminals referred to in paragraph (2)(b) of this Regulation shall have sufficient reception facilities to receive oil and oily mixtures which cannot be discharged in accordance with the provisions of Regulation 9(1) (a) of this Annex from oil tankers which load oil other than crude oil in bulk.
- c) All ports having ship repair yards or tank cleaning facilities shall have sufficient reception facilities to receive all residues and oily mixtures which remain on board for disposal from ships prior to entering such yards or facilities.
- d) All facilities provided in ports and terminals under paragraph (2)(d) of this Regulation shall be sufficient to receive all residues retained according to Regulation 17 of this Annex from all ships that may reasonably be expected to call at such ports and terminals.
- e) All facilities provided in ports and terminals under this Regulation shall be sufficient to receive oily bilge waters and other residues which cannot be discharged in accordance with Regulation 9 of this Annex.
- f) The facilities provided in loading ports for bulk cargoes shall take into account the special problems of combination carriers as appropriate.

4. The reception facilities prescribed in paragraphs (2) and (3) of this Regulation shall be made available no later than one year from the date of entry into force of the present Convention or by 1 January 1977, whichever occurs later.

5. Each Party shall notify the Organization for transmission to the Parties concerned of all cases where the facilities provided under this Regulation are alleged to be inadequate.

## Regulation 13

### SEGREGATED BALLAST OIL TANKERS



1. Every new oil tanker of 70,000 tons deadweight and above shall be provided with segregated ballast tanks and shall comply with the requirements of this Regulation.

2. The capacity of the segregated ballast tanks shall be so determined that the ship may operate safely on ballast voyages without recourse to the use of oil tanks for water ballast except as provided for in paragraph (3) of this Regulation. In all cases, however, the capacity of segregated ballast tanks shall be at least such that in any ballast condition at any part of the voyage, including the conditions consisting of lightweight plus segregated ballast only, the ship's draughts and trim can meet each of the following requirements:

a) the moulded draught amidships (dm) in metres (without taking into account any ship's deformation) shall not be less than:  $dm = 2.0 + 0.02L$ ;

b) the draughts at the forward and after perpendiculars shall correspond to those determined by the draught amidships (dm), as specified in sub-paragraph (a) of this paragraph, in association with the trim by the stem of not greater than  $0.015L$ ; and

c) in any case the draught at the after perpendicular shall not be less than that which is necessary to obtain full immersion of the propeller(s).

3. In no case shall ballast water be carried in oil tanks except in weather conditions so severe that, in the opinion of the Master, it is necessary to carry additional ballast water in oil tanks for the safety of the ship. Such additional ballast water shall be processed and discharged in compliance with Regulation 9 and in accordance with the requirements of Regulation 15 of this Annex, and entry shall be made in the Oil Record Book referred to in Regulation 20 of this Annex.

4. Any oil tanker which is not required to be provided with segregated ballast tanks in accordance with paragraph (1) of this Regulation may, however, be qualified as a segregated ballast tanker, provided that in the case of an oil tanker of 150 metres in length and above it fully complies with the requirements of paragraphs (2) and (3) of this Regulation and in the case of an oil tanker of less than 150 metres in length the segregated ballast conditions shall be to the satisfaction of the Administration.

## **Regulation 14**

### **SEGREGATION OF OIL AND WATER BALLAST**

1. Except as provided in paragraph (2) of this Regulation, in new ships of 4,000 tons gross tonnage and above other than oil tankers, and in new oil tankers of 150 tons gross tonnage and above, no ballast water shall be carried in any oil fuel tank.

2. Where abnormal conditions or the need to carry large quantities of oil fuel render it necessary to carry ballast water which is not a clean ballast in any oil fuel tank, such ballast water shall be discharged to reception facilities or into the sea in compliance with Regulation 9 using the equipment specified in Regulation 16 (2) of this Annex, and an entry shall be made in the Oil Record Book to this effect.

3. All other ships shall comply with the requirements of paragraph (1) of this Regulation as far as reasonable and practicable.

## **Regulation 15**

### **RETENTION OF OIL ON BOARD**

1. Subject to the provisions of paragraphs (5) and (6) of this Regulation, oil tankers of 150 tons gross tonnage and above shall be provided with arrangements in accordance with the requirements of paragraphs (2) and (3) of this Regulation, provided that in the case of existing tankers the requirements for oil discharge monitoring and control systems and slop tank arrangements shall apply three years after the date of entry into force of the present Convention.

2. a) Adequate means shall be provided for cleaning the cargo tanks and transferring the dirty ballast residue and tank washings from the cargo tanks into a slop tank approved by the Administration. In existing oil tankers, any cargo tank may be designated as a slop tank.

b) In this system arrangements shall be provided to transfer the oily waste into a slop tank or combination of slop tanks in such a way that any effluent discharged into the sea will be such as to comply with the provisions of Regulation 9 of this Annex.

c) The arrangements of the slop tank or combination of slop tanks shall have a capacity necessary to retain the slops generated by tank washing, oil residues and dirty ballast residues but the total shall be not less than 3 per cent of the oil carrying capacity of the ship, except that, where segregated ballast tanks are provided in accordance with Regulation 13 of this Annex, or where arrangements such as eductors involving the use of water additional to the washing water are not fitted, the Administration may accept 2 per cent. New oil tankers over 70,000 tons deadweight shall be provided with at least two slop tanks.

d) Slop tanks shall be designed particularly in respect of the position of inlets, outlets, baffles or where fitted, so as to avoid excessive turbulence and entrainment of oil or emulsion with the water.

3. a) An oil discharge monitoring and control system approved by the Administration shall be fitted. In considering the design of the oil content meter to be incorporated in the system, the Administration shall have regard to the specification recommended by the Organization.\*

\* Reference is made to "Clean Seas Guide for Oil Tankers", published by the International Chamber of Shipping and the Oil Companies International Marine Forum.

The system shall be fitted with a recording device to provide a continuous record of the discharge in litres per nautical mile and total quantity discharged, or the oil content and rate of discharge. This record shall be identifiable as to time and date and shall be kept for at least three years. The oil discharge monitor and control system shall come into operation when there is any discharge of effluent into the sea and shall be such as will ensure that any discharge of oily mixture is automatically stopped when the instantaneous rate of discharge of oil exceeds that permitted by Regulation 9(1)(a) of this Annex. Any failure of this monitoring and control system shall stop the discharge and be noted in the Oil Record Book. A manually operated alternative method shall be provided and may be used in the event of such failure, but the defective unit shall be made operable before the oil tanker commences its next ballast voyage unless it is proceeding to a repair port. Existing oil tankers shall comply with all of the provisions specified above except that the stopping of the discharge may be performed manually and the rate of discharge may be estimated from the pump characteristic.

b) Effective oil/water interface detectors approved by the Administration shall be provided for a rapid and accurate determination of the oil/water interface in slop tanks and shall be available for use in other tanks where the separation of oil and water is effected and from which it is intended to discharge effluent direct to the sea.

c) Instructions as to the operation of system shall be in accordance with an operational manual approved by the Administration. They shall cover manual as well as automatic operations and shall be intended to ensure that at no time shall oil be discharged except in compliance with the conditions specified in Regulation 9 of this Annex.\*

\* Reference is made to the Recommendation on International Performance Specifications for Oily-Water Separating Equipment and Oil Content Meters adopted by the Organization by Resolution A.233 (VII).

4. The requirements of paragraphs (1), (2) and (3) of this Regulation shall not apply to oil tankers of less than 150 tons gross tonnage, for which the control of discharge of oil under Regulation 9 of this Annex shall be effected by the retention of oil on board with subsequent discharge of all contaminated washings to reception facilities. The total quantity of oil and water used for washing and returned to a storage tank shall be recorded in the Oil Record Book. This total quantity shall be discharged to reception facilities unless adequate arrangements are made to ensure that any effluent which is allowed to be discharged into the sea is effectively monitored to ensure that the provision of Regulation 9 of this Annex are complied with.

5. The Administration may waive the requirements of paragraphs (1), (2) and (3) of this Regulation for any oil tanker which engages exclusively on voyages both of 72 hours or less in duration and within 50 miles from the nearest land, provided that the oil tanker is not required to hold and does not hold an International Oil Pollution Prevention Certificate (1973). Any such waiver shall be subject to the requirements that the oil tanker shall retain on board all oily mixtures for subsequent discharge to reception facilities and to the determination by the Administration that facilities available to receive such oily mixtures are adequate.

6. Where in the view of the Organization equipment required by Regulation 9(1)(a)(vi) of this Annex and specified in sub-paragraph (3)(a) of this Regulation is not obtainable for the monitoring of discharge of light refined products (white oils), the Administration may waive compliance with such procedures established by the Organization which shall satisfy the conditions of Regulation 9(1)(a) of this Annex except the obligation to have an oil discharge monitoring and control system in operation. The Organization shall review the availability of equipment at intervals not exceeding twelve months.

7. The requirements of paragraphs (1), (2) and (3) of this Regulation shall not apply to oil tankers carrying asphalt, for which the control of discharge of asphalt under Regulation 9 of this Annex shall be effected by the retention of asphalt residues on board with discharge of all contaminated washings to reception facilities.

## **Regulation 16**

### **OIL DISCHARGE MONITORING AND CONTROL SYSTEM AND OILY-WATER SEPARATING EQUIPMENT**

1. Any ship of 400 tons gross tonnage and above shall be fitted with an oily-water separating equipment or filtering system complying with the provisions of paragraph (6) of this Regulation. Any such ship which carries large quantities of oil fuel shall comply with paragraph 2 of this Regulation or paragraph (1) of Regulation 14.

2. Any ship of 10,000 tons gross tonnage and above shall be fitted:

a) in addition to the requirements of paragraph (1) of this Regulation with an oil discharge monitoring and control system complying with paragraph (5) of this Regulation; or

b) as an alternative to the requirements of paragraph (1) and sub-paragraph (2)(a) of this Regulation, with an oily-water separating equipment complying with paragraph (6) of this Regulation and an effective filtering system, complying with paragraph (7) of this Regulation.

3. The Administration shall ensure that ships of less 400 tons gross tonnage are equipped, as far as practicable, to retain on board oil or oily mixtures or discharge them in accordance with the requirements of Regulation 9(1)(b) of this Annex.

4. For existing ships the requirements of paragraphs (1),(2) and (3) of this Regulation shall apply three years after the date of entry into force of the present Convention.

5. An oil discharge monitoring and control system shall be of a design approved by the Administration. In considering

the design of the oil content meter to be incorporated into the system, the Administration shall have regard to the specification recommended by the Organization.\* The system shall be fitted with a recording device to provide a continuous record of the oil content in parts per million.

This record shall be identifiable as to time and date and shall be kept for at least three years. The monitoring and control system shall come into operation when there is any discharge of effluent into the sea and shall be such as will ensure that any discharge of oily mixture is automatically stopped when the oil content of effluent exceeds that permitted by Regulation 9(1)(b) of this Annex. Any failure of this monitoring and control system shall stop the discharge and be noted in the Oil Record Book. The defective unit shall be made operable before the ship commences its next voyage unless it is proceeding to a repair port. Existing ships shall comply with all of the provisions specified above except that the stopping of the discharge may be performed manually.

6. Only-water separating equipment or an oil filtering system shall be of a design approved by the Administration and shall be such as will ensure that any oily mixture discharged into the sea after passing through the separator or filtering systems shall have an oil content of not more than 100 parts per million. In considering the design of such equipment, the Administration shall have regard to the specification recommended by the Organization.\*

7. The oil filtering system referred to in paragraph (2)(b) of this Regulation shall be of a design approved by the Administration and shall be such that it will accept the discharge from the separating system and produce an effluent the oil content of which does not exceed 15 parts per million. It shall be provided with alarm arrangements to indicate when this level cannot be maintained.

## **Regulation 17**

### **TANKS FOR OIL RESIDUES (SLUDGE)**

1. Every ship of 400 tons gross tonnage and above shall be provided with a tank or tanks of adequate capacity, having regard to the type of machinery and length of voyage, to receive the oily residues (sludges) which cannot be dealt with otherwise in accordance with the requirements of this Annex, such as those resulting from the purification of fuel and lubricating oils and oil leakages in the machinery spaces.

2. In new ships, such tanks shall be designed and constructed so as to facilitate their cleaning and the discharge of residues to reception facilities. Existing ships shall comply with this requirement as far as is reasonable and practicable.

## **Regulation 18**

### **PUMPING, PIPING AND DISCHARGE ARRANGEMENTS OF OIL TANKERS**

1. In every oil tanker, a discharge manifold for connexion to reception facilities for the discharge of dirty ballast water or oil contaminated water shall be located on the open deck on both sides of the ship.

2. In every oil tanker, pipelines for the discharge to the sea of effluent which may be permitted under Regulation 9 of this Annex shall be led to the open deck or to the ship's side above the waterline in the deepest ballast condition. Different piping arrangements to permit operation in the manner permitted in sub-paragraphs (4)(a) and (b) of this Regulation may be accepted.

3. In new oil tankers means shall be provided for stopping the discharge of effluent into the sea from a position on upper deck or above located so that the manifold in use referred to in paragraph (1) of this Regulation and the effluent from the pipelines referred to in paragraph (2) of this Regulation may be visually observed. Means for stopping the discharge need not be provided at the observation position if a positive communication system such as telephone or radio system is provided between the observation position and the discharge control position.

4. All discharges shall take place above the waterline except as follows:

- a) Segregated ballast and clean ballast may be discharged below the waterline in ports or at offshore terminals.
- b) Existing ships which, without modification, are not capable of discharging segregated ballast above the waterline may discharge segregated ballast below the waterline provided that an examination of the tank immediately before the discharge has established that no contamination with oil has taken place.

## **Regulation 19**

### **STANDARD DISCHARGE CONNECTION**

To enable pipes of reception facilities to be connected with the ship's discharge pipeline for residues from machinery bilges, both lines shall be fitted with a standard discharge connection in accordance with the following table:

## Standard Dimensions of Flanges for Discharge Connections

Description	Dimension
Outside diameter	215 mm
Inner diameter Bolt circle diameter	According to pipe outside diameter 183 mm 6 holes 22 mm
Slots in flange in diameter equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width to be 22 mm Flange thickness	
Bolts and nuts: in quantity, diameter	20 mm 6, each of 20 mm diameter and of suitable length

The flange is designed to accept pipes up to a maximum internal diameter of 125 mm and shall be of steel or other equivalent material having a flat face. This flange, together with a gasket of oil proof material, shall be suitable for a service pressure of 6 kg/cm<sup>2</sup>.

### Regulation 20

#### OIL RECORD BOOK

1. Every oil tanker of 150 tons gross tonnage and above and every ship of 400 tons gross tonnage and above other than oil tanker shall be provided with an Oil Record Book, whether as part of the ship's official log book or otherwise, in the form specified in Appendix III to this Annex.

2. The Oil Record Book shall be completed on each occasion, on a tank-to-tank basis, whenever any of the following operations take place in the ship:

a) For oil tankers

- (i) loading of oil cargo;
- (ii) internal transfer of oil cargo during voyage;
- (iii) opening or closing before and after loading and unloading operations of valves or similar devices which interconnect cargo tanks;
- (iv) opening or closing of means of communication between cargo piping and seawater ballast piping;
- (v) opening or closing of ship's side valves before, during and after loading and unloading operations;
- (vi) unloading of oil cargo;
- (vii) ballasting of cargo tanks;
- (viii) cleaning of cargo tanks;
- (ix) discharge of ballast except from segregated ballast tanks;
- (x) discharge of water from slop tanks;
- (xi) disposal of residues;
- (xii) discharge overboard of bilge water which has accumulated in machinery spaces whilst in port and the routine discharge at sea of bilge water which has accumulated in machinery spaces.

b) For ships other than oil tankers

- (i) ballasting or cleaning of fuel oil tanks or oil cargo spaces;
- (ii) discharge of ballast or cleaning water from tanks referred to under (i) of this sub-paragraph;
- (iii) disposal of residues;
- (iv) discharge overboard of bilge water which has accumulated in machinery spaces whilst in port, and the routine discharge at sea of bilge water which has accumulated in machinery spaces.

3. In the event of such discharge of oil or oily mixture as is referred to in Regulation 11 of this Annex or in the event of accidental or other exceptional discharge of oil not expected by that Regulation, a statement shall be made in the Oil Record Book of the circumstances of, and the reasons for the discharge.

4. Each operation described in paragraph (2) of this Regulation shall be fully recorded without delay in the Oil Record Book so that all the entries in the book appropriate to that operation are completed. Each section of the book shall be signed by the officer or officers in charge of the operations concerned and shall be countersigned by the Master of the ship. The entries in the Oil Record Book shall be in an official language of the State whose flag the ship is entitled to fly, and, for ships holding an International Oil Pollution Prevention Certificate (1973), in English or French. The entries in an official national language of the State whose flag the ship is entitled to fly shall prevail in case of a dispute or discrepancy.

5. The Oil Record Book shall be kept in such a place as to be readily available for inspection at all reasonable times and, except in the case of unmanned ships under tow, shall be kept on board the ship. It shall be preserved for a period of three years after the last entry has been made.

6. The competent authority of the Government of a party to the Convention may inspect the Oil Record Book on board any ship to which this Annex applies while the ship is in its port or offshore terminals and may take a copy of any entry in that book and may require the Master of the ship to certify that the copy is a true copy of such entry. Any copy so made which has been certified by the Master of the ship as a true copy of an entry in the ship's Oil Record Book shall be made admissible in any judicial proceedings as evidence of the facts stated in the entry. The inspection of an Oil Record Book and the taking of a certified copy of the competent authority under this paragraph shall be performed as expeditiously as possible without causing the ship to be unduly delayed.

## **Regulation 21**

### **SPECIAL REQUIREMENTS FOR DRILLING RIGS AND OTHER PLATFORMS**

Fixed and floating drilling rigs when engaged in the exploration, exploitation and associated offshore processing of seabed mineral resources and other platforms shall comply with the requirements of this Annex applicable to ships of 400 tons gross tonnage and above other than oil tankers, except that:

- a) they shall be equipped as far as practicable with the installations required in Regulations 16 and 17 of this Annex;
- b) they shall keep a record of all operations involving oil or oily mixture discharges, in a form approved by the Administration; and
- c) in any special area and subject to the provisions of Regulation 11 of this Annex, the discharge into the sea of oil or oily mixture shall be prohibited except when the oil content of the discharge without dilution does not exceed 15 parts per million.

## **Chapter III**

### **REQUIREMENTS FOR MINIMIZING OIL POLLUTION FROM OIL TANKERS DUE TO SIDE AND BOTTOM DAMAGES**

#### **Regulation 22**

##### **DAMAGE ASSUMPTIONS**

1. For the purpose of calculating hypothetical oil outflow from oil tankers, three dimensions of the extent of damage of a parallelepiped on the side and bottom of the ship are assumed as follows. In the case of bottom damages two conditions are set forth to be applied individually to the stated portions of the oil tanker.

a) Side damage (i) Longitudinal extent (lc);

$1/3 L$   $2/3$  or 14.5 metres, whichever is less

$B/5$  or 11.5 metres, whichever is less

(ii) Transverse extent (lc):  
(inboard from the ship's side at right angles to the centre-line at the level corresponding to the assigned summer freeboard)

(iii) Vertical extent (vc): from the base line upwards without limit

b) Bottom damage

For  $0.3L$  from the forward perpendicular of the ship

Any other part of the ship

(i) Longitudinal  $L/10$  extent (ls)  $L/10$  or 5 metres, whichever is less

$B/6$  or 10 metres, 5 metres whichever is less but not less than 5 metres

(ii) Transverse extent (ts)

(iii) Vertical extent  $B$  or 6 metres, whichever is less

from the base line (vs):

2. Whenever the symbols given in this Regulation appear in this Chapter, they have the meaning as defined in this Regulation.

### Regulation 23

#### HYPOTHETICAL OUTFLOW OF OIL

1. The hypothetical outflow of oil in the case of side damage ( $O_c$ ) and bottom damage ( $O_s$ ) shall be calculated by the following formulae with respect to compartments breached by damage to all conceivable locations along the length of the ship to the extent as defined in Regulation 22 of this Annex.

a) for side damages:

$$O_c = \sum W_i + \sum K_i C_i \quad (I)$$

b) for bottom damages:

$$O_s = 1/3(\sum Z_i W_i + \sum Z_i C_i) \quad (II) \text{ where:}$$

damage as specified in

$W_i$  = volume of a wing tank in cubic metres assumed to be breached by the Regulation 22 of this Annex;  $W_i$  for a segregated ballast tank may be taken equal to zero. damage as specified in

$C_i$  = volume of a centre tank in cubic metres assumed to be breached by the Regulation 22 of this Annex;  $C_i$  for a segregated ballast tank may be taken equal to zero.

$K_i = 1 - b_i/t_c$  when  $b_i$  is equal to or greater than  $t_c$ ,  $K_i$  shall be taken equal to zero,

$Z_i = 1 - h_i/v_s$  when  $h_i$  is equal to or greater than  $v_s$ ,  $Z_i$  shall be taken equal to zero,  $b_i$  = width of wing tank in metres under consideration measured inboard from the ship's side at right angles to the centreline at the level corresponding to the assigned summer freeboard,

$h_i$  = minimum depth of the double bottom in metres under consideration; where no double bottom is fitted  $h_i$  shall be taken to be equal to zero.

Whenever symbols given in this paragraph appear in the Chapter, they have the meaning as defined in this Regulation.

2. If a void space or segregated ballast tank of a length less than  $l_c$  as defined in Regulation 22 of this Annex is located between wing oil tanks,  $O_c$  in formula (1) may be calculated on the basis of volume  $W_i$  being the actual volume of one such tank (where they are of equal capacity) or the smaller of the two tanks (if they differ in capacity) adjacent to such space, multiplied by  $S_i$  as defined below and taking for all other wing tanks involved in such a collision the value of the actual full volume.

$$S_i = 1 - l_i/l_c$$

where  $l_i$  = length in metres of void space or segregated ballast tank under consideration.

3. a) Credit shall only be given in respect of double bottom tanks which are either empty or carrying clean water when cargo is carried in the tanks above.

b) Where the double bottom does not extend for the full length and width of the tank involved, the double bottom is considered non-existent and the volume of the tanks above the area of the bottom damage shall be included in formula (II) even if the tank is not considered breached because of the installation of such a partial double bottom.

c) Suction wells may be neglected in the determination of the value  $h_i$  provided such wells are not excessive in area and extend below the tank for a minimum distance and in no case more than half the height of the double bottom. If the depth of such a well exceeds half the height of the double bottom,  $h_i$  shall be taken equal to the double bottom height minus the well height.

Piping serving such wells if installed within the double bottom shall be fitted with valves or other closing arrangements located at the point of connection to the tank served to prevent oil outflow in the event of damage to the piping. Such piping shall be installed as high from the bottom shell as possible. These valves shall be kept closed at sea at any time when the tank contains oil cargo, except that they may be opened only for cargo transfer needed for the purpose of trimming of the ship.

4. In the case where bottom damage simultaneously involves four centre tanks, the value of  $O_s$  may be calculated according to the formula

$$O_s = 1/4(\sum Z_i W_i + \sum Z_i C_i) \text{ (III)}$$

5. An Administration may credit as reducing oil outflow in case of bottom damage, an installed cargo transfer system having an emergency high suction in each cargo oil tank, capable of transferring from a breached tank or tanks to segregated ballast tanks or to available cargo tankage if it can be assured that such tanks will have sufficient ullage. Credit for such a system would be governed by ability to transfer in two hours of operation oil equal to one half of the largest of the breached tanks involved and by availability of equivalent receiving capacity in ballast or cargo tanks. The credit shall be confined to permitting calculation of  $O_s$  according to formula (III). The pipes for such suctions shall be installed at least at a height not less than the vertical extent of the bottom damage vs. The Administration shall supply the Organization with the information concerning the arrangements accepted by it, for circulation to other Parties to the Convention.

## Regulation 24

### LIMITATION OF SIZE AND ARRANGEMENT OF CARGO TANKS

1. Every new oil tanker shall comply with the provision of this Regulation. Every existing oil tanker shall be required, within two years after the date of entry into force of the present Convention, to comply with the provisions of this Regulation if such a tanker falls into either of the following categories:

a) a tanker, the delivery of which is after 1 January 1977; or

b) a tanker to which both the following conditions apply:

(i) delivery is not later than 1 January 1977; and

(ii) the building contract is placed after 1 January 1974, or in cases where no building contract has previously been placed, the keel is laid or the tanker is at a similar stage of construction after 30 January 1974.

2. Cargo tanks of oil tankers shall be of such size and arrangements that the hypothetical outflow  $O_c$  or  $O_s$  calculated in accordance with the provisions of Regulation 23 of this Annex anywhere in the length of the ship does not exceed 30,000 cubic metres or  $400 \times$  cube root of  $DW$ , whichever is the greater, but subject to a maximum of 40,000 cubic metres.

3. The volume of any one wing cargo oil tank of an oil tanker shall not exceed seventy-five per cent of the limits of the hypothetical oil outflow referred to in paragraph (2) of this Regulation. The volume of any one centre cargo oil tank shall not exceed 50,000 cubic metres. However, in segregated ballast oil tankers as defined in Regulation 13 of this Annex, the permitted volume of a wing cargo oil tank situated between two segregated ballast tanks, each exceeding  $l_c$  in length, may be increased to the maximum limit of hypothetical oil outflow provided that the width of the wing tanks exceeds  $t_c$ .

4. The length of each cargo tank shall not exceed 10 metres or one of the following values, whichever is the greater:

a) where no longitudinal bulkhead is provided:  $0.1L$

b) where a longitudinal bulkhead is provided at the

c) where two or more longitudinal bulkheads are provided:

(i) for wing tanks:  $0.2L$

(ii) for centre tanks:

(1) if  $b_i/B$  is equal to or greater than  $1/5$ :  $0.2L B$

(2) if  $b_i/B$  is less than  $1/5$ :

C where no centreline longitudinal bulkhead is provided:  $(0.5 b_i/B + 0.1)L$

C where a centreline longitudinal bulkhead is provided:  $(0.25 b_i/B + 0.15)L$

5. In order not to exceed the volume limits established by paragraphs (2), (3) and (4) of this Regulation and irrespective of the accepted type of cargo transfer system installed, when such a system inter-connects two or more cargo tanks, valves or other similar closing devices shall be provided for separating the tanks from each other. These valves or devices shall be closed when the tanker is at sea.

6. Lines of piping which run through cargo tanks in a position less than  $t_c$  from the ship's side or less than  $v_c$  from the ship's bottom shall be fitted with valves or similar closing devices at the point at which they open into any cargo tank. These valves shall be kept closed at sea at any time when the tanks contain cargo oil, except that they may be opened only for cargo transfer needed for the purpose of trimming of the ship.

## Regulation 25

### SUBDIVISION AND STABILITY

1. Every new oil tanker shall comply with the subdivision and damage stability criteria as specified in paragraph (3) of this Regulation, after the assumed side or bottom damage as specified in paragraph (2) of this Regulation, for any operating draught reflecting actual partial or full load conditions consistent with trim and strength of the ship as well as specific gravities of the cargo. Such damage shall be applied to all conceivable locations along the length of the ship as follows:

a) in tankers of more than 225 metres in length, anywhere in the ship's length;

b) in tankers of more than 150 metres, but not exceeding 225 metres in length, anywhere in the ship's length except involving either after or forward bulkhead bounding the machinery space located aft. The machinery space shall be treated as a single floodable compartment;

c) in tankers not exceeding 150 metres in length, anywhere in the ship's length between adjacent transverse bulkheads with the exception of the machinery space. For tankers of 100 metres or less in length where all requirements of paragraph (3) of this Regulation cannot be fulfilled without materially impairing the operational qualities of the ship, Administrations may allow relaxations from these requirements.

Ballast conditions where the tanker is not carrying oil in cargo tanks excluding any oil residues, shall not be considered.

2. The following provisions regarding the extent and the character of the assumed damage shall apply:

a) The extent of side or bottom damage shall be as specified in Regulation 22 of this Annex, except that the longitudinal extent of the bottom damage within  $0.3L$  from the forward perpendicular shall be the same as for side damage, as specified in Regulation 22 (1)(a)(i) of this Annex. If any damage of lesser extent results in a more severe condition such damage shall be assumed.

b) Where the damage involving transverse bulkheads is envisaged as specified in subparagraphs (1)(a) and (b) of this Regulation, transverse watertight bulkheads shall be spaced at least at a distance equal to the longitudinal extent of assumed damage specified in sub-paragraph (a) of this paragraph in order to be considered effective. Where transverse bulkheads are spaced at a lesser distance, one or more of these bulkheads within such extent of damage shall be assumed as non-existent for the purpose of determining flooded compartments.

c) Where the damage between adjacent transverse watertight bulkheads is envisaged as specified in sub-paragraph (1)(c) of this Regulation, no main transverse bulkhead or a transverse bulkhead bounding side tanks or double bottom tanks shall be assumed damaged, unless:

(i) the spacing of the adjacent bulkheads is less than the longitudinal extent of assumed damage specified in sub-paragraph (a) of this paragraph; or (ii) there is a step or a recess in a transverse bulkhead of more than 3.05 metres in length, located within the extent of penetration of assumed damage. The step forward by the after peak bulkhead and after peak tank top shall not be regarded as a step for the purpose of this Regulation.

d) If pipes, ducts or tunnels are situated within the assumed extent of damage, arrangements shall be made so that progressive flooding cannot thereby extend to compartments other than those assumed to be floodable for each case of damage.

3. Oil tankers shall be regarded as complying with the damage stability criteria if the following requirements are met:

a) The final waterline, taking into account sinkage, heel and trim, shall be below the lower edge of any opening through which progressive flooding may take place. Such openings shall include air pipes and those which are closed by means of weathertight doors or hatch covers and may exclude those openings closed by means of watertight manhole covers and flush scuttles, small watertight cargo tank hatch covers which maintain the high integrity of the deck, remotely operated



watertight sliding doors, and side scuttles of the non-opening type,

b) In the final stage of flooding, the angle of heel due to unsymmetrical flooding shall not exceed 25 degrees, provided that this angle may be increased up to 30 degrees if no deck edge immersion occurs.

c) The stability in the final stage of flooding shall be investigated and may be regarded as sufficient if the righting lever curve has at least a range of 20 degrees beyond the position of equilibrium in association with a maximum residual righting lever of at least 0.1 metre. The Administration shall give consideration to the potential hazard presented by protected or unprotected openings which may become temporarily immersed within the range of residual stability.

d) The Administration shall be satisfied that the stability is sufficient during intermediate stages of flooding.

4. The requirements of paragraph (1) of this Regulation shall be confirmed by calculations which take into consideration the design characteristics of the ship, the arrangements, configuration and contents of the damaged compartments; and the distribution, specific gravities and the free surface effect of liquids. The calculations shall be based on the following:

a) Account shall be taken of any empty or partially filled tank, the specific gravity of cargoes carried, as well as any outflow of liquids from damaged compartments.

b) The permeabilities are assumed as follows:

Spaces	Permeability
Appropriated to stores	0.60
Occupied by accommodation	0.95
Occupied by machinery	0.85
Voids	0.95
Intended for consumable liquids	0 to 0.95*
Intended for other liquids	0 to 0.95**

\* Whichever results in the more severe requirements.

\*\* The permeability of partially filled compartments shall be consistent with the amount of liquid carried.

c) The buoyancy of any superstructure directly above the side damage shall be disregarded. The unflooded parts of superstructures beyond the extent of damage, however, may be taken into consideration provided that they are separated from the damaged space by watertight bulkheads and the requirements of sub-paragraph (3)(a) of this Regulation in respect of these intact spaces are complied with. Hinged watertight doors may be acceptable in watertight bulkheads in the superstructure.

d) The free surface effect shall be calculated at an angle of heel of 5 degrees for each individual compartment. The Administration may require or allow the free surface corrections to be calculated at an angle of heel greater than 5 degrees for partially filled tanks.

e) In calculating the effect of free surfaces of consumable liquids it shall be assumed that, for each type of liquid at least one transverse pair or a single centreline tank has a free surface and the tank or combination of tanks to be taken into account shall be those where the effect of free surfaces is the greatest.

5. The Master of every oil tanker and the person in charge of a non-self-propelled oil tanker to which this Annex applies shall be supplied in an approved form with:

a) information relative to loading and distribution of cargo necessary to ensure compliance with the provisions of this Regulation; and

b) data on the ability of the ship to comply with damage stability criteria as determined by this Regulation, including the effect of relaxations that may have been allowed under sub-paragraph (1)(c) of this Regulation.

## APPENDIX I

### LIST OF OILS\*

\* The list of oils shall not necessarily be considered as comprehensive.

Asphalt solutions Blending  
Stocks Roofers Flux Straight  
Run Residue

Oils  
Clarified Crude Oil  
Mixtures containing crude oil  
Diesel Oil  
Fuel Oil No. 4  
Fuel Oil No. 5  
Fuel Oil No. 6  
Road Oil  
Transformer Oil  
Aromatic Oil (excluding vegetable oil)  
Lubricating Oils and Blending Stocks  
Mineral Oil  
Motor Oil  
Penetrating Oil  
Spindle Oil  
Turbine Oil

Distillates Straight Run Flashed  
Feed Stocks

Gas Oil Cracked

Gasoline Blending Stocks  
Alkylates C fuel Reformates  
Polymer C fuel

Gasolines  
Casinghead (natural) Automotive Aviation Straight Run  
Fuel Oil No. 1 (Kerosene) Fuel Oil No. 1-D Fuel Oil No. 2 Fuel Oil No. 2-D

Jet Fuels JP-1 (Kerosene)  
JP-3  
JP-4  
JP-5 (Kerosene, Heavy) Turbo Fuel Kerosene Mineral Spirit

Naphtha  
Solvent  
Petroleum  
Heartcut Distillate Oil

## **APPENDIX II**

Form of Certificate

### **INTERNATIONAL OIL PREVENTION CERTIFICATE (1973)**

Issued under the Provisions of the International Convention for the Prevention of Pollution from Ships, 1973, under the Authority of the Government of

(full designation of the country) by (full designation of the competent person or organization authorized under the provisions of the International Convention for the Prevention of Pollution from Ships, 1973)

Name of Ship Number or Distinctive Letter Port of  
Registry Gross Tonnage

Type of ship:

Oil tanker, including combination carrier\* \* Delete as appropriate  
Ship other than oil tanker with cargo tanks coming under Regulation 2(2) of Annex I of the Convention\* Ship other than any of the above\*

New/existing ship\*

Date of building or major conversion contract .....

Date on which keel was laid or ship was at a similar stage of construction or on which major conversion was commenced

Date of delivery or completion of major conversion

# **Convention on Limitation of Liability for Maritime Claims, 1976**

**London, 19 November 1976**

as amended by  
Protocol of 1996 to amend the Convention on Limitation of Liability for Maritime Claims of 19 November 1976  
London, 2 May 1996

THE STATES PARTIES TO THIS CONVENTION,  
HAVING RECOGNIZED the desirability of determining by agreement certain uniform rules relating to the limitation of liability for maritime claims,  
HAVE DECIDED to conclude a Convention for this purpose and have thereto agreed as follows:

## **CHAPTER I: THE RIGHT OF LIMITATION**

### **Article 1 Persons entitled to limit liability**

1. Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.
2. The term "shipowner" shall mean the owner, charterer, manager and operator of a seagoing ship.
3. Salvor shall mean any person rendering services in direct connexion with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1(d), (e) and (f).
4. If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.
5. In this Convention the liability of a shipowner shall include liability in an action brought against the vessel itself.
6. An insurer of liability for claims subject to limitation in accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.
7. The act of invoking limitation of liability shall not constitute an admission of liability.

### **Article 2 Claims subject to limitation**

1. Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation of liability:
  - (a) claims in respect of loss of life or personal injury or loss of or damage to property (including damage to harbour works, basins and waterways and aids to navigation), occurring on board or in direct connexion with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
  - (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
  - (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connexion with the operation of the ship or salvage operations;
  - (d) claims in respect of the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship; 2
  - (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
  - (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.
2. Claims set out in paragraph 1 shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraph 1(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

### **Article 3 Claims excepted from limitation**

- The rules of this Convention shall not apply to:
- (a) claims for salvage, including, if applicable, any claim for special compensation under Article 14 of the International Convention on Salvage 1989, as amended, or contribution in general average;
  - (b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage, dated 29 November 1969 or of any amendment or Protocol thereto which is in force;

(c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;

(d) claims against the shipowner of a nuclear ship for nuclear damage;

(e) claims by servants of the shipowner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims, if under the law governing the contract of service between the shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

#### **Article 4** **Conduct barring limitation**

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

#### **Article 5** **Counterclaims**

Where a person entitled to limitation of liability under the rules of this Convention has a claim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the provisions of this Convention shall only apply to the balance, if any.

### **CHAPTER II: LIMITS OF LIABILITY**

#### **Article 6 The general limits**

1. The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:

(a) in respect of claims for loss of life or personal injury,

(i) 2 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 800 Units of Account;

for each ton from 30,001 to 70,000 tons, 600 Units of Account; and

for each ton in excess of 70,000 tons, 400 Units of Account,

(b) in respect of any other claims,

(i) 1 million Units of Account for a ship with a tonnage not exceeding 2,000 tons,

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 400 Units of Account;

for each ton from 30,001 to 70,000 tons, 300 Units of Account; and

for each ton in excess of 70,000 tons, 200 Units of Account.

2. Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b).

3. However, without prejudice to the right of claims for loss of life or personal injury according to paragraph 2, a State Party may provide in its national law that claims in respect of damage to harbour works, basins and waterways and aids to navigation shall have such priority over other claims under paragraph 1(b) as is provided by that law.

4. The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

5. For the purpose of this Convention the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement rules contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

#### **Article 7** **The limit for passenger claims**

1. In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 175,000 Units of Account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

2. For the purpose of this Article "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship:

(a) under a contract of passenger carriage, or

(b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

#### **Article 8**

## **Unit of Account**

1. The Unit of Account referred to in Articles 6 and 7 is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment. The value of a national currency in terms of the Special Drawing Right, of a State Party which is a member of the International Monetary Fund, shall be calculated in accordance with the method of valuation applied by the International Monetary Fund in effect at the date in question for its operations and transactions. The value of a national currency in terms of the Special Drawing Right, of a State Party which is not a member of the International Monetary Fund, shall be calculated in a manner determined by that State Party.

2. Nevertheless, those States which are not members of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 1 may, at the time of signature without reservation as to ratification, acceptance or approval or at the time of ratification, acceptance, approval or accession or at any time thereafter, declare that the limits of liability provided for in this Convention to be applied in their territories shall be fixed as follows:

(a) in respect of Article 6, paragraph 1(a), at an amount of

(i) 30 million monetary units for a ship with a tonnage not exceeding 2,000 tons;

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 12,000 monetary units;

for each ton from 30,001 to 70,000 tons, 9,000 monetary units; and

for each ton in excess of 70,000 tons, 6,000 monetary units; and

(b) in respect of Article 6, paragraph 1(b), at an amount of:

(i) 15 million monetary units for a ship with a tonnage not exceeding 2,000 tons;

(ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):

for each ton from 2,001 to 30,000 tons, 6,000 monetary units;

for each ton from 30,001 to 70,000 tons, 4,500 monetary units; and

for each ton in excess of 70,000 tons, 3,000 monetary units; and

(c) in respect of Article 7, paragraph 1, at an amount of 2,625,000 monetary units multiplied by the number of passengers which the ship is authorized to carry according to its certificate.

Paragraphs 2 and 3 of Article 6 apply correspondingly to subparagraphs (a) and (b) of this paragraph.

3. The monetary unit referred to in paragraph 2 corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. The conversion of the amounts referred to in paragraph 2 into the national currency shall be made according to the law of the State concerned.

4. The calculation mentioned in the last sentence of paragraph 1 and the conversion mentioned in paragraph 3 shall be made in such a manner as to express in the national currency of the State Party as far as possible the same real value for the amounts in Articles 6 and 7 as is expressed there in units of account. States Parties shall communicate to the depositary the manner of calculation pursuant to paragraph 1, or the result of the conversion in paragraph 3, as the case may be, at the time of the signature without reservation as to ratification, acceptance or approval, or when depositing an instrument referred to in Article 16 and whenever there is a change in either.

## **Article 9**

### **Aggregation of claims**

1. The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion:

(a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or

(b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or

(c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.

2. The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

## **Article 10**

### **Limitation of liability without constitution of a limitation fund**

1. Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted. However, a State Party may provide in its national law that, where an action is brought in its Courts to enforce a claim subject to limitation, a person liable may only invoke the right to limit liability if a limitation fund has been constituted in accordance with the provisions of this Convention or is constituted when the right to limit liability is invoked.

2. If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.

3. Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

## **CHAPTER III: THE LIMITATION FUND**

### **Article 11 Constitution of the fund**

1. Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

2. A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.

3. A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

### **Article 12 Distribution of the fund**

1. Subject to the provisions of paragraphs 1, 2 and 3 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

2. If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

3. The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.

4. Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

### **Article 13 Bar to other actions**

1. Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted.

2. After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted:

- a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
- (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
- (c) at the port of discharge in respect of damage to cargo; or (d) in the State where the arrest is made.

3. The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

### **Article 14 Governing law**

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connexion therewith, shall be governed by the law of the State Party in which the fund is constituted.

## **CHAPTER IV: SCOPE OF APPLICATION**

### **Article 15**

1. This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State. Nevertheless, each State Party may exclude wholly or partially from the application of this Convention any person referred to in Article 1 who at the time when the rules of this Convention are invoked before the Courts of that State does not have his habitual residence in a State Party or does not have his principal place of business in a State Party or any ship in relation to which the right of limitation is invoked or whose release is sought and which does not at the time specified above fly the flag of a State Party.

2. A State Party may regulate by specific provisions of national law the system of limitation of liability to be applied to vessels which are:

- (a) according to the law of that State, ships intended for navigation on inland waterways
- (b) ships of less than 300 tons.

A State Party which makes use of the option provided for in this paragraph shall inform the depositary of the limits of liability adopted in its national legislation or of the fact that there are none.

3. A State Party may regulate by specific provisions of national law the system of limitation of liability to be applied to claims arising in cases in which interests of persons who are nationals of other States Parties are in no way involved.

3bis Notwithstanding the limit of liability prescribed in paragraph 1 of Article , a State Party may regulate by specific provisions of national law the system of liability to be applied to claims for loss of life or personal injury to passengers of a ship, provided that the limit of liability is not lower than that prescribed in paragraph 1 of Article 7. A State Party which makes use of the option provided for in this paragraph shall inform the SecretaryGeneral of the limits of liability adopted or of the fact that there are none.

4. The Courts of a State Party shall not apply this Convention to ships constructed for, or adapted to, and engaged in, drilling:

- (a) when that State has established under its national legislation a higher limit of liability than that otherwise provided for in Article 6; or 7
- (b) when that State has become party to an international convention regulating the system of liability in respect of such ships. In a case to which sub-paragraph (a) applies that State Party shall inform the depositary accordingly.

5. This Convention shall not apply to:

- (a) air-cushion vehicles;
- (b) floating platforms constructed for the purpose of exploring or exploiting the natural resources of the sea-bed or the subsoil thereof.

## **CHAPTER V: FINAL CLAUSES**

### **Article 16**

#### **Signature, ratification and accession**

1. This Convention shall be open for signature by all States at the Headquarters of the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the Organization") from 1 February 1977 until 31 December 1977 and shall thereafter remain open for accession.

2. All States may become parties to this Convention by: (a) signature without reservation as to ratification, acceptance or approval; or

- (b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or
- (c) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization (hereinafter referred to as "the Secretary General").

### **Article 17**

#### **Entry into force**

1. This Convention shall enter into force on the first day of the month following one year after the date on which twelve States have either signed it without reservation as to ratification, acceptance or approval or have deposited the requisite instruments of ratification, acceptance, approval or accession.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession, or signs without reservation as to ratification, acceptance or approval, in respect of this Convention after the requirements for entry into force have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession or the signature without reservation as to ratification, acceptance or approval, shall take effect on the date of entry into force of the Convention or on the first day of the month following the ninetieth day after the date of the signature or the deposit of the instrument, whichever is the later date.

3. For any State which subsequently becomes a Party to this Convention, the Convention shall enter into force on the first day of the month following the expiration of ninety days after the date when such State deposited its instrument.

4. In respect of the relations between States which ratify, accept, or approve this Convention or accede to it, this Convention shall replace and abrogate the International Convention relating to the Limitation of the Liability of Owners of



Sea-going Ships, done at Brussels on 10 October 1957, and the International Convention for the Unification of certain Rules relating to the Limitation of Liability of the Owners of Sea-going Vessels, signed at Brussels on 25 August 1924

## **Article 18**

### **Reservations**

1. Any State may, at the time of signature, ratification, acceptance, approval or accession, or at any time thereafter, reserve the right:

(a) to exclude the application of Article 2, paragraphs 1(d) and (e);

(b) to exclude claims for damage within the meaning of the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 or of any amendment or protocol thereto.

No other reservations shall be admissible to the substantive provisions of this Convention.

2. Reservations made at the time of signature are subject to confirmation upon ratification, acceptance or approval.

3. Any State which has made a reservation to this Convention may withdraw it at any time by means of a notification addressed to the Secretary General. Such withdrawal shall take effect on the date the notification is received. If the notification states that the withdrawal of a reservation is to take effect on a date specified therein, and such date is later than the date the notification is received by the Secretary-General, the withdrawal shall take effect on such later date.

## **Article 19**

### **Denunciation**

1. This Convention may be denounced by a State Party at any time one year from the date on which the Convention entered into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General.

3. Denunciation shall take effect on the first day of the month following the expiration of one year after the date of deposit of the instrument, or after such longer period as may be specified in the instrument.

## **Article 20**

### **Revision and amendment**

1. A Conference for the purpose of revising or amending this Convention may be convened by the Organization.

2. The Organization shall convene a Conference of the States Parties to this Convention for revising or amending it at the request of not less than one-third of the Parties.

3. After the date of the entry into force of an amendment to this Convention, any instrument of ratification, acceptance, approval or accession deposited shall be deemed to apply to the Convention as amended, unless a contrary intention is expressed in the instrument.

## **Article 21**

### **Revision of the limitation amounts and of Unit of Account or monetary unit**

1. Notwithstanding the provisions of Article 20, a Conference only for the purposes of altering the amounts specified in Articles 6 and 7 and in Article 8, paragraph 2, or of substituting either or both of the Units defined in Article 8, paragraphs 1 and 2, by other units shall be convened by the Organization in accordance with paragraphs 2 and 3 of this Article. An alteration of the amounts shall be made only because of a significant change in their real value.

2. The Organization shall convene such a Conference at the request of not less than one fourth of the States Parties.

3. A decision to alter the amounts or to substitute the Units by other units of account shall be taken by a two-thirds majority of the States Parties present and voting in such Conference.

4. Any State depositing its instrument of ratification, acceptance, approval or accession to the Convention, after entry into force of an amendment, shall apply the Convention as amended.

## **Article 22**

### **Depositary**

1. This Convention shall be deposited with the Secretary-General.

2. The Secretary-General shall: (a) transmit certified true copies of this Convention to all States which were invited to attend the Conference on Limitation of Liability for Maritime Claims and to any other States which accede to this Convention; (b) inform all States which have signed or acceded to this Convention of:

(i) each new signature and each deposit of an instrument and any reservation thereto together with the date thereof;

(ii) the date of entry into force of this Convention or any amendment thereto;

(iii) any denunciation of this Convention and the date on which it takes effect;

(iv) any amendment adopted in conformity with Articles 20 or 21;

(v) any communication called for by any Article of this Convention.

3. Upon entry into force of this Convention, a certified true copy thereof shall be transmitted by the Secretary-General to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

**Article 23**  
**Languages**

This Convention is established in a single original in the English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this nineteenth day of November one thousand nine hundred and seventy-six.

IN WITNESS WHEREOF the undersigned being duly authorized for that purpose have signed this Convention.

# **International Convention on Oil Pollution Preparedness, Response and Co-Operation, 1990**

*(London, 30 November 1990)*

## **THE PARTIES TO THE PRESENT CONVENTION,**

**CONSCIOUS** of the need to preserve the human environment in general and the marine environment in particular,

**RECOGNIZING** the serious threat posed to the marine environment by oil pollution incidents involving ships, offshore units, sea ports and oil handling facilities,

**MINDFUL** of the importance of precautionary measures and prevention in avoiding oil pollution in the first instance, and the need for strict application of existing international instruments dealing with maritime safety and marine pollution prevention, particularly the International Convention for the Safety of Life at Sea, 1974, as amended, and the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended, and also the speedy development of enhanced standards for the design, operation and maintenance of ships carrying oil, and of offshore units,

**MINDFUL ALSO** that, in the event of an oil pollution incident, prompt and effective action is essential in order to minimize the damage which may result from such an incident,

**EMPHASIZING** the importance of effective preparation for combating oil pollution incidents and the important role which the oil and shipping industries have in this regard,

**RECOGNIZING FURTHER** the importance of mutual assistance and international co-operation relating to matters including the exchange of information respecting the capabilities of States to respond to oil pollution incidents, the preparation of oil pollution contingency plans, the exchange of reports of incidents of significance which may affect the marine environment or the coastline and related interests of States, and research and development respecting means of combating oil pollution in the marine environment,

**TAKING ACCOUNT** of the "polluter pays" principle as a general principle of international environmental law,

**TAKING ACCOUNT ALSO** of the importance of international instruments on liability and compensation for oil pollution damage, including the 1969 International Convention on Civil Liability for Oil Pollution Damage (CLC); and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND); and the compelling need for early entry into force of the 1984 Protocols to the CLC and FUND Conventions,

**TAKING ACCOUNT FURTHER** of the importance of bilateral and multilateral agreements and arrangements including regional conventions and agreements,

**BEARING IN MIND** the relevant provisions of the United Nations Convention on the Law of the Sea, in particular of its part XII,

**BEING AWARE** of the need to promote international co-operation and to enhance existing national, regional and global capabilities concerning oil pollution preparedness and response, taking into account the special needs of the developing countries and particularly small island States,

**CONSIDERING** that these objectives may best be achieved by the conclusion of an International Convention on Oil Pollution Preparedness, Response and Co-operation,

**HAVE AGREED** as follows:

Article 1

General provisions

(1) Parties undertake, individually or jointly, to take all appropriate measures in accordance with the provisions of this Convention and the Annex thereto to prepare for and respond to an oil pollution incident.

(2) The Annex to this Convention shall constitute an integral part of the Convention and a reference to this Convention constitutes at the same time a reference to the Annex.

(3) This Convention shall not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government non-commercial service. However, each Party shall ensure by the adoption of appropriate measures not impairing the operations or operational capabilities of such ships owned or operated by it, that such ships act in a manner consistent, so far as is reasonable and practicable, with this Convention.

## Article 2

### Definitions

For the purposes of this Convention:

(1) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products.

(2) "Oil pollution incident" means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests of one or more States, and which requires emergency action or other immediate response.

(3) "Ship" means a vessel of any type whatsoever operating in the marine environment and includes hydrofoil boats, air-cushion vehicles, submersibles, and floating craft of any type.

(4) "Offshore unit" means any fixed or floating offshore installation or structure engaged in gas or oil exploration, exploitation or production activities, or loading or unloading of oil.

(5) "Sea ports and oil handling facilities" means those facilities which present a risk of an oil pollution incident and includes, inter alia, sea ports, oil terminals, pipelines and other oil handling facilities.

(6) "Organization" means the International Maritime Organization.

(7) "Secretary-General" means the Secretary-General of the Organization.

## Article 3

### Oil pollution emergency plans

(1) (a) Each Party shall require that ships entitled to fly its flag have on board a shipboard oil pollution emergency plan as required by and in accordance with the provisions adopted by the Organization for this purpose.

(b) A ship required to have on board an oil pollution emergency plan in accordance with subparagraph (a) is subject, while in a port or at an offshore terminal under the jurisdiction of a Party, to inspection by officers duly authorized by that Party, in accordance with the practices provided for in existing international agreements or its national legislation.

(2) Each Party shall require that operators of offshore units under its jurisdiction have oil pollution emergency plans, which are co-ordinated with the national system established in accordance with article 6 and approved in accordance with procedures established by the competent national authority.

(3) Each Party shall require that authorities or operators in charge of such sea ports and oil handling facilities under its jurisdiction as it deems appropriate have oil pollution emergency plans or similar arrangements which are co-ordinated with the national system established in accordance with article 6 and approved in accordance with procedures established by the competent national authority.

## Article 4

### Oil pollution reporting procedures

(1) Each Party shall:

(a) require masters or other persons having charge of ships flying its flag and persons having charge of offshore units under its jurisdiction to report without delay any event on their ship or offshore unit involving a discharge or probable discharge of oil:

(i) in the case of a ship, to the nearest coastal State;

(ii) in the case of an offshore unit, to the coastal State to whose jurisdiction the unit is subject;

(b) require masters or other persons having charge of ships flying its flag and persons having charge of offshore units under its jurisdiction to report without delay any observed event at sea involving a discharge of oil or the presence of oil:

(i) in the case of a ship, to the nearest coastal State;

(ii) in the case of an offshore unit, to the coastal State to whose jurisdiction the unit is subject;

(c) require persons having charge of sea ports and oil handling facilities under its jurisdiction to report without delay any event involving a discharge or probable discharge of oil or the presence of oil to the competent national authority;

(d) instruct its maritime inspection vessels or aircraft and other appropriate services or officials to report without delay any observed event at sea or at a sea port or oil handling facility involving a discharge of oil or the presence of oil to the competent national authority or, as the case may be, to the nearest coastal State;

(e) request the pilots of civil aircraft to report without delay any observed event at sea involving a discharge of oil or the presence of oil to the nearest coastal State.

(2) Reports under paragraph (1)(a)(i) shall be made in accordance with the requirements developed by the Organization and based on the guidelines and general principles adopted by the Organization. Reports under paragraph (1)(a)(ii), (b), (c) and (d) shall be made in accordance with the guidelines and general principles adopted by the Organization to the extent applicable.<sup>9</sup>

## Article 5

### Action on receiving an oil pollution report

(1) Whenever a Party receives a report referred to in article 4 or pollution information provided by other sources, it shall:

(a) assess the event to determine whether it is an oil pollution incident;

(b) assess the nature, extent and possible consequences of the oil pollution incident; and

(c) then, without delay, inform all States whose interests are affected or likely to be affected by such oil pollution incident, together with

(i) details of its assessments and any action it has taken, or intends to take, to deal with the incident, and

(ii) further information as appropriate,

until the action taken to respond to the incident has been concluded or until joint action has been decided by such States.

(2) When the severity of such oil pollution incident so justifies, the Party should provide the Organization directly or, as appropriate, through the relevant regional organization or arrangements with the information referred to in paragraph (1)(b) and (c).

(3) When the severity of such oil pollution incident so justifies, other States affected by it are urged to inform the Organization directly or, as appropriate, through the relevant regional organizations or arrangements of their assessment of the extent of the threat to their interests and any action taken or intended.

(4) Parties should use, in so far as practicable, the oil pollution reporting system developed by the Organization when exchanging information and communicating with other States and with the Organization.

## Article 6

### National and regional systems for preparedness and response

(1) Each Party shall establish a national system for responding promptly and effectively to oil pollution incidents. This system shall include as a minimum:

(a) the designation of:

(i) the competent national authority or authorities with responsibility for oil pollution preparedness and response;

(ii) the national operational contact point or points, which shall be responsible for the receipt and transmission of oil pollution reports as referred to in article 4; and

(iii) an authority which is entitled to act on behalf of the State to request assistance or to decide to render the assistance requested;

(b) a national contingency plan for preparedness and response which includes the organizational relationship of the various bodies involved, whether public or private, taking into account guidelines developed by the Organization.

(2) In addition, each Party, within its capabilities either individually or through bilateral or multilateral co-operation and, as appropriate, in co-operation with the oil and shipping industries, port authorities and other relevant entities, shall establish:

(a) a minimum level of pre-positioned oil spill combating equipment, commensurate with the risk involved, and programmes for its use;

(b) a programme of exercises for oil pollution response organizations and training of relevant personnel;

(c) detailed plans and communication capabilities for responding to an oil pollution incident. Such capabilities should be continuously available; and

(d) a mechanism or arrangement to co-ordinate the response to an oil pollution incident with, if appropriate, the capabilities to mobilize the necessary resources.

(3) Each Party shall ensure that current information is provided to the Organization, directly or through the relevant regional organization or arrangements, concerning:

(a) the location, telecommunication data and, if applicable, areas of responsibility of authorities and entities referred to in paragraph (1)(a);

(b) information concerning pollution response equipment and expertise in disciplines related to oil pollution response and marine salvage which may be made available to other States, upon request; and

(c) its national contingency plan.

## Article 7

### International co-operation in pollution response

(1) Parties agree that, subject to their capabilities and the availability of relevant resources, they will co-operate and provide advisory services, technical support and equipment for the purpose of responding to an oil pollution incident, when the severity of such incident so justifies, upon the request of any Party affected or likely to be affected. The financing of the costs for such assistance shall be based on the provisions set out in the Annex to this Convention.

(2) A Party which has requested assistance may ask the Organization to assist in identifying sources of provisional financing of the costs referred to in paragraph (1).

(3) In accordance with applicable international agreements, each Party shall take necessary legal or administrative measures to facilitate:

(a) the arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting personnel, cargoes, materials and equipment required to deal with such an incident; and

(b) the expeditious movement into, through, and out of its territory of personnel, cargoes, materials and equipment referred to in subparagraph (a).

## Article 8

### Research and development

(1) Parties agree to co-operate directly or, as appropriate, through the Organization or relevant regional organizations or arrangements in the promotion and exchange of results of research and development programmes relating to the enhancement of the state-of-the-art of oil pollution preparedness and response, including technologies and techniques for surveillance, containment, recovery, dispersion, clean-up and otherwise minimizing or mitigating the effects of oil pollution, and for restoration.

(2) To this end, Parties undertake to establish directly or, as appropriate, through the Organization or relevant regional organizations or arrangements, the necessary links between Parties' research institutions.

(3) Parties agree to co-operate directly or through the Organization or relevant regional organizations or arrangements to promote, as appropriate, the holding on a regular basis of international symposia on relevant subjects, including technological advances in oil pollution combating techniques and equipment.

(4) Parties agree to encourage, through the Organization or other competent international organizations, the development of standards for compatible oil pollution combating techniques and equipment.

## Article 9

### Technical co-operation

(1) Parties undertake directly or through the Organization and other international bodies, as appropriate, in respect of oil pollution preparedness and response, to provide support for those Parties which request technical assistance:

(a) to train personnel;

(b) to ensure the availability of relevant technology, equipment and facilities;

(c) to facilitate other measures and arrangements to prepare for and respond to oil pollution incidents; and

(d) to initiate joint research and development programmes.

(2) Parties undertake to co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology in respect of oil pollution preparedness and response.

## Article 10

### Promotion of bilateral and multilateral co-operation in preparedness and response

Parties shall endeavour to conclude bilateral or multilateral agreements for oil pollution preparedness and response. Copies of such agreements shall be communicated to the Organization which should make them available on request to Parties.

## Article 11

### Relation to other conventions and international agreements

Nothing in this Convention shall be construed as altering the rights or obligations of any Party under any other convention or international agreement.

## Article 12

## Institutional arrangements

(1) Parties designate the Organization, subject to its agreement and the availability of adequate resources to sustain the activity, to perform the following functions and activities:

(a) information services:

(i) to receive, collate and disseminate on request the information provided by Parties (see, for example, articles 5(2) and (3), 6(3) and 10) and relevant information provided by other sources; and

(ii) to provide assistance in identifying sources of provisional financing of costs (see, for example, article 7(2));

(b) education and training:

(i) to promote training in the field of oil pollution preparedness and response (see, for example, article 9); and

(ii) to promote the holding of international symposia (see, for example, article 8(3));

(c) technical services:

(i) to facilitate co-operation in research and development (see, for example, articles 8(1), (2) and (4) and 9(1)(d));

(ii) to provide advice to States establishing national or regional response capabilities; and

(iii) to analyse the information provided by Parties (see, for example, articles 5(2) and (3), 6(3) and 8(1)) and relevant information provided by other sources and provide advice or information to States;

(d) technical assistance:

(i) to facilitate the provision of technical assistance to States establishing national or regional response capabilities; and

(ii) to facilitate the provision of technical assistance and advice, upon the request of States faced with major oil pollution incidents.

(2) In carrying out the activities specified in this article, the Organization shall endeavour to strengthen the ability of States individually or through regional arrangements to prepare for and combat oil pollution incidents, drawing upon the experience of States, regional agreements and industry arrangements and paying particular attention to the needs of developing countries.

(3) The provisions of this article shall be implemented in accordance with a programme developed and kept under review by the Organization.

## Article 13

### Evaluation of the Convention

Parties shall evaluate within the Organization the effectiveness of the Convention in the light of its objectives, particularly with respect to the principles underlying co-operation and assistance.

## Article 14

### Amendments

(1) This Convention may be amended by one of the procedures specified in the following paragraphs.

(2) Amendment after consideration by the Organization:

(a) Any amendment proposed by a Party to the Convention shall be submitted to the Organization and circulated by the Secretary-General to all Members of the Organization and all Parties at least six months prior to its consideration.



(b) Any amendment proposed and circulated as above shall be submitted to the Marine Environment Protection Committee of the Organization for consideration.

(c) Parties to the Convention, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Marine Environment Protection Committee.

(d) Amendments shall be adopted by a two-thirds majority of only the Parties to the Convention present and voting.

(e) If adopted in accordance with subparagraph (d), amendments shall be communicated by the Secretary-General to all Parties to the Convention for acceptance.

(f) (i) An amendment to an article or the Annex of the Convention shall be deemed to have been accepted on the date on which it is accepted by two thirds of the Parties.

(ii) An amendment to an appendix shall be deemed to have been accepted at the end of a period to be determined by the Marine Environment Protection Committee at the time of its adoption, which period shall not be less than ten months, unless within that period an objection is communicated to the Secretary-General by not less than one third of the Parties.

(g) (i) An amendment to an article or the Annex of the Convention accepted in conformity with subparagraph (f)(i) shall enter into force six months after the date on which it is deemed to have been accepted with respect to the Parties which have notified the Secretary-General that they have accepted it.

(ii) An amendment to an appendix accepted in conformity with subparagraph (f)(ii) shall enter into force six months after the date on which it is deemed to have been accepted with respect to all Parties with the exception of those which, before that date, have objected to it. A Party may at any time withdraw a previously communicated objection by submitting a notification to that effect to the Secretary-General.

(3) Amendment by a Conference:

(a) Upon the request of a Party, concurred with by at least one third of the Parties, the Secretary-General shall convene a Conference of Parties to the Convention to consider amendments to the Convention.

(b) An amendment adopted by such a Conference by a two-thirds majority of those Parties present and voting shall be communicated by the Secretary-General to all Parties for their acceptance.

(c) Unless the Conference decides otherwise, the amendment shall be deemed to have been accepted and shall enter into force in accordance with the procedures specified in paragraph (2)(f) and (g).

(4) The adoption and entry into force of an amendment constituting an addition of an Annex or an appendix shall be subject to the procedure applicable to an amendment to the Annex.

(5) Any Party which has not accepted an amendment to an article or the Annex under paragraph (2)(f)(i) or an amendment constituting an addition of an Annex or an appendix under paragraph (4) or has communicated an objection to an amendment to an appendix under paragraph (2)(f)(ii) shall be treated as a non-Party only for the purpose of the application of such amendment. Such treatment shall terminate upon the submission of a notification of acceptance under paragraph (2)(f)(i) or withdrawal of the objection under paragraph (2)(g)(ii).

(6) The Secretary-General shall inform all Parties of any amendment which enters into force under this article, together with the date on which the amendment enters into force.

(7) Any notification of acceptance of, objection to, or withdrawal of objection to, an amendment under this article shall be communicated in writing to the Secretary-General who shall inform Parties of such notification and the date of its receipt.

(8) An appendix to the Convention shall contain only provisions of a technical nature.

## Article 15

### Signature, ratification, acceptance, approval and accession

(1) This Convention shall remain open for signature at the Headquarters of the Organization from 30 November 1990 until 29 November 1991 and shall thereafter remain open for accession. Any State may become Party to this Convention by:

- (a) signature without reservation as to ratification, acceptance or approval; or
- (b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or
- (c) accession.

(2) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

## Article 16

### Entry into force

(1) This Convention shall enter into force twelve months after the date on which not less than fifteen States have either signed it without reservation as to ratification, acceptance or approval or have deposited the requisite instruments of ratification, acceptance, approval or accession in accordance with article 15.

(2) For States which have deposited an instrument of ratification, acceptance, approval or accession in respect of this Convention after the requirements for entry into force thereof have been met but prior to the date of entry into force, the ratification, acceptance, approval or accession shall take effect on the date of entry into force of this Convention or three months after the date of deposit of the instrument, whichever is the later date.

(3) For States which have deposited an instrument of ratification, acceptance, approval or accession after the date on which this Convention entered into force, this Convention shall become effective three months after the date of deposit of the instrument.

(4) After the date on which an amendment to this Convention is deemed to have been accepted under article 14, any instrument of ratification, acceptance, approval or accession deposited shall apply to this Convention as amended.

## Article 17

### Denunciation

(1) This Convention may be denounced by any Party at any time after the expiry of five years from the date on which this Convention enters into force for that Party.

(2) Denunciation shall be effected by notification in writing to the Secretary-General.

(3) A denunciation shall take effect twelve months after receipt of the notification of denunciation by the Secretary-General or after the expiry of any longer period which may be indicated in the notification.

## Article 18

### Depositary

(1) This Convention shall be deposited with the Secretary-General.

(2) The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of this Convention; and

(iii) the deposit of any instrument of denunciation of this Convention together with the date on which it was received and the date on which the denunciation takes effect;

(b) transmit certified true copies of this Convention to the Governments of all States which have signed this Convention or acceded thereto.

(3) As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

## Article 19

### Languages

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

**IN WITNESS WHEREOF** the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

**DONE AT** London this thirtieth day of November one thousand nine hundred and ninety.

## ANNEX

### REIMBURSEMENT OF COSTS OF ASSISTANCE

(1) (a) Unless an agreement concerning the financial arrangements governing actions of Parties to deal with oil pollution incidents has been concluded on a bilateral or multilateral basis prior to the oil pollution incident, Parties shall bear the costs of their respective actions in dealing with pollution in accordance with subparagraph (i) or subparagraph (ii).

(i) If the action was taken by one Party at the express request of another Party, the requesting Party shall reimburse to the assisting Party the cost of its action. The requesting Party may cancel its request at any time, but in that case it shall bear the costs already incurred or committed by the assisting Party.

(ii) If the action was taken by a Party on its own initiative, this Party shall bear the costs of its action.

(b) The principles laid down in subparagraph (a) shall apply unless the Parties concerned otherwise agree in any individual case.

(2) Unless otherwise agreed, the costs of action taken by a Party at the request of another Party shall be fairly calculated according to the law and current practice of the assisting Party concerning the reimbursement of such costs.

(3) The Party requesting assistance and the assisting Party shall, where appropriate, co-operate in concluding any action in response to a compensation claim. To that end, they shall give due consideration to existing legal regimes. Where the action thus concluded does not permit full compensation for expenses incurred in the assistance operation, the Party requesting assistance may ask the assisting Party to waive reimbursement of the expenses exceeding the sums compensated or to reduce the costs which have been calculated in accordance with paragraph (2). It may also request a postponement of the reimbursement of such costs. In considering such a request, assisting Parties shall give due consideration to the needs of the developing countries.

(4) The provisions of this Convention shall not be interpreted as in any way prejudicing the rights of Parties to recover from third parties the costs of actions to deal with pollution or the threat of pollution under other applicable provisions and rules of national and international law. Special attention shall be paid to the 1969 International Convention on Civil Liability for Oil Pollution Damage and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage or any subsequent amendment to those Conventions.

**INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE**  
**(Brussels, 29.XI.1969)**

The States Parties to the present Convention,  
Conscious of the dangers of pollution posed by the worldwide maritime carriage of oil in bulk,  
Convinced of the need to ensure that adequate compensation is available to persons who suffer damage caused by pollution resulting from the escape or discharge of oil from ships,  
Desiring to adopt uniform international rules and procedures for determining questions of liability and providing adequate compensation in such cases,  
Have agreed as follows:

**Article I**

For the purposes of this Convention:

1. "Ship" means any sea-going vessel and any seaborne craft of any type whatsoever, actually carrying oil in bulk as cargo.
2. "Person" means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions.
3. "Owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship. However in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "owner" shall mean such company.
4. "State of the ship's registry" means in relation to registered ships the State of registration of the ship, and in relation to unregistered ships the State whose flag the ship is flying.
5. "Oil" means any persistent oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil and whale oil, whether carried on board a ship as cargo or in the bunkers of such a ship.
6. "Pollution damage" means loss or damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, and includes the costs of preventive measures and further loss or damage caused by preventive measures.
7. "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage.
8. "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage.
9. "Organization" means the Inter-Governmental Maritime Consultative Organization.

**Article II**

This Convention shall apply exclusively to pollution damage caused on the territory including the territorial sea of a Contracting State and to preventive measures taken to prevent or minimize such damage.

**Article III**

1. Except as provided in paragraphs 2 and 3 of this Article, the owner of a ship at the time of an incident, or where the incident consists of a series of occurrences at the time of the first such occurrence, shall be liable for any pollution damage caused by oil which has escaped or been discharged from the ship as a result of the incident.
2. No liability for pollution damage shall attach to the owner if he proves that the damage:
  - (a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character, or
  - (b) was wholly caused by an act or omission done with intent to cause damage by a third party, or
  - (c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.
3. If the owner proves that the pollution damage resulted wholly or partially either from an act or omission done with intent to cause damage by the person who suffered the damage or from the negligence of that person, the owner may be exonerated wholly or partially from his liability to such person.
4. No claim for compensation for pollution damage shall be made against the owner otherwise than in accordance with this Convention. No claim for pollution damage under this Convention or otherwise may be made against the servants or agents of the owner.
5. Nothing in this Convention shall prejudice any right of recourse of the owner against third parties.

**Article IV**

When oil has escaped or has been discharged from two or more ships, and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under Article III, shall be jointly and severally liable for all such damage which is not reasonably separable.

**Article V**

1. The owner of a ship shall be entitled to limit his liability under this Convention in respect of any one incident to an aggregate amount of 2,000 francs for each ton of the ship's tonnage. However, this aggregate amount shall not in any event exceed 210 million francs.

2. If the incident occurred as a result of the actual fault or privity of the owner, he shall not be entitled to avail himself of the limitation provided in paragraph 1 of this Article.

3. For the purpose of availing himself of the benefit of limitation provided for in paragraph 1 of this Article the owner shall constitute a fund for the total sum representing the limit of his liability with the Court or other competent authority of any one of the Contracting States in which action is brought under Article IX. The fund can be constituted either by depositing the sum or by producing a bank guarantee or other guarantee, acceptable under the legislation of the Contracting State where the fund is constituted, and considered to be adequate by the Court or another competent authority.

4. The fund shall be distributed among the claimants in proportion to the amounts of their established claims.

5. If before the fund is distributed the owner or any of his servants or agents or any person providing him insurance or other financial security has as a result of the incident in question, paid compensation for pollution damage, such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

6. The right of subrogation provided for in paragraph 5 of this Article may also be exercised by a person other than those mentioned therein in respect of any amount of compensation for pollution damage which he may have paid but only to the extent that such subrogation is permitted under the applicable national law.

7. Where the owner or any other person establishes that he may be compelled to pay at a later date in whole or in part any such amount of compensation, with regard to which such person would have enjoyed a right of subrogation under paragraphs 5 or 6 of this Article, had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

8. Claims in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimize pollution damage shall rank equally with other claims against the fund.

9. The franc mentioned in this Article shall be a unit consisting of sixty-five and a half milligrams of gold of millesimal fineness nine hundred. The amount mentioned in paragraph 1 of this Article shall be converted into the national currency of the State in which the fund is being constituted on the basis of the official value of that currency by reference to the unit defined above on the date of the constitution of the fund.

10. For the purpose of this Article the ship's tonnage shall be the net tonnage of the ship with the addition of the amount deducted from the gross tonnage on account of engine room space for the purpose of ascertaining the net tonnage. In the case of a ship which cannot be measured in accordance with the normal rules of tonnage measurement, the ship's tonnage shall be deemed to be 40 per cent of the weight in tons (of 2240 lbs) of oil which the ship is capable of carrying.

11. The insurer or other person providing financial security shall be entitled to constitute a fund in accordance with this Article on the same conditions and having the same effect as if it were constituted by the owner. Such a fund may be constituted even in the event of the actual fault or privity of the owner but its constitution shall in that case not prejudice the rights of any claimant against the owner.

#### **Article VI**

1. Where the owner, after an incident, has constituted a fund in accordance with Article V, and is entitled to limit his liability,

(a) no person having a claim for pollution damage arising out of that incident shall be entitled to exercise any right against any other assets of the owner in respect of such claim;

(b) the Court or other competent authority of any Contracting State shall order the release of any ship or other property belonging to the owner which has been arrested in respect of a claim for pollution damage arising out of that incident, and shall similarly release any bail or other security furnished to avoid such arrest.

2. The foregoing shall, however, only apply if the claimant has access to the Court administering the fund and the fund is actually available in respect of his claim.

#### **Article VII**

1. The owner of a ship registered in a Contracting State and carrying more than 2,000 tons of oil in bulk as cargo shall be required to maintain insurance or other financial security, such as the guarantee of a bank or a certificate delivered by an international compensation fund, in the sums fixed by applying the limits of liability prescribed in Article V, paragraph 1 to cover his liability for pollution damage under this Convention.

2. A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship. It shall be issued or certified by the appropriate authority of the State of the ship's registry after determining that the requirements of paragraph 1 of this Article have been complied with. The certificate shall be in the form of the annexed model and shall contain the following particulars:

- (a) name of ship and port of registration;
- (b) name and principal place of business of owner;
- (c) type of security;
- (d) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established;
- (e) period of validity of certificate which shall not be longer than the period of validity of the insurance or other security.

3. The certificate shall be in the official language or languages of the issuing State. If the language used is neither English nor French, the text shall include a translation into one of these languages.

4. The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry.

5. An insurance or other financial security shall not satisfy the requirements of this Article if it can cease, for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 of this Article, before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 4 of this Article, unless the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification which results in the insurance or security no longer satisfying the requirements of this Article.

6. The State of registry shall, subject to the provisions of this Article, determine the conditions of issue and validity of the certificate.

7. Certificates issued or certified under the authority of a Contracting State shall be accepted by other Contracting States for the purposes of this Convention and shall be regarded by other Contracting States as having the same force as certificates issued or certified by them. A Contracting State may at any time request consultation with the State of a ship's registry should it believe that the insurer or guarantor named in the certificate is not financially capable of meeting the obligations imposed by this Convention.

8. Any claim for compensation for pollution damage may be brought directly against the insurer or other person providing financial security for the owner's liability for pollution damage. In such case the defendant may, irrespective of the actual fault or privity of the owner, avail himself of the limits of liability prescribed in Article V, paragraph 1. He may further avail himself of the defences (other than the bankruptcy or winding up of the owner) which the owner himself would have been entitled to invoke. Furthermore, the defendant may avail himself of the defence that the pollution damage resulted from the wilful misconduct of the owner himself, but the defendant shall not avail himself of any other defence which he might have been entitled to invoke in proceedings brought by the owner against him. The defendant shall in any event have the right to require the owner to be joined in the proceedings.

9. Any sums provided by insurance or by other financial security maintained in accordance with paragraph 1 of this Article shall be available exclusively for the satisfaction of claims under this Convention.

10. A Contracting State shall not permit a ship under its flag to which this Article applies to trade unless a certificate has been issued under paragraph 2 or 12 of this Article.

11. Subject to the provisions of this Article, each Contracting State shall ensure, under its national legislation, that insurance or other security to the extent specified in paragraph 1 of this Article is in force in respect of any ship, wherever registered, entering or leaving a port in its territory, or arriving at or leaving an off-shore terminal in its territorial sea, if the ship actually carries more than 2,000 tons of oil in bulk as cargo.

12. If insurance or other financial security is not maintained in respect of a ship owned by a Contracting State, the provisions of this Article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authorities of the State of the ship's registry stating that the ship is owned by that State and that the ship's liability is covered within the limits prescribed by Article V, paragraph 1. Such a certificate shall follow as closely as practicable the model prescribed by paragraph 2 of this Article.

#### **Article VIII**

Rights of compensation under this Convention shall be extinguished unless an action is brought thereunder within three years from the date when the damage occurred. However, in no case shall an action be brought after six years from the date of the incident which caused the damage. Where this incident consists of a series of occurrences, the six years' period shall run from the date of the first such occurrence.

#### **Article IX**

1. Where an incident has caused pollution damage in the territory including the territorial sea of one or more Contracting States, or preventive measures have been taken to prevent or minimize pollution damage in such territory including the territorial sea, actions for compensation may only be brought in the Courts of any such Contracting State or States. Reasonable notice of any such action shall be given to the defendant.

2. Each Contracting State shall ensure that its Courts possess the necessary jurisdiction to entertain such actions for compensation.

3. After the fund has been constituted in accordance with Article V the Courts of the State in which the fund is constituted shall be exclusively competent to determine all matters relating to the apportionment and distribution of the fund.

#### **Article X**

1. Any judgment given by a Court with jurisdiction in accordance with Article IX which is enforceable in the State of origin where it is no longer subject to ordinary forms of review, shall be recognized in any Contracting State, except:

(a) where the judgment was obtained by fraud; or

(b) where the defendant was not given reasonable notice and a fair opportunity to present his case.

2. A judgment recognized under paragraph 1 of this Article shall be enforceable in each Contracting State as soon as the formalities required in that State have been complied with. The formalities shall not permit the merits of the case to be re-opened.

#### **Article XI**

1. The provisions of this Convention shall not apply to warships or other ships owned or operated by a State and used, for the time being, only on government non-commercial service.

2. With respect to ships owned by a Contracting State and used for commercial purposes, each State shall be subject to suit in the jurisdictions set forth in Article IX and shall waive all defences based on its status as a sovereign State.

#### **Article XII**

This Convention shall supersede any International Conventions in force or open for signature, ratification or accession at the date on which the Convention is opened for signature, but only to the extent that such Conventions would be in conflict with it; however, nothing in this Article shall affect the obligations of Contracting States to non-Contracting States arising under such International Conventions.

#### **Article XIII**

1. The present Convention shall remain open for signature until 31 December 1970 and shall thereafter remain open for accession.

2. States Members of the United Nations or any of the Specialized Agencies or of the International Atomic Energy Agency or Parties to the Statute of the International Court of Justice may become Parties to this Convention by:

(a) signature without reservation as to ratification, acceptance or approval;

(b) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval;

or

(c) accession.

#### **Article XIV**

1. Ratification, acceptance, approval or accession shall be effected by the deposit of a formal instrument to that effect with the Secretary-General of the Organization.

2. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the present Convention with respect to all existing Contracting States, or after the completion of all measures required for the entry into force of the amendment with respect to those Contracting States shall be deemed to apply to the Convention as modified by the amendment.

#### **Article XV**

1. The present Convention shall enter into force on the ninetieth day following the date on which Governments of eight States including five States each with not less than 1,000,000 gross tons of tanker tonnage have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance approval or accession with the Secretary-General of the Organization.

2. For each State which subsequently ratifies, accepts, approves or accedes to it the present Convention shall come into force on the ninetieth day after deposit by such State of the appropriate instrument.

#### **Article XVI**

1. The present Convention may be denounced by any Contracting State at any time after the date on which the Convention comes into force for that State.

2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organization.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.

#### **Article XVII**

1. The United Nations, where it is the administering authority for a territory, or any Contracting State responsible for the international relations of a territory, shall as soon as possible consult with the appropriate authorities of such territory or take such other measures as may be appropriate, in order to extend the present Convention to that territory and may at any time by notification in writing to the Secretary-General of the Organization declare that the present Convention shall extend to such territory.

2. The present Convention shall, from the date of receipt of the notification or from such other date as may be specified in the notification, extend to the territory named therein.

3. The United Nations, or any Contracting State which has made a declaration under paragraph 1 of this Article may at any time after the date on which the Convention has been so extended to any territory declare by notification in writing to the Secretary-General of the Organization that the present Convention shall cease to extend to any such territory named in the notification.

4. The present Convention shall cease to extend to any territory mentioned in such notification one year, or such longer period as may be specified therein, after the date of receipt of the notification by the Secretary-General of the Organization.

#### **Article XVIII**

1. A Conference for the purpose of revising or amending the present Convention may be convened by the Organization.

2. The Organization shall convene a Conference of the Contracting States for revising or amending the present Convention at the request of not less than one-third of the Contracting States.

#### **Article XIX**

1. The present Convention shall be deposited with the Secretary-General of the Organization.

2. The Secretary-General of the Organization shall:

(a) inform all States which have signed or acceded to the Convention of:

(i) each new signature or deposit of instrument together with the date thereof;

(ii) the deposit of any instrument of denunciation of this Convention together with the date of the deposit;

(iii) the extension of the present Convention to any territory under paragraph 1 of Article XVII and of the termination of any such extension under the provisions of paragraph 4 of that Article stating in each case the date on which the present Convention has been or will cease to be so extended;

(b) transmit certified true copies of the present Convention to all Signatory States and to all States which accede to the present Convention.

#### **Article XX**

As soon as the present Convention comes into force, the text shall be transmitted by the Secretary-General of the Organization to the Secretariat of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

#### **Article XXI**

The present Convention is established in a single copy in the English and French languages, both texts being equally authentic. Official translations in the Russian and Spanish languages shall be prepared and deposited with the signed original.

In witness whereof the undersigned being duly authorized by their respective Governments for that purpose have signed the present Convention.

Done at Brussels this twenty-ninth day of November 1969.

Annex

#### **CERTIFICATE**

#### **OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR OIL POLLUTION DAMAGE**

Issued in accordance with the provisions of Article VII of the  
International Convention on Civil Liability for Oil Pollution  
Damage, 1969.

-----T-----T-----T-----  
| Name of | Distinctive Number | Port of | Name and Address |  
| Ship | or Letters | Registry | of Owner |

+-----+-----+-----+-----+  
|||||

L-----+-----+-----+-----

This is to certify that there is in force in respect of the  
above-named ship a policy of insurance or other financial security  
satisfying the requirements of Article VII of the International  
Convention on Civil Liability for Oil Pollution Damage, 1969.



Type of Security .....  
Duration of Security .....  
Name and Address of the Insurer(s) and / or Guarantor(s)  
Name .....  
Address .....

This certificate is valid until .....  
Issued or certified by the Government of .....  
(Full designation of the State)  
At ..... On .....  
(Place) (Date)

.....  
Signature and Title of issuing  
or certifying official.

Explanatory Notes. 1. If desired, the designation of the State  
may include a reference to the competent public authority of the  
country where the certificate is issued.  
2. If the total amount of security has been furnished by more  
than one source, the amount of each of them should be indicated.  
3. If security is furnished in several forms, these should be  
enumerated.  
4. The entry "Duration of Security" must stipulate the date on  
which such security takes effect.

# Framework Convention for the Protection of the Marine Environment of the Caspian Sea

The Caspian Littoral States:

Republic of Azerbaijan  
Islamic Republic of Iran  
Republic of Kazakhstan  
Russian Federation  
Turkmenistan

hereinafter referred to as the Contracting Parties

Noting of the deterioration of the marine environment of the Caspian Sea due to its pollution arising from various sources as a result of human activities, including the discharge, emission and disposal of harmful and hazardous substances, wastes and other pollutants, both in the sea and from land-based sources;

Firmly resolved to preserve living resources of the Caspian Sea for present and future generations;

Acknowledging the need to ensure that land-based activities do not make harm for the marine environment of the Caspian Sea;

Mindful of the danger for the marine environment of the Caspian Sea and to its unique hydrographic and ecological characteristics related to the problem of sea-level fluctuation;

Reaffirming the importance of protection of the marine environment of the Caspian Sea;

Recognising the importance of co-operation among the Contracting Parties and with relevant international organizations with the aim to protect and conserve the marine environment of the Caspian Sea;

*HAVE AGREED* as follows:

## I. GENERAL PROVISIONS Article

### 1. *Use of Terms*

For the purposes of this Convention, the following terms mean:

"Action Plan" - the Action Plan for the protection and sustainable development of the marine environment of the Caspian Sea;

"Dumping" - any pollution to the Sea from any deliberate disposal into the marine environment of wastes or other matter from vessels, aircraft, platforms, or other man-made structures in the Caspian Sea or any deliberate disposal of vessels, aircraft, platforms, or other man-made structures in the Caspian Sea;

"Hazardous substance" - any substance, which is toxic, carcinogenic, mutagenic, teratogenic or bio- accumulative, especially when they are persistent;

"National Authority" - the authority designated by each Contracting Party to be responsible for the co-ordination of actions by such Contracting Party for implementing this Convention and its protocols;

"Pollution" - the introduction by man, directly or indirectly, of substances or energy into the environment resulting or likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health and hindrance to legitimate uses of the Caspian Sea;

"Pollution from land-based sources" - pollution of the sea from all kinds of point and non-point sources based on land reaching the marine environment, whether water-borne, air-borne or directly from the coast, or as a result of any disposal of pollutants from land to the sea by way of tunnel, pipeline or other means "Environmental emergency" - a situation that causes damage or poses an imminent threat of pollution or other harm to the marine environment of the Caspian Sea and that result from natural or man-made disasters;

"Industrial accident" - an event resulting from an uncontrolled change in the course of any activity involving harmful and hazardous substances in an industrial installation for example during manufacture, use, storage, handling or disposal or during transportation of such substances;

"Vessel" - a vessel of any kind that operates in the marine environment, including hovercraft, hydrofoil boats, submarines, towed and self-driving boats, as well as platforms and other manmade offshore structures;

"Invasive alien species" - an alien species whose establishment and spread may cause economic or environmental damage to the ecosystems or biological resources of the Caspian Sea.

## **Article 2. Objective**

The objective of this Convention is the protection of the Caspian environment from all sources of pollution including the protection, preservation, restoration and sustainable and rational use of the biological resources of the Caspian Sea.

## **Article 3. Scope of Application**

This Convention shall be applied to the marine environment of the Caspian Sea, taking into account its water level fluctuations, and pollution from land based sources.

**II.**  
**III.**

## **GENERAL OBLIGATIONS**

### **Article 4. General Obligations**

The Contracting Parties shall:

- a) individually or jointly take all appropriate measures to prevent, reduce and control pollution of the Caspian Sea.
- b) individually or jointly take all appropriate measures to protect, preserve and restore the environment of the Caspian Sea;
- c) use the resources of the Caspian Sea in such a way as not to cause harm to the marine environment of the Caspian Sea;
- d) cooperate with each other and with competent international organizations for the achievement of the objective of this Convention.

### **Article 5. Principles**

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

- a) the precautionary principle, by virtue of which, where there is a threat of serious or irreversible damage to the Caspian Sea environment, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent such damage;
- b) “the polluter pays” principle, by virtue of which the polluter bears the costs of pollution including its prevention, control and reduction;
- c) the principle of accessibility of information on the pollution of the marine environment of the Caspian Sea according to which the Contracting Parties provide each other with relevant information in the maximum possible amount.

### **Article 6. Duty to Co-operate**

The Contracting Parties shall co-operate on a multilateral and bilateral basis in the development of protocols to this Convention prescribing additional measures, procedures and standards for the implementation of this Convention.

## **PREVENTION, REDUCTION AND CONTROL OF POLLUTION**

### **Article 7. Pollution from Land-Based Sources**

1. The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution of the Caspian Sea from land-based sources.
2. The Contracting Parties shall co-operate in the development of protocols to this Convention prescribing additional measures for prevention, reduction and control of pollution of the Caspian Sea from land-based sources. Such protocols may include, *inter alia*, the following measures:
  - a) the emission of pollutants is prevented, controlled and reduced at source through application, *inter alia*, of low- and non-waste technology;
  - b) the pollution from land-based point sources is prevented, reduced and controlled through licensing of waste-water discharges by competent national authorities of the Contracting Parties;
  - c) licensing of waste-water discharges is based on promoting the use of environmentally sound technology;
  - d) requirements stricter than those provided in sub-paragraphs (b) and (c) of this Article, are imposed according to additional protocols to this Convention when the quality of the receiving water or the affected ecosystem of the Caspian Sea so requires;
  - e) various treatments are to be applied to municipal waste water and, where necessary, in a step-by-step approach;
  - f) in order to reduce organic substances inputs from industrial and municipal sources, the best available environmentally sound technology is to be applied;
  - g) appropriate measures based on best environmental practices are to be developed and implemented for the reduction of inputs of organic substances and hazardous substances from non-point sources, including agriculture;

h) measures on their conservation and full liquidation should be taken for some coastal sources of pollution that continue to have negative impact on the Caspian Sea.

3. If the discharge from a watercourse, flowing through the territories of two or more Contracting Parties or forming a boundary between them, is likely to cause pollution of the Caspian Sea, the Contracting Parties shall cooperate in taking all appropriate measures to prevent, reduce and control such pollution, including, where appropriate, the establishment of joint bodies responsible for identifying and resolving potential pollution problems.

#### **Article 8. *Pollution from Seabed Activities***

The Contracting Parties shall take all appropriate measures to prevent, control and reduce pollution of the Caspian Sea resulting from seabed activities. They are encouraged to co-operate in the development of protocols to this Convention to that effect.

#### **Article 9. *Pollution from Vessels***

The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution of the Caspian Sea from vessels and shall co-operate in the development of protocols and agreements to the Convention prescribing agreed measures, procedures and standards to that effect, taking into account relevant international standards.

#### **Article 10. *Pollution Caused by Dumping***

1. The Contracting Parties shall take all appropriate measures to prevent, hindrance, reduce and control pollution of the Caspian Sea caused by dumping from vessels and aircraft registered in their territory or flying their flag.

2. The Contracting Parties shall co-operate in the development of protocols to the Convention prescribing agreed measures, procedures and standards to that effect.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply when a vessel or aircraft at sea is threatened by the complete destruction or total loss of the vessel or aircraft or in any case which constitutes a danger to human or marine life, if dumping appears to be the only way of averting the threat, and if there is every probability that the damage consequent upon such dumping will be less than would otherwise occur. Such dumping shall be so conducted as to minimise the likelihood of damage to human or marine life or hindrance to legitimate uses of the sea in accordance with the applicable international and regional legal instruments. Such dumping shall be reported to the Contracting Parties.

#### **Article 11. *Pollution from Other Human Activities***

1. The Contracting Parties shall take all appropriate measures to prevent, reduce and control pollution of the Caspian Sea resulting from other human activities not covered by Articles 7-10 above, including land reclamation and associated coastal dredging and construction of dams.

2. The Contracting Parties shall take all appropriate measures to reduce the possible negative impact of anthropogenic activities aimed at mitigating the consequences of the sea-level fluctuations on the Caspian Sea ecosystem.

#### **Article 12. *Prevention of Introduction, Control and Combatting of Invasive Alien Species***

The Contracting Parties shall take all appropriate measures to prevent the introduction into the Caspian Sea and to control and combat invasive alien species, which threaten ecosystems, habitats or species.

#### **Article 13. *Environmental Emergencies***

1. The contracting Parties shall take all appropriate measures and cooperate to protect human beings and the marine environment against consequences of natural or man-made emergencies. To this end, preventive, preparedness and response measures, including restoration measures, shall be applied.

2. For the purpose of undertaking preventive measures and setting up preparedness measures, the Contracting Party of origin shall identify hazardous activities within its jurisdiction, capable of causing environmental emergencies, and shall ensure that other contracting Parties are notified of any such proposed or existing activities. The Contracting Parties shall agree to carry out environmental impact assessment of hazardous activities, and to implement risk-reducing measures.

3. The Contracting Parties shall cooperate for the setting up of early warning systems for industrial accidents and environmental emergencies. In the event of an environmental emergency, or imminent threat thereof, the Contracting Party of origin shall ensure that the Contracting Parties likely to be affected, are, without delay, notified at appropriate levels.

4. The Contracting Parties shall take all appropriate measures to establish and maintain adequate emergency preparedness measures, including measures to ensure that adequate equipment and qualified personnel are readily available, to respond to environmental emergencies.

### **IV. PROTECTION, PRESERVATION AND RESTORATION OF THE MARINE ENVIRONMENT**

#### **Article 14. *Protection, Preservation, Restoration and Rational Use of Marine Living Resources***

1. The Contracting Parties shall have particular regard to the protection, preservation, restoration and rational use of marine living resources and shall take all appropriate measures on the basis of the best scientific evidence available to: develop and increase the potential of living resources for conservation, restoration and rational use of environmental equilibrium in the course of satisfying human needs in nutrition and meeting social and economic objectives;
  - a) maintain or restore populations of marine species at levels that can produce the maximum sustainable yield as qualified by relevant environmental and economic factors and taking into consideration relationships among species;
  - b) ensure that marine species are not endangered by over-exploitation;
  - c) promote the development and use of selective fishing gear and practices that minimise waste in the catch of target species and that minimise by-catch of non-target species;
  - d) protect, preserve and restore endemic, rare and endangered marine species;
  - e) conserve biodiversity, habitats of rare and endangered species, as well as vulnerable ecosystems.
2. The Contracting Parties shall co-operate in the development of protocols in order to undertake the necessary measures for protection, preservation and restoration of marine biological resources.

#### **Article 15. *Coastal Zone Management***

The Contracting Parties shall endeavour to take necessary measures to develop and implement national strategies and plans for planning and management of the land affected by proximity to the sea.

#### **Article 16. *Caspian Sea Level Fluctuation***

The Contracting Parties shall co-operate in the development of protocols to the Convention prescribing to undertake the necessary scientific research and, insofar as is practicable, the agreed measures and procedures to alleviate implications of the sea level fluctuations of the Caspian Sea.

### **V. PROCEDURES**

#### **Article 17. *Environmental Impact Assessment***

1. Each Contracting Party shall take all appropriate measures to introduce and apply procedures of environmental impact assessment of any planned activity, that are likely to cause significant adverse effect on the marine environment of the Caspian Sea.
2. Each Contracting Party will take all appropriate measures to disseminate results of environmental impact assessment carried out in accordance with paragraph 1 of this Article, to other Contracting Parties.
3. The Contracting Parties shall co-operate in the development of protocols that determine procedures of environmental impact assessment of the marine environment of the Caspian Sea in transboundary context.

#### **Article 18. *Co-operation Between the Contracting Parties***

1. The Contracting Parties shall co-operate in formulating, elaborating and harmonising rules, standards, recommended practices and procedures consistent with this Convention and with the account of requirements, commonly used in international practice, in order to prevent, reduce and control pollution of and to protect, preserve and restore the marine environment of the Caspian Sea.
2. The Contracting Parties shall co-operate in the formulation of an Action Plan for the Protection of the marine environment of the Caspian Sea in order to prevent, reduce and control pollution and to protect, preserve and restore the marine environment of the Caspian Sea.
3. In fulfilment of their obligations as set in paragraphs 1 and 2 of this Article, the Contracting Parties shall work, *inter alia*, jointly or individually:
  - a) to collect, compile and evaluate data in order to identify sources that cause or likely to cause pollution of the Caspian Sea and to exchange information among the Contracting Parties, as appropriate;
  - b) development of programmes for monitoring quality and quantity of water;
  - c) development of contingency plans for pollution emergency cases;
  - d) to elaborate emission and discharge limits for waste and to evaluate the effectiveness of control programmes;
  - e) to elaborate water quality objectives and criteria and to propose relevant measures for maintaining and, where necessary, improving existing water quality;
  - f) to develop harmonised action programmes for the reduction of pollution loads from municipal and industrial point and diffuse sources, including agriculture, urban and other runoff.

### **Article 19. Monitoring**

1. The Contracting Parties shall endeavour to establish and implement individual and/or joint programmes for monitoring environmental conditions of the Caspian Sea.
2. The Contracting Parties shall agree upon a list and parameters of pollutants which discharge into and concentration in the Caspian Sea shall be regularly monitored.
3. The Contracting Parties shall, at regular intervals, carry out individual or joint assessments of the environmental conditions of the Caspian Sea and the effectiveness of measures taken for the prevention, control and reduction of pollution of the marine environment of the Caspian Sea.
4. For these purposes, the Contracting Parties shall endeavour to harmonise rules for the setting up and operation of monitoring programmes, measurement systems, analytical techniques, data processing and evaluation procedures for data quality.
5. The Contracting Parties shall develop a centralised database and information management system to function as a repository of all relevant data, serve as the basis for decision-making and as a general source of information and education for specialists, administrators and the general public.

### **Article 20. Research and Development**

The Contracting Parties shall co-operate in the conduct of research into and development of effective techniques for the prevention, control and reduction of pollution of the Caspian Sea and, to this effect, the Contracting Parties shall endeavour to initiate or intensify specific research programmes, where necessary, aimed, *inter alia*, at:

- a) developing methods for the assessment of the toxicity of harmful substances and investigations of its affecting process on the environment of the Caspian Sea;
- b) developing and applying environmentally sound or safe technologies;
- c) the phasing out and/or substitution of substances likely to cause pollution;
- d) developing environmentally sound or safe methods for the disposal of hazardous substances;
- e) developing environmentally sound or safe techniques for water-construction works and water-regulation;
- f) assessing the physical and financial damage resulting from pollution;
- g) improvement of knowledge about the hydrological regime and ecosystem dynamics of the Caspian Sea including sea level fluctuations and the effects of such fluctuations on the Sea and coastal ecosystems;
- h) studying the levels of radiation and radioactivity in the Caspian Sea.

### **Article 21. Exchange of and Access to Information**

1. The Contracting Parties shall directly or through the Secretariat exchange on a regular basis information, in accordance with the provisions of this Convention.
2. The Contracting Parties shall endeavour to ensure public access to environmental conditions of the Caspian Sea, measures taken or planned to be taken to prevent, control and reduce pollution of the Caspian Sea in accordance with their national legislation and taking into account provisions of existing international agreements concerning public access to environmental information.

## **VI.**

### **INSTITUTIONAL ARRANGEMENTS**

#### **Article 22. The Conference of the Parties**

1. A Conference of the Parties is hereby established.
2. The Conference of the Parties shall consist of one representative for each of the Contracting Parties, who shall have one vote. Each representative may be assisted by one or more advisers.
3. The first meeting of the Conference of the Parties shall be convened not later than twelve months after the date of the entry into force of the Convention. Thereafter, the Conference of the Parties shall hold ordinary meetings at regular intervals to be determined by the first meeting of the Conference of the Parties.
4. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference of the Parties, or at the written request of any Party provided that it is supported by at least two other Contracting Parties.
5. The meetings of the Conference of the Parties shall be held in the territories of the countries of the Contracting Parties on the basis of rotation in alphabetical order of English language or at the location of the Secretariat
6. The Chairmanship of the Conference of the Parties shall be held in turn by each Contracting Party in alphabetical order of the names of the Contracting Parties in English language. Should the Chairmanship fall vacant, the Contracting Party chairing the Conference shall designate a successor to remain in office until the term of chairmanship of that Contracting Party expires.
7. The working languages of the Conference of the Parties shall be English and the State languages of all Contracting

Parties. The Secretariat will provide for the official UN languages.

8. All decisions of the Conference of the Parties shall be made by unanimous vote of the Contracting Parties.
9. The Conference of the Parties shall, at its first meeting, decide on:
  - a) establishing such other institutions of the Convention as may be deemed necessary;
  - b) the arrangements for the permanent Secretariat of the Convention, including its location and staffing;
  - c) the rules of procedure and financial rules for itself and its subsidiary bodies.
10. The functions of the Conference of the Parties shall be:
  - a) to keep under review the implementation of this Convention, its protocols and the Action Plan;
  - b) to keep under review the content of this Convention and its protocols;
  - c) to consider and adopt any additional protocols or any amendments to this Convention or to its protocols and to adopt and amend the annexes to this Convention and to its protocols;
  - d) to receive and consider reports submitted by the Contracting Parties and to review and evaluate the state of the marine environment and, in particular, the state of pollution and its effects, on the basis of reports provided by the Contracting Parties and by any competent international or regional organisation;
  - e) to consider reports prepared by the Secretariat on matters relating to this Convention;
  - f) to seek, where appropriate, the technical and financial services of relevant international bodies and scientific institutions for the purposes of the objective of this Convention;
  - g) to establish such subsidiary bodies as may be deemed necessary for the implementation of this Convention and its protocols;
  - h) to appoint the Executive Secretary of the Convention and such other personnel as may be required, taking into account the equitable representation of the Contracting Parties;
  - i) to perform such other functions as may be required for the achievement of the objective of this Convention.

**Article 23. *The Secretariat of the Convention***

1. The Secretariat of the Convention is hereby established.
2. The Secretariat shall be comprised of the Executive Secretary of the Convention and such other personnel as required to perform the functions specified hereafter.
3. The Executive Secretary shall be the chief administrative officer of the Secretariat of the Convention, and shall perform such functions which are necessary for the administration of the work of the Secretariat of the Convention, as determined by the Conference of the Parties and in accordance with the rules of procedure and financial rules adopted by the Conference of the Parties.
4. The functions of the Secretariat shall be:
  - a) to arrange for and service meetings of the Conference of the Parties and its subsidiary bodies;
  - b) to prepare and transmit to the Contracting Parties notifications, reports and other information received;
  - c) to consider enquiries by and information from the Contracting Parties and to consult with them on matters relating to the implementation of this Convention and its protocols;
  - d) to prepare and transmit reports on matters relating to the implementation of this Convention and its protocols;
  - e) to establish, maintain the database of and disseminate national laws of the Contracting Parties and international laws relevant to the protection of the Caspian Sea;
  - (f) to arrange, upon request by any Contracting Party, for the provision of technical assistance and advice for the effective implementation of the Convention and its protocols;
  - g) to carry out functions as may be established under the protocols to this Convention;
  - h) to co-operate, as appropriate, with relevant regional and international organisations and programmes;
  - i) to perform such other functions as may be determined by the Conference of the Parties.

## **VII.**

### **PROTOCOLS AND ANNEXES Article**

#### **24. *Adoption of Protocols***

1. Any Contracting Party may propose protocols to this Convention. Such protocols shall be adopted by unanimous decision of the Parties at a meeting of the Conference of the Parties. Protocols shall enter into force after their ratification or approval by all the Contracting Parties in accordance with their constitutional procedures, unless the protocol does not envisage a different procedure for adoption. Protocols shall form an integral part of this Convention.

2. The text of any proposed protocol shall be communicated to the Contracting Parties by the Conference of the Parties at least six months before the meeting of the Contracting Parties at which the protocol is proposed for adoption.

#### **Article 25. Adoption of Annexes and Amendments**

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

2. Annexes to this Convention or to any protocol shall be proposed and adopted according to the procedure laid down in Article 24.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to any protocol.

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

### **VIII. IMPLEMENTATION AND COMPLIANCE**

#### **Article 26. Implementation of the Convention**

1. Each Contracting Party shall designate a National Authority to co-ordinate implementation of the provisions of this Convention in its territory and under its jurisdiction.

2. The provisions of this Convention shall not affect the right of the Contracting Parties individually or jointly to adopt and implement more stringent measures than those provided for in this Convention.

#### **Article 27. Reports**

Each National Authority shall submit to the Secretariat reports on measures adopted for the implementation of the provisions of this Convention and its protocols in format and at intervals to be determined by the Conference of the Parties. The Secretariat shall circulate the received reports to all Contracting Parties.

#### **Article 28. Implementation and Compliance**

The Contracting Parties shall co-operate in the development of procedures to ensure compliance with the provisions of this Convention or its protocols.

#### **Article 29. Liability and Compensation for Damage**

The Contracting Parties, taking into account relevant principles and norms of international law, shall undertake to develop appropriate rules and procedures concerning liability and compensation for damage to the environment of the Caspian Sea resulting from violations of the provisions of this Convention and its protocols.

#### **Article 30. Settlement of Disputes**

In case of disputes between Contracting Parties concerning the application or interpretation of the provisions of the present Convention, the Contracting Parties will settle them by consultations, negotiations or by any other peaceful means of their own choice.

### **IX. FINAL CLAUSES**

**Article 31. Signature, Ratification, Acceptance, Approval and Accession** 1. The Convention shall be open for signature only by Caspian Littoral States at the city of Tehran, Islamic Republic of Iran from 4 November 2003 to 3 November 2004.

2. The Convention shall be subject to ratification, acceptance or approval by the Caspian littoral States. It shall be open for accession by any Caspian littoral State in accordance with their national legislation from the date on which the Convention is closed for signature.

3. Instruments of ratification, acceptance, approval or accession shall be deposited with the Deposit



**Article 32. *Reservations***

No reservation may be made to this Convention.

**Article 33. *Entry into Force***

The Convention shall enter into force on the ninetieth day after the date of deposit of the instrument of ratification, acceptance, approval or accession by all Caspian littoral states.

**Article 34. *Amendment of the Convention or Protocols***

1. Any Contracting Party may propose amendments to this Convention or to any protocol. Such amendments shall be adopted by unanimous decision of the Parties at a meeting of the Conference of the Parties.
2. The entry into force of the amendments to this Convention or to any protocol shall be subject to the same procedure as for the Convention itself.

**Article 35. *Depositary***

The Islamic Republic of Iran shall assume the functions of the Depositary.

**Article 36. *Authentic texts***

This Convention, of which the Azerbaijani, English, Farsi, Russian, Kazakh and Turkmen texts are equally authentic, shall be deposited with the Depositary. In case of dispute arising as to the interpretation or application of this Convention or its protocols, the English text shall be authoritative.

**Article 37. *Relationship with the negotiations of the legal status of the Caspian Sea***

Nothing in this Convention shall be interpreted as to prejudice the outcome of the negotiations on the final legal status of the Caspian Sea.

*IN WITNESS WHEREOF* the undersigned, being duly authorised to that effect, have signed this Convention *DONE* at the city of Tehran on the fourth day of November of 2003.

# Convention for the establishment of the European and Mediterranean Plant Protection Organization

of 18 April 1951, as amended by the Council on 27 April 1955,  
9 May 1962, 18 September 1968, 19 September 1973,  
23 September 1982, 21 September 1988 and 15 September 1999

## Article I. *Aims*

There shall be established a European and Mediterranean Plant Protection Organization (hereinafter referred to as the Organization), as a recognized regional plant protection organization under the International Plant Protection Convention, established by the Food and Agriculture Organization of the United Nations (FAO)<sup>1</sup>. The aims of the Organization are:

- a. to support the Member Governments in their aim of assuring plant health, while preserving human and animal health and the environment;
- b. to pursue and develop, by cooperation between the Member Governments, the protection of plants and plant products against pests and the prevention of their international spread and especially their introduction into endangered areas;
- c. to develop internationally harmonized phytosanitary and other official plant protection measures and, as appropriate, to elaborate standards to that effect;
- d. to present the collective views of the Member Governments, as appropriate, to FAO, WTO, other regional plant protection organizations and any other bodies with related responsibilities.

<sup>1</sup> Article VIII of the International Plant Protection Convention of 1951-12-06; Article IX of the new revised text of the International Plant Protection Convention as approved by Resolution 12/97 of the Twenty-Ninth Session of the FAO Conference in 1997-11.

## Article II. *Definitions*

For the purposes of the present Convention, the following terms shall have the meanings hereunder assigned to them:

- "Endangered area" - an area where ecological factors favour the establishment of a pest whose presence in the area will result in economically important loss;
- "International standards" - international standards established in accordance with the International Plant Protection Convention;
- "Introduction" - the entry of a pest resulting in its establishment;
- "Pest" - any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products;
- "Pest risk analysis" - the process of evaluating biological or other scientific and economic evidence to determine whether a pest should be regulated and the strength of any phytosanitary measures to be taken against it;
- "Phytosanitary measure" - any legislation, regulation or official procedure having the purpose to prevent the introduction or spread of pests;
- "Plant products" - unmanufactured material of plant origin (including grain) and those manufactured products that, by their nature or that of their processing, may create a risk for the introduction or spread of pests;
- "Plants" - living plants and parts thereof, including seeds and germplasm;
- "Quarantine pest" - a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled;
- "Regional standards" - standards established by a regional plant protection organization for the guidance of the members of that organization;
- "Regulated non-quarantine pest" - a non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing country;
- "Regulated pest" - a quarantine pest or a regulated non-quarantine pest.

## Article III. *Membership*

a. Membership of the Organization shall be open to the following by adherence to the present Convention according to the provisions of Article XX:

1. the Governments of the countries in Schedule II;

2. the Government of any other country which the Council of the Organization may decide to invite to become a Member.

b. The Government of any territory about which a declaration has been made under the terms of Article XXI may be admitted to membership by the Council of the Organization, but only on the proposal of the Member who made the declaration. Any such decision shall require a two-thirds majority of the votes cast. Territories so admitted shall be such as can in the opinion of the Council make a definite and individual contribution to the work of the Organization.

## Article IV. *Seat*

a. The seat of the Organization shall be in Paris.

b. The administrative meetings of the Organization shall normally take place at its seat.

#### **Article V. – Functions**

The functions of the Organization shall be:

- a. to develop
  1. principles of good practice in the application of phytosanitary measures and in plant protection generally;
  2. regional standards;
- b. to promote
  1. the harmonization of phytosanitary and other official plant protection measures;
  2. the simplification and unification of phytosanitary regulations and certificates;
- c. to advise Member Governments on
  1. technical measures necessary to prevent the introduction and spread of regulated pests, particularly measures for inspection and testing, certification, treatment, survey and eradication;
  2. the administrative and legislative measures necessary to prevent the introduction and spread of regulated pests, including in particular pest risk analysis and the establishment and updating of lists of regulated pests;
  3. the measures necessary to register or authorize plant protection products, and to control their marketing and use on their territories, in compliance with the principles of good plant protection practice as well as, whenever possible, the principles of integrated control;
- d. where practicable, to coordinate and stimulate international campaigns between Member Governments against pests;
- e. to facilitate cooperation in research on pests and the methods of control and in the exchange of relevant scientific information;
- f. to disseminate information by
  1. obtaining information from Member Governments on the existence, outbreak or spread of pests, and conveying such information to Member Governments;
  2. providing for the exchange of information on national phytosanitary legislation, lists of regulated pests, or other measures affecting the free movement of plants and plant products;
  3. establishing a documentation and information service and publishing in an appropriate form material for technical or scientific advancement;
- g. generally to take all necessary and appropriate action to achieve the aims of the Organization.

#### **Article VI. Obligations of Member Governments**

- a. Member Governments shall furnish to the Organization so far as is practicable such information as the Organization may reasonably require in order to carry out its functions, including in particular the information referred to in [Article V f1](#) and [V f2](#).
- b. Member Governments shall endeavour to implement the recommendations made by the Council of the Organization, including in particular the regional standards.

#### **Article VII. Relationship with Other Organizations**

The Organization shall cooperate, in achieving the objectives of this Convention, with FAO and the other regional plant protection organizations, and may cooperate with WTO and other bodies with related responsibilities, in appropriate activities. These include the development of standards for phytosanitary and other official plant protection measures, and the consideration of regional standards of the Organization as candidates for international standards. It shall use its best endeavours to prevent overlapping of activities.

#### **Article VIII. Structure of the Organization**

The Organization shall consist of:

- a. the Council;
- b. the administration, comprising the Executive Committee, the Director-General and the staff;
- c. the Accounts Verification Panel;
- d. such bodies as Council may decide to set up under [Article XIII a.5](#).

#### **Article IX. The Council**

- a. The Council of the Organization shall consist of representatives of Member Governments. Each Member Government shall be entitled to appoint one representative to the Council and one alternate. Representatives and alternates appointed by Member Governments may be accompanied by associates and advisers.
- b. Each Member Government shall have one vote in the Council.

#### **Article X. Sessions of the Council**

- a. The Council shall ordinarily meet in regular session once in each year.
- b. Extraordinary sessions of the Council shall be called at any time when the Chairman is so requested in writing by at least one third of the Member Governments.

#### **Article XI. Rules**

Council shall establish the Rules of Procedure of the Organization and the Financial Rules of the Organization.

## **Article XII. Observers**

With the consent of the Council, any non-member Government and any intergovernmental body whose responsibilities are related to those of the Organization may be represented at any session of the Council by one or more observers without the right to vote.

## **Article XIII. Functions of Council**

The Council shall:

- a. consider and decide upon:
  1. the progress report of the Director-General on the work of the Organization since the preceding regular session of the Council;
  2. the policies and programme of activity of the Organization;
  3. the budget;
  4. the annual accounts and balance sheet;
  5. the setting up and dissolution of *ad hoc* or permanent bodies to pursue the work of the Organization;
  6. the reports of such bodies;
  7. any proposals submitted by the Executive Committee;
- b. hold the statutory elections;
- c. appoint the Director-General on such terms as it may determine.

## **Article XIV. Chairman and Vice-Chairman**

- a. The Council shall elect a Chairman and a Vice-Chairman from amongst representatives of Member Governments.
- b. The Chairman and Vice-Chairman shall be elected for a period of three years and be re-eligible for one further term of office.
- c. The Chairman and Vice-Chairman shall serve in the same capacity within both the Council and the Executive Committee.
- d. The Chairman and Vice-Chairman shall cease to represent their countries on election.

## **Article XV. The Executive Committee**

- a. The Executive Committee shall be composed of the Chairman and Vice-Chairman and of seven representatives of Member Governments elected by the Council.
- b. Members of the Executive Committee shall normally hold office for three years and be eligible for reelection.
- c. If a vacancy occurs in the Executive Committee before the expiration of the term of appointment, the Executive Committee shall ask a Member Government to appoint a representative to fill the vacancy for the remainder of the term.
- d. The Executive Committee shall meet at least once a year.

## **Article XVI. Functions of the Executive Committee**

The Executive Committee shall:

- a. submit proposals for the Organization's policies and programme of activity to the Council;
- b. consider recommendations made by other Organizations as specified in [Article VII](#) and make appropriate proposals to the Council;
- c. ensure that the activity of the Organization conforms with the decisions of the Council;
- d. submit the draft budget and the annual accounts and balance sheet to the Council; the Executive Committee may approve a provisional budget pending its consideration by the Council;
- e. undertake such other tasks as may be assigned to it under this Convention or entrusted to it by the Council;
- f. adopt its own procedure.

## **Article XVII. The Director-General**

The Director-General shall:

- a. be the head of the secretariat of the Organization, which functions under his responsibility;
- b. carry out the programme approved by the Council and such tasks as may be entrusted to him by the Executive Committee;
- c. report at each regular session of the Council on the activity of the Organization and the financial position.

## **Article XVIII. Finance**

- a. The expenditure of the Organization shall be met by annual contributions from Member Governments and by such other receipts as may be approved by the Council or the Executive Committee.
- b. The amount of the annual contribution of each Member Government shall be based on the scale of contributions as specified in [Schedule I](#).
- c. Governments newly adhering to the Convention, if members of FAO, enter the appropriate category on the scale in [Schedule I](#) and, if not members, the category decided by the Council. [Schedule I](#), and the category of Member Governments on the scale in [Schedule I](#), shall only be changed by decision of the Council, by a majority of two thirds of Member Governments.

d. On the recommendation of the Executive Committee, the Council may decide to apply a coefficient to the basic contribution laid down in Schedule I, in order to adjust it to the activities of the Organization or to the economic situation of the moment. The decision is taken by a two-thirds majority of the Member Governments present and voting.

e. Annual contributions shall be payable at the beginning of the Organization's financial year.

f. The contributions of Member Governments shall be paid in currencies to be determined by the Executive Committee with the approval of the contributing Government concerned.

g. The first annual contribution of a Government newly adhering to the Convention shall be payable for the financial year of the Organization during which the provisions of Article XX are fulfilled.

h. Supplementary contributions may be paid by an individual Government or group of Governments towards special schemes or campaigns of control, which the Organization may carry out in the interest of that Government or group of Governments.

i. An Accounts Verification Panel composed of representatives of three Member Governments shall be elected by the Council. Members of the Panel shall be elected for three years and shall not be eligible for reelection during the next three years.

j. The Executive Committee shall, with the approval of the Council, appoint an auditor to audit the accounts of the Organization each year.

k. The Accounts Verification Panel shall each year examine, with the auditor, the accounts and management of the Organization and report to the Council.

#### **Article XIX. Amendments**

a. Texts of proposed amendments to the present Convention and to Schedule I thereto shall be communicated by the Director-General to Member Governments at least three months in advance of their consideration by the Council.

b. Amendments to the Convention shall come into effect when adopted by a two-thirds majority of the members of the Council present and voting, provided that amendments involving new obligations for Member Governments with the exception of the amendments to Schedule I referred to in paragraph c. below shall come into force in respect of each such Government only on acceptance by it.

c. Amendments to Schedule I shall be adopted by the Council by a majority of two-thirds of the Member Governments.

d. Acceptance of amendments shall be deposited with the French Government who shall inform all Member Governments of the receipt of acceptances and the entry into force of amendments.

#### **Article XX. Signature and Acceptance**

a. The present Convention shall remain open for signature or for accession, by those Governments which become parties to it, in accordance with the provisions of Article III, in the following circumstances:

1. by signature without reservation as to ratification, acceptance or approval;
2. by signature followed by ratification, acceptance or approval;
3. by accession.

b. Instruments of ratification, acceptance or approval, or of accession, shall be deposited with the French Government. The depositary shall inform all Member Governments of the date on which each has signed or deposited an instrument.

#### **Article XXI. Territorial Application**

a. Any Government may at any time declare that its participation in the Convention includes all or any of the territories for whose international relations it is responsible. Such declaration shall be deposited with the French Government.

b. Any declaration made by a Member Government under the preceding paragraph shall take effect on the thirtieth day following its receipt by the French Government.

c. The French Government shall immediately inform all Governments parties to the Convention of declarations made under this Article.

#### **Article XXII. Withdrawal**

a. Any Member Government may at any time after two years of membership withdraw from this Convention by giving written notice of withdrawal to the French Government. The withdrawal shall take effect one year from the date of receipt of the notification.

b. The non-payment of two consecutive annual contributions shall under normal conditions imply the withdrawal from the Convention of the defaulting Member Government.

c. The application of the Convention to a territory or territories under Article XXI may be terminated by written notification to the French Government by the participating Government responsible for the international relations of such territory or territories. The notification shall take effect one year from the date of its receipt.

d. The French Government shall immediately inform all participating Governments of notifications given under this Article.

#### **Article XXIII. Entry into Force**

a. The present Convention shall enter into force on the date on which five Governments have become parties thereto in accordance with the provisions of Article XX.

b. The French Government shall immediately inform all Governments which have signed or accepted the Convention of the date of entry into force of the Convention.

c. For each Government which has deposited instruments of ratification, acceptance or approval, or of accession, after the Convention has entered into force according to paragraph a. of the present Article, the Convention shall enter into force from the date on which this Government has deposited its instruments of ratification, acceptance or approval, or of accession.

# **European Convention for the Protection of Pet Animals Strasbourg, 13.XI.1987**

## **Preamble**

The member States of the Council of Europe signatory hereto,  
Considering that the aim of the Council of Europe is to achieve a greater unity between its members;  
Recognising that man has a moral obligation to respect all living creatures and bearing in mind that pet animals have a special relationship with man;  
Considering the importance of pet animals in contributing to the quality of life and their consequent value to society;  
Considering the difficulties arising from the enormous variety of animals which are kept by man;  
Considering the risks which are inherent in pet animal overpopulation for hygiene, health and safety of man and of other animals;  
Considering that the keeping of specimens of wild fauna as pet animals should not be encouraged;  
Aware of the different conditions which govern the acquisition, keeping, commercial and noncommercial breeding and disposal of and the trading in pet animals;  
Aware that pet animals are not always kept in conditions that promote their health and wellbeing; Noting that attitudes towards pet animals vary widely, sometimes because of limited knowledge and awareness;  
Considering that a basic common standard of attitude and practice which results in responsible pet ownership is not only a desirable, but a realistic goal,  
Have agreed as follows:

## **Chapter I – General provisions**

### **Article 1 – Definitions**

1 By pet animal is meant any animal kept or intended to be kept by man in particular in his household for private enjoyment and companionship.  
2 By trading in pet animals is meant all regular business transactions in substantial quantities carried out for profit which involve the change of ownership of pet animals.  
3 By commercial breeding and boarding is meant breeding or boarding mainly for profit and in substantial quantities.  
4 By animal sanctuary is meant a non-profit making establishment where pet animals may be kept in substantial numbers. If national legislative and/or administrative measures permit, such an establishment may accept stray animals.  
5 By a stray animal is meant a pet animal which either has no home or is outside the bounds of its owner's or keeper's household and is not under the control or direct supervision of any owner or keeper. 6 By competent authority is meant the authority designated by the member State.

### **Article 2 – Scope and implementation**

1 Each Party undertakes to take the necessary steps to give effect to the provisions of this Convention in respect of: a pet animals kept by a person or legal entity in any household or in any establishment for trading, for commercial breeding and boarding, and in animal sanctuaries; b where appropriate, stray animals.  
2 Nothing in this Convention shall affect the implementation of other instruments for the protection of animals or for the conservation of threatened wild species.  
3 Nothing in this Convention shall affect the liberty of the Parties to adopt stricter measures for the protection of pet animals or to apply the provisions contained herein to categories of animals which have not been mentioned expressly in this instrument.

## **Chapter II – Principles for the keeping of pet animals**

### **Article 3 – Basic principles for animal welfare**

1 Nobody shall cause a pet animal unnecessary pain, suffering or distress.  
2 Nobody shall abandon a pet animal.

### **Article 4 – Keeping**

1 Any person who keeps a pet animal or who has agreed to look after it, shall be responsible for its health and welfare.  
2 Any person who is keeping a pet animal or who is looking after it shall provide accommodation, care and attention which take account of the ethological needs of the animal in accordance with its species and breed, in particular:  
a give it suitable and sufficient food and water;

- b provide it with adequate opportunities for exercise;
- c take all reasonable measures to prevent its escape;
- 3 An animal shall not be kept as a pet animal if:
  - a the conditions of paragraph 2 above are not met or if,
  - b in spite of these conditions being met, the animal cannot adapt itself to captivity.

### **Article 5 – Breeding**

Any person who selects a pet animal for breeding shall be responsible for having regard to the anatomical, physiological and behavioural characteristics which are likely to put at risk the health and welfare of either the offspring or the female parent.

### **Article 6 – Age limit on acquisition**

No pet animal shall be sold to persons under the age of sixteen without the express consent of their parents or other persons exercising parental responsibilities.

### **Article 7 – Training**

No pet animal shall be trained in a way that is detrimental to its health and welfare, especially by forcing it to exceed its natural capacities or strength or by employing artificial aids which cause injury or unnecessary pain, suffering or distress.

### **Article 8 – Trading, commercial breeding and boarding, animal sanctuaries**

1 Any person who, at the time of the entry into force of the Convention, is trading in or is commercially breeding or boarding pet animals or is operating an animal sanctuary shall, within an appropriate period to be determined by each Party, declare this to the competent authority. Any person who intends to engage in any of these activities shall declare this intention to the competent authority.

2 This declaration shall stipulate:

- a the species of pet animals which are involved or to be involved;
- b the person responsible and his knowledge;
- c a description of the premises and equipment used or to be used.

3 The above-mentioned activities may be carried out only:

- a if the person responsible has the knowledge and abilities required for the activity either as a result of professional training or of sufficient experience with pet animals and
- b if the premises and the equipment used for the activity comply with the requirements set out in Article 4.

4 The competent authority shall determine on the basis of the declaration made under the provisions of paragraph 1 whether or not the conditions set out in paragraph 3 are being complied with. If these conditions are not adequately met, it shall recommend measures and, if necessary for the welfare of the animals, it shall prohibit the commencement or continuation of the activity.

5 The competent authority shall, in accordance with national legislation, supervise whether or not the above-mentioned conditions are complied with.

### **Article 9 – Advertising, entertainment, exhibitions, competitions and similar events**

1 Pet animals shall not be used in advertising, entertainment, exhibitions, competitions and similar events unless:

- a the organiser has created appropriate conditions for the pet animals to be treated in accordance with the requirements of Article 4, paragraph 2, and
- b the pet animals' health and welfare are not put at risk.

2 No substances shall be given to, treatments applied to, or devices used on a pet animal for the purpose of increasing or decreasing its natural level of performance:

- a during competition or
- b at any other time when this would put at risk the health and welfare of the animal.

### **Article 10 – Surgical operations**

1 Surgical operations for the purpose of modifying the appearance of a pet animal or for other non-curative purposes shall be prohibited and, in particular: a the docking of tails; b the cropping of ears; c devocalisation; d declawing and defanging;

2 Exceptions to these prohibitions shall be permitted only:

- a if a veterinarian considers non-curative procedures necessary either for veterinary medical reasons or for the benefit of any particular animal;
- b to prevent reproduction.



3 a Operations in which the animal will or is likely to experience severe pain shall be carried out under anaesthesia only by a veterinarian or under his supervision.

b Operations for which no anaesthesia is required may be carried out by a person competent under national legislation.

### **Article 11 – Killing**

1 Only a veterinarian or another competent person shall kill a pet animal except in an emergency to terminate an animal's suffering when veterinary or other competent assistance cannot be quickly obtained or in any other emergency covered by national legislation. All killing shall be done with the minimum of physical and mental suffering appropriate to the circumstances. The method chosen, except in an emergency, shall either:

a cause immediate loss of consciousness and death, or

b begin with the induction of deep general anaesthesia to be followed by a step which will ultimately and certainly cause death. The person responsible for the killing shall make sure that the animal is dead before the carcass is disposed of.

2 The following methods of killing shall be prohibited:

a drowning and other methods of suffocation if they do not produce the effects required in sub-paragraph 1.b;

b the use of any poisonous substance or drug, the dose and application of which cannot be controlled so as to give the effect mentioned in paragraph 1;

c electrocution unless preceded by immediate induction of loss of consciousness.

## **Chapter III – Supplementary measures for stray animals**

### **Article 12 – Reduction of numbers**

When a Party considers that the numbers of stray animals present it with a problem, it shall take the appropriate legislative and/or administrative measures necessary to reduce their numbers in a way which does not cause avoidable pain, suffering or distress.

a Such measures shall include the requirements that:

i if such animals are to be captured, this is done with the minimum of physical and mental suffering appropriate to the animal;

ii whether captured animals are kept or killed, this is done in accordance with the principles laid down in this Convention;

b Parties undertake to consider:

i providing for dogs and cats to be permanently identified by some appropriate means which causes little or no enduring pain, suffering or distress, such as tattooing as well as recording the numbers in a register together with the names and addresses of their owners

ii reducing the unplanned breeding of dogs and cats by promoting the neutering of these animals;

iii encouraging the finder of a stray dog or cat to report it to the competent authority.

### **Article 13 – Exceptions for capture, keeping and killing**

Exceptions to the principles laid down in this Convention for the capture, the keeping and the killing of stray animals may be made only if unavoidable in the framework of national disease control programmes.

## **Chapter IV – Information and education**

### **Article 14 – Information and education programmes**

The Parties undertake to encourage the development of information and education programmes so as to promote awareness and knowledge amongst organisations and individuals concerned with the keeping, breeding, training, trading and boarding of pet animals of the provisions and the principles in this Convention. In these programmes, attention shall be drawn in particular to the following subjects:

a the need for training of pet animals for any commercial or competitive purpose to be carried out by persons with adequate knowledge and ability;

b the need to discourage:

i gifts of pet animals to persons under the age of sixteen without the express consent of their parents or other persons exercising parental responsibilities;

ii gifts of pet animals as prizes, awards or bonuses;

iii unplanned breeding of pet animals; c the possible negative consequences for the health and well-being of wild animals if they were to be acquired or introduced as pet animals; d the risks of irresponsible acquisition of pet animals leading to an increase in the number of unwanted and abandoned animals.

## **Chapter V – Multilateral consultations**

## **Article 15 – Multilateral consultations**

1 The Parties shall, within five years from the entry into force of the Convention and every five years thereafter, and, in any case, whenever a majority of the representatives of the Parties so request, hold multilateral consultations within the Council of Europe to examine the application of the Convention and the advisability of revising it or extending any of its provisions. These consultations shall take place at meetings convened by the Secretary General of the Council of Europe.

2 Each Party shall have the right to appoint a representative to participate in these consultations. Any member State of the Council of Europe which is not a Party to the Convention shall have the right to be represented by an observer in these consultations.

3 After each consultation, the Parties shall submit to the Committee of Ministers of the Council of Europe a report on the consultation and on the functioning of the Convention including, if they consider it necessary, proposals for the amendment of Articles 15 to 23 of the Convention.

4 Subject to the provisions of this Convention, the Parties shall draw up the rules of procedure for the consultations.

## **Chapter VI – Amendments**

### **Article 16 – Amendments**

1 Any amendment to Articles 1 to 14 proposed by a Party or the Committee of Ministers shall be communicated to the Secretary General of the Council of Europe and forwarded by him to the member States of the Council of Europe, to any Party, and to any State invited to accede to the Convention in accordance with the provisions of Article 19.

2 Any amendment proposed in accordance with the provisions of the preceding paragraph shall be examined at a multilateral consultation not less than two months after the date of forwarding by the Secretary General where it may be adopted by a two-thirds majority of the Parties. The text adopted shall be forwarded to the Parties.

3 Twelve months after its adoption at a multilateral consultation any amendment shall enter into force unless one of the Parties has notified objections.

## **Chapter VII – Final provisions**

### **Article 17 – Signature, ratification, acceptance, approval**

This Convention shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

### **Article 18 – Entry into force**

1 This Convention shall enter into force on the first day of the month following the expiration of a period of six months after the date on which four member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 17.

2 In respect of any member State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of six months after the date of the deposit of the instrument of ratification, acceptance or approval.

### **Article 19 – Accession of non-member States**

1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to this Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the representatives of the Contracting States entitled to sit on the Committee of Ministers. 2 In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of six months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

### **Article 20 – Territorial clause**

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.

2 Any Party may, at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of six months after the date of receipt of such declaration by the Secretary General.

3 Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the

first day of the month following the expiration of a period of six months after the date of receipt of such notification by the Secretary General.

### **Article 21 – Reservations**

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, declare that it avails itself of one or more reservations in respect of Article 6 and Article 10, paragraph 1, subparagraph a. No other reservation may be made.

2 Any Party which has made a reservation under the preceding paragraph may wholly or partly withdraw it by means of a notification addressed to the Secretary General of the Council of Europe. The withdrawal shall take effect on the date of receipt of such notification by the Secretary General.

3 A Party which has made a reservation in respect of a provision of this Convention may not invoke the application of that provision by any other Party; it may, however, if its reservation is partial or conditional, invoke the application of that provision in so far as it has itself accepted it.

### **Article 22 – Denunciation**

1 Any Party may at any time denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

### **Article 23 – Notifications**

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe and any State which has acceded to this Convention or has been invited to do so, of: a any signature; b the deposit of any instrument of ratification, acceptance, approval or accession; c any date of entry into force of this Convention in accordance with Articles 18, 19 and 20; d any other act, notification or communication relating to this Convention.

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

Done at Strasbourg, on 13 November 1987, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe, and to any State invited to accede to this Convention.

# European Landscape Convention \*

Florence, 20.X.2000

## Preamble

The member States of the Council of Europe signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage, and that this aim is pursued in particular through agreements in the economic and social fields;

Concerned to achieve sustainable development based on a balanced and harmonious relationship between social needs, economic activity and the environment;

Noting that the landscape has an important public interest role in the cultural, ecological, environmental and social fields, and constitutes a resource favourable to economic activity and whose protection, management and planning can contribute to job creation;

Aware that the landscape contributes to the formation of local cultures and that it is a basic component of the European natural and cultural heritage, contributing to human well-being and consolidation of the European identity;

Acknowledging that the landscape is an important part of the quality of life for people everywhere: in urban areas and in the countryside, in degraded areas as well as in areas of high quality, in areas recognised as being of outstanding beauty as well as everyday areas;

Noting that developments in agriculture, forestry, industrial and mineral production techniques and in regional planning, town planning, transport, infrastructure, tourism and recreation and, at a more general level, changes in the world economy are in many cases accelerating the transformation of landscapes;

Wishing to respond to the public's wish to enjoy high quality landscapes and to play an active part in the development of landscapes;

Believing that the landscape is a key element of individual and social well-being and that its protection, management and planning entail rights and responsibilities for everyone;

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(\*) The Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community entered into force on 1 December 2009. As a consequence, as from that date, any reference to the European Economic Community shall be read as the European Union.

Having regard to the legal texts existing at international level in the field of protection and management of the natural and cultural heritage, regional and spatial planning, local self-government and transfrontier co-operation, in particular the Convention on the Conservation of European Wildlife and Natural Habitats (Bern, 19 September 1979), the Convention for the Protection of the Architectural Heritage of Europe (Granada, 3 October 1985), the European Convention on the Protection of the Archaeological Heritage (revised) (Valletta, 16 January 1992), the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities (Madrid, 21 May 1980) and its additional protocols, the European Charter of Local Self-government (Strasbourg, 15 October 1985), the Convention on Biological Diversity (Rio, 5 June 1992), the Convention concerning the Protection of the World Cultural and Natural Heritage (Paris, 16 November 1972), and the Convention on Access to Information, Public Participation in Decision-making and Access to Justice on Environmental Matters (Aarhus, 25 June 1998);

Acknowledging that the quality and diversity of European landscapes constitute a common resource, and that it is important to co-operate towards its protection, management and planning;

Wishing to provide a new instrument devoted exclusively to the protection, management and planning of all landscapes in Europe,

Have agreed as follows:

## Chapter I – General provisions

### Article 1 – Definitions

For the purposes of the Convention:

a "Landscape" means an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors;

b "Landscape policy" means an expression by the competent public authorities of general principles, strategies and guidelines that permit the taking of specific measures aimed at the protection, management and planning of landscapes;

c "Landscape quality objective" means, for a specific landscape, the formulation by the competent public authorities of the aspirations of the public with regard to the landscape features of their surroundings;

d "Landscape protection" means actions to conserve and maintain the significant or characteristic features of a landscape, justified by its heritage value derived from its natural configuration and/or from human activity;

e "Landscape management" means action, from a perspective of sustainable development, to ensure the regular upkeep of a landscape, so as to guide and harmonise changes which are brought about by social, economic and environmental processes;

f "Landscape planning" means strong forward-looking action to enhance, restore or create landscapes.

## **Article 2 – Scope**

Subject to the provisions contained in Article 15, this Convention applies to the entire territory of the Parties and covers natural, rural, urban and peri-urban areas. It includes land, inland water and marine areas. It concerns landscapes that might be considered outstanding as well as everyday or degraded landscapes.

## **Article 3 – Aims**

The aims of this Convention are to promote landscape protection, management and planning, and to organise European co-operation on landscape issues.

## **Chapter II – National measures**

### **Article 4 – Division of responsibilities**

Each Party shall implement this Convention, in particular Articles 5 and 6, according to its own division of powers, in conformity with its constitutional principles and administrative arrangements, and respecting the principle of subsidiarity, taking into account the European Charter of Local Self-government. Without derogating from the provisions of this Convention, each Party shall harmonise the implementation of this Convention with its own policies.

### **Article 5 – General measures**

Each Party undertakes:

a to recognise landscapes in law as an essential component of people's surroundings, an expression of the diversity of their shared cultural and natural heritage, and a foundation of their identity;

b to establish and implement landscape policies aimed at landscape protection, management and planning through the adoption of the specific measures set out in Article 6;

c to establish procedures for the participation of the general public, local and regional authorities, and other parties with an interest in the definition and implementation of the landscape policies mentioned in paragraph b above;

d to integrate landscape into its regional and town planning policies and in its cultural, environmental, agricultural, social and economic policies, as well as in any other policies with possible direct or indirect impact on landscape.

### **Article 6 – Specific measures**

#### **A Awareness-raising**

Each Party undertakes to increase awareness among the civil society, private organisations, and public authorities of the value of landscapes, their role and changes to them.

#### **B Training and education**

Each Party undertakes to promote:

a training for specialists in landscape appraisal and operations;

b multidisciplinary training programmes in landscape policy, protection, management and planning, for professionals in the private and public sectors and for associations concerned;

c school and university courses which, in the relevant subject areas, address the values attaching to landscapes and the issues raised by their protection, management and planning.

#### **C Identification and assessment**

1 With the active participation of the interested parties, as stipulated in Article 5.c, and with a view to improving knowledge of its landscapes, each Party undertakes:

a i to identify its own landscapes throughout its territory; ii to analyse their characteristics and the forces and pressures transforming them; iii to take note of changes;

b to assess the landscapes thus identified, taking into account the particular values assigned to them by the interested parties and the population concerned.

2 These identification and assessment procedures shall be guided by the exchanges of experience and methodology, organised between the Parties at European level pursuant to Article 8.

## **D Landscape quality objectives**

Each Party undertakes to define landscape quality objectives for the landscapes identified and assessed, after public consultation in accordance with Article 5.c.

## **E Implementation**

To put landscape policies into effect, each Party undertakes to introduce instruments aimed at protecting, managing and/or planning the landscape.

### **Chapter III – European Co-Operation**

#### **Article 7 – International policies and programmes**

Parties undertake to co-operate in the consideration of the landscape dimension of international policies and programmes, and to recommend, where relevant, the inclusion in them of landscape considerations.

#### **Article 8 – Mutual assistance and exchange of information**

The Parties undertake to co-operate in order to enhance the effectiveness of measures taken under other articles of this Convention, and in particular: a to render each other technical and scientific assistance in landscape matters through the pooling and exchange of experience, and the results of research projects; b to promote the exchange of landscape specialists in particular for training and information purposes; c to exchange information on all matters covered by the provisions of the Convention.

#### **Article 9 – Transfrontier landscapes**

The Parties shall encourage transfrontier co-operation on local and regional level and, wherever necessary, prepare and implement joint landscape programmes.

#### **Article 10 – Monitoring of the implementation of the Convention**

1 Existing competent Committees of Experts set up under Article 17 of the Statute of the Council of Europe shall be designated by the Committee of Ministers of the Council of Europe to be responsible for monitoring the implementation of the Convention.

2 Following each meeting of the Committees of Experts, the Secretary General of the Council of Europe shall transmit a report on the work carried out and on the operation of the Convention to the Committee of Ministers.

3 The Committees of Experts shall propose to the Committee of Ministers the criteria for conferring and the rules governing the Landscape award of the Council of Europe.

#### **Article 11 – Landscape award of the Council of Europe**

1 The Landscape award of the Council of Europe is a distinction which may be conferred on local and regional authorities and their groupings that have instituted, as part of the landscape policy of a Party to this Convention, a policy or measures to protect, manage and/or plan their landscape, which have proved lastingly effective and can thus serve as an example to other territorial authorities in Europe. The distinction may be also conferred on non-governmental organisations having made particularly remarkable contributions to landscape protection, management or planning.

2 Applications for the Landscape award of the Council of Europe shall be submitted to the Committees of Experts mentioned in Article 10 by the Parties. Transfrontier local and regional authorities and groupings of local and regional authorities concerned, may apply provided that they jointly manage the landscape in question.

3 On proposals from the Committees of Experts mentioned in Article 10 the Committee of Ministers shall define and publish the criteria for conferring the Landscape award of the Council of Europe, adopt the relevant rules and confer the Award.

4 The granting of the Landscape award of the Council of Europe is to encourage those receiving the award to ensure the sustainable protection, management and/or planning of the landscape areas concerned.

### **Chapter IV – Final clauses**

#### **Article 12 – Relationship with other instruments**

The provisions of this Convention shall not prejudice stricter provisions concerning landscape protection, management and planning contained in other existing or future binding national or international instruments.

### **Article 13 – Signature, ratification and entry into force**

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

2 The Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date on which ten member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of the preceding paragraph.

3 In respect of any signatory State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

### **Article 14 – Accession**

1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite the European Community and any European State which is not a member of the Council of Europe, to accede to the Convention by a majority decision as provided in Article 20.d of the Council of Europe Statute, and by the unanimous vote of the States parties entitled to hold seats in the Committee of Ministers.

2 In respect of any acceding State, or the European Community in the event of its accession, this Convention shall enter into force on the first day of the month following the expiry of a period of three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

### **Article 15 – Territorial application**

1 Any State or the European Community may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which the Convention shall apply.

2 Any Party may, at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. The Convention shall take effect in respect of such territory on the first day of the month following the expiry of a period of three months after the date of receipt of the declaration by the Secretary General.

3 Any declaration made under the two paragraphs above may, in respect of any territory mentioned in such declaration, be withdrawn by notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall become effective on the first day of the month following the expiry of a period of three months after the date of receipt of the notification by the Secretary General.

### **Article 16 – Denunciation**

1 Any Party may, at any time, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.

2 Such denunciation shall become effective on the first day of the month following the expiry of a period of three months after the date of receipt of the notification by the Secretary General.

### **Article 17 – Amendments**

1 Any Party or the Committees of Experts mentioned in Article 10 may propose amendments to this Convention.

2 Any proposal for amendment shall be notified to the Secretary General of the Council of Europe who shall communicate it to the member States of the Council of Europe, to the other Parties, and to any European non-member State which has been invited to accede to this Convention in accordance with the provisions of Article 14.

3 The Committees of Experts mentioned in Article 10 shall examine any amendment proposed and submit the text adopted by a majority of three-quarters of the Parties' representatives to the Committee of Ministers for adoption. Following its adoption by the Committee of Ministers by the majority provided for in Article 20.d of the Statute of the Council of Europe and by the unanimous vote of the States parties entitled to hold seats in the Committee of Ministers, the text shall be forwarded to the Parties for acceptance.

4 Any amendment shall enter into force in respect of the Parties which have accepted it on the first day of the month following the expiry of a period of three months after the date on which three Council of Europe member States have informed the Secretary General of their acceptance. In respect of any Party which subsequently accepts it, such amendment shall enter into force on the first day of the month following the expiry of a period of three months after the date on which the said Party has informed the Secretary General of its acceptance.

### **Article 18 – Notifications**

The Secretary General of the Council of Europe shall notify the member States of the Council of Europe, any State or the European Community having acceded to this Convention, of:

- a any signature;
- b the deposit of any instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with Articles 13, 14 and 15;
- d any declaration made under Article 15;
- e any denunciation made under Article 16;
- f any proposal for amendment, any amendment adopted pursuant to Article 17 and the date on which it comes into force;
- g any other act, notification, information or communication relating to this Convention.

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

Done at Florence, this 20th day of October 2000, in English and in French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State or to the European Community invited to accede to this Convention.



**PROTOCOL  
CONCERNING REGIONAL PREPAREDNESS, RESPONSE  
AND CO-OPERATION IN COMBATING OIL POLLUTION INCIDENTS  
TO THE FRAMEWORK CONVENTION ON THE PROTECTION OF  
THE MARINE ENVIRONMENT OF THE CASPIAN SEA**

**Preamble**

Caspian littoral States:  
Republic of Azerbaijan  
Islamic Republic of Iran  
Republic of Kazakhstan  
Russian Federation  
Turkmenistan

hereinafter referred to as the Contracting Parties,

Being the Parties to the Framework Convention for the Protection of the Marine Environment of the Caspian Sea, done at Tehran, Islamic Republic of Iran, on 4 November 2003, hereinafter referred to as the Convention,

Committed to implement the relevant provisions of the Convention,

Recognizing that pollution of the Caspian Sea by oil and by oil pollution incidents of the sea threatens the marine environment,

Recognizing that special measures are necessary in the event of oil pollution incidents originating from ships, pipelines, fixed and floating platforms, and abandoned wellheads and land-based sources of pollution,

Determined to act promptly and effectively in the event of an oil pollution incident at sea, with a view to reducing the damage caused by such an incident,

Stressing the importance of genuine preparation at national level to combat oil pollution incidents at sea,

Recognizing further that it is important that reciprocal assistance and international co-operation be instituted amongst the Contracting Parties,

Emphasizing also the importance of measures taken both individually and jointly in order to minimize the risks of oil pollution incidents in the Caspian Sea, Mindful of regional agreements in other parts of the world, the aim of which is to provide assistance in the event of marine oil pollution incidents,

Taking into account the intention of the Contracting Parties to protect the marine environment and coastal areas from pollution by oil,

Taking into account also the relevant international conventions and, in particular, those dealing with preparedness for and response to oil pollution incidents, and liability and compensation for pollution damage,

Wishing to further develop co-operation and mutual assistance among the Contracting Parties in combating oil pollution in the Caspian Sea,

HAVE AGREED as follows:

**I. GENERAL PROVISIONS**

**Article 1. Use of Terms**

For the purpose of this Protocol:

(a) "Oil pollution incident", including "oil pollution accidents", means an occurrence or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline, and which requires emergency action or other immediate response;

(b) "Oil" means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

(c) "Ship" means a vessel of any kind that operates in the marine environment, including hovercraft, hydrofoil boats, submarines, towed and self-driving boats;

(d) "Offshore unit" means any platforms and other manmade offshore structures, fixed or floating offshore installations or structure engaged in exploration, exploitation or production activities related to hydrocarbon resources or their loading or unloading;

(e) “Sea ports and oil handling facilities” means those facilities which present a risk of an oil pollution incident and includes, inter alia, sea ports, oil terminals, pipelines and other oil handling facilities;

(f) “Competent National Authority” means the national authority designated by each Contracting Party with responsibility for preparedness and response to oil pollution incidents and which will be responsible for implementation and fulfilment of the obligations specified in this Protocol;

## **Article 2. Scope of Application**

The area to which this Protocol shall be applied is the marine environment of the Caspian Sea, taking into account its water level fluctuations, the land affected by proximity to the sea, and marine oil pollution originating from land-based sources.

## **Article 3. Objective**

The objective of this Protocol is to provide regional measures for preparedness, response and co-operation for protection of the Caspian Sea from oil pollution caused by activities referred to under Articles 8 and 9 of the Convention and marine oil pollution originating from land-based sources.

## **Article 4. General Provisions**

1. The Contracting Parties shall take, individually or jointly, all measures, necessary for the implementation of this Protocol, to prepare for and respond to oil pollution incidents. 2. The Contracting Parties shall jointly develop and establish guidelines for the practical, operational and technical aspects of joint action.

3. The Contracting Parties shall establish a regional mechanism. The procedures for such mechanism shall be considered and consequently adopted by the Conference of Parties. For the purpose of the operational implementation of this Protocol, a Caspian Sea Plan concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency shall be established by the Contracting Parties.

## **Article 5. National Systems and Contingency Plans for Combating Oil Pollution Incidents**

1. Each Contracting Party shall establish a national system of operational response to oil pollution. This system shall include, as a minimum, the designation of:

a) The Competent National Authority with responsibility for preparedness and response to oil pollution incidents;

(b) The national operational contact point with responsibility for receiving and transmitting information on oil pollution incidents, as mentioned in Article 7, paragraph 4, of this Protocol;

(c) The Competent National Authority entitled to act on behalf of the Contracting Party to request assistance or to decide to render requested assistance.

2. Each Contracting Party shall prepare and implement a national contingency plan for preparedness and response to oil pollution incidents. The national contingency plan shall include, inter alia:

(a) A description of the administrative organization, and the responsibilities of each of the constituent authorities, in preparing for and combating oil pollution incidents;

b) Identification of the likely sources of discharges of oil;

(c) An itemization of the equipment and human resources which might be available for combating oil pollution incidents;

(d) Specification of the means for temporary storage and final disposal of recovered oil.

3. Each Contracting Party shall establish, if necessary in co-operation with entities of oil and shipping industries, port authorities and any other relevant entities, and shall maintain in operational condition a minimum level of pre-positioned equipment in order to be able to deal effectively with discharges of oil. The quantity of equipment should be commensurate with the risk of oil pollution involved.

4. Each Contracting Party shall, individually or within the framework of bilateral or multilateral cooperation, establish programs of exercises and staff training to improve the state of readiness of the bodies responsible for dealing with oil pollution incidents.

## **Article 6. Dissemination and Exchange of Information**

Each Contracting Party shall submit to the Secretariat the report on the implementation of the Protocol and undertakes to disseminate to the other Contracting Parties either directly or through the regional mechanism:

- (a) The information prescribed in Article 5, paragraphs 1 and 2 (a), of this Protocol;
- (b) Information on new ways in which pollution of the sea by oil may be avoided and about new effective measures for combating pollution, including the results of research programs;
- (c) Information on major oil pollution incidents dealt with.

### **Article 7. Pollution Reporting Procedures**

1. Each Contracting Party shall ensure that persons having charge of ships flying its flag provide without delay the relevant national authorities with information of any emergency event on its ships involving a discharge, release or emission of oil, or any probable discharge, release or emission.

2. Each Contracting Party shall issue instructions to persons in charge of their offshore units, sea ports and oil handling facilities to inform their national authorities, without delay, of any events arising from their own activities involving a discharge, release or emission of oil, or any probable discharge, release or emission.

3. Each Contracting Party shall issue instructions:

- a) To masters or other persons having charge of ships flying its flag;
- (b) To its maritime inspection ships and aircraft;
- (c) To the pilots of its civil aircraft;
- (d) To persons in charge of its offshore units, its sea ports and its oil handling facilities; to report without delay, to the competent national authorities any observed event at sea, in sea ports or at oil handling facilities involving the discharge of oil and also to report the presence of any observed floating oil slicks.

4. Each Contracting Party when informed of an oil pollution incident, including any information received in accordance with paragraphs 1 to 3 of this article, shall immediately inform, including through the regional mechanism, all Contracting Parties likely to be affected about the incident and taken and planned actions.

### **Article 8. Operational Measures**

1. In line with its national systems for preparedness and response to oil spills each concerned Contracting Party shall in the event of an oil spill undertake to:

(a) Make the necessary assessments of the nature, extent and possible consequences of the oil pollution incident or, as the case may be, the type and approximate quantity of oil and the direction and speed of drift of the spillage;

(b) Take every practicable measure to prevent, reduce and, to the fullest possible extent, eliminate the effects of the oil pollution incident; (c) Keep the oil pollution under observation and keep the other Contracting Parties informed of developments concerning the oil pollution incident and of the measures taken or planned;

(d) Foster and support the implementation of the Caspian Sea Plan Concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency.

2. Where action is taken to combat pollution originating from emergencies, all possible measures shall be taken to safeguard:

- (a) Human lives;
- (b) The ship or offshore unit itself, if a ship or offshore unit is involved in an oil pollution incident, whilst respecting the need to prevent or minimize damage to the environment. Any Contracting Party, which takes such action, shall inform the International Maritime Organization either directly or through the regional mechanism.

### **Article 9. Oil Pollution Emergency Plans on Board Ships, on Offshore Units, in Sea Ports and at Oil Handling Facilities**

1. Each Contracting Party shall take the necessary measures to ensure that ships flying its flag shall carry on board a shipboard oil pollution emergency plan as required by, and in accordance with, the relevant international regulations, namely the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990, Article 3, paragraph 1 (a), and the International Convention for the

Prevention of Pollution From Ships, 1973, as modified by the Protocol of 1978 relating thereto, Annex I, Regulation 37.

2. Each Contracting Party shall require masters of ships flying its flag, in the event of an oil pollution incident, to follow the procedures described in the emergency plan and in particular to provide the Competent National Authorities with such detailed information about the ship and its cargo which is relevant for actions to be taken in pursuance of Article 8 of this Protocol, and to co-operate with these authorities.

3. Each Contracting Party shall require that its:

(a) Operators in charge of offshore units;

(b) Authorities or operators in charge of sea ports;

(c) Operators in charge of oil handling facilities shall prepare oil pollution emergency plans that are coordinated with the national system established in accordance with Article 5 of this Protocol and are approved in accordance with procedures established by the Competent National Authority.

### **Article 10. Assistance**

1. A Contracting Party requiring assistance to deal with an oil pollution incident, or the threat of such an incident, may request assistance from the other Contracting Parties. The Contracting Party requesting assistance shall specify the type of assistance which it requires, which may include expert advice, specialized personnel and strike teams, equipment, products, ships and aircraft. Contracting Parties from whom assistance is requested under this Article shall use their best endeavors to render this assistance insofar as their resources permit.

2. Each Contracting Party shall take the necessary legal and administrative measures to facilitate:

(a) The arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to an oil pollution incident or transporting, cargoes, materials and equipment required to deal with such an incident;

(b) The expeditious movement into, through and out of its territory of the personnel, cargoes, materials and equipment referred to in subparagraph (a).

### **Article 11. Reimbursement of Costs of Assistance**

1. Unless an agreement concerning the financial arrangements governing actions of Contracting Parties to deal with oil pollution incidents has been concluded on a bilateral or multilateral basis prior to the oil pollution incident, Contracting Parties shall bear the costs of their respective action in dealing with pollution in accordance with paragraphs 2, 3 and 4 of this Article.

2. Actions of one Contracting Party to assist another Contracting Party in combating an oil pollution incident shall be undertaken upon written request of the Contracting Party receiving the assistance.

3. The costs of activities to provide assistance in combating oil spill incidents undertaken by the Contracting Party at the request of another Contracting Party shall be compensated by the requesting Contracting Party. If the request is cancelled, the requesting Contracting Party shall bear the costs already incurred or committed by the assisting Contracting Party.

4. If the action to provide assistance was taken by a Contracting Party on its own initiative and unless the other Contracting Party objects, the assisting Contracting Party shall bear the cost of its action;

5. The principles laid down above in subparagraphs 2, 3 and 4 of this Article shall apply unless the Contracting Parties concerned otherwise agree in any individual case.

6. Unless otherwise agreed, the costs of the action taken by a Contracting Party at the request of another Contracting Party shall be fairly calculated according to the national legislation of the assisting Contracting Party concerning the reimbursement of such costs.

7. The Contracting Party requesting assistance and the assisting Contracting Party shall, where appropriate, co-operate in concluding any action in response to a compensation claim. To that end, they shall give due consideration to existing legal regimes, in the field of liability and compensation for pollution damage. Where the action thus concluded does not permit full compensation for expenses incurred in the assistance operation, the Contracting Party requesting assistance may ask the assisting Contracting Party to waive reimbursement of the expenses exceeding the sums compensated or to reduce the costs which have been calculated in accordance with paragraph 6 of this Article. It may also request a postponement of the reimbursement of such costs.

8. The provisions of this Article shall not be interpreted as in any way prejudicing the rights of Contracting Parties to recover from third parties the costs of actions taken to deal with oil pollution

incidents, or the threat of such incidents, under their national legislation and international treaties, which the Contracting Parties are parties to. The Contracting Parties may co-operate and provide mutual assistance in recovering the costs involved in their actions.

## **II. INSTITUTIONAL ARRANGEMENTS**

### **Article 12. Institutional Provisions**

1. For the purposes of this Protocol and in accordance with Article 22, paragraph 10, of the Convention, the Conference of the Parties shall, inter alia:

- (a) Keep under review the implementation of this Protocol;
- (b) Keep under review the content of this Protocol;
- (c) Consider and adopt any amendments to this Protocol or its annexes;
- (d) Consider reports prepared by the Secretariat on matters relating to the implementation of this Protocol;
- (e) Seek, where appropriate, the technical and financial services of relevant international bodies and scientific institutions for the purpose of the objective of this Protocol;
- (f) Establish such subsidiary bodies as may be deemed necessary for the implementation of this Protocol;
- (g) Fulfil the tasks as described in Article 4, paragraph 3, of this Protocol;
- (h) Consider strategies, action plans and programs for the implementation of this Protocol;
- (i) Perform such other functions, as may be required for the implementation of this Protocol.

2. For the purposes of this Protocol and in accordance with Article 23, paragraph 4, of the Convention, the Secretariat shall inter alia:

- (a) Prepare and make available to the Contracting Parties notifications and other information received in accordance with the provisions of this Protocol;
- (b) Prepare and transmit reports on matters relating to the implementation of this Protocol;
- (c) Consider enquiries by and information from the Contracting Parties and to consult with them on matters relating to the implementation of this Protocol;
- (d) Arrange, upon request by any Contracting Party, for the provision of technical assistance and advice for the effective implementation of this Protocol;
- (e) Co-operate, as appropriate, with relevant regional and international organizations and programs;
- (f) Perform such other functions as may be determined by the Conference of the Parties.

### **Article 13. Functions of the Regional Mechanism**

1. The regional mechanism shall assist the Contracting Parties in reacting promptly and effectively to oil pollution incidents.

2. The functions of the regional mechanism shall include:

- (a) Establishing close working relationships with the Competent National Authority of the Contracting Parties and also, where necessary, with relevant international and regional governmental and non governmental organizations and bodies dealing with oil pollution incidents;
- (b) Coordinating regional activities with regard to technical co-operation, training, exercises, and providing expertise in cases of emergency, and assisting national activities in these fields;
- (c) Collecting and disseminating information on oil pollution incidents (inventories, expert opinions, reports on incidents, technical progress for improving contingency plans, etc.);
- (d) Preparing systematic procedures for data and information exchange concerning oil pollution incidents;
- (e) Acting as the focal point for exchanges of information on techniques for surveillance of oil pollution incidents in the Caspian Sea;
- (f) Making proposals on updating of the Caspian Sea Plan concerning Regional Co-operation in Combating Oil Pollution in Cases of Emergency;
- (g) Performing such other functions as may be required by the Conference of Parties

## **III. IMPLEMENTATION AND COMPLIANCE**

### **Article 14. Funding of the Protocol**

1. To achieve the objectives of this Protocol, the Contracting Parties, shall ensure that financial resources are available for the formulation and implementation of related programs, projects and measures.

To this end, the Contracting Parties shall:

- (a) Commit available domestic financial resources;
- (b) Promote the mobilization of financial resources from bilateral and multilateral funding sources and mechanisms, including grants and loans;
- (c) Explore innovative methods and incentives for mobilizing and channeling resources, including those of foundations, governmental agencies of other countries, international organizations, non-governmental organizations and private sector entities.

2. The Financial Rules of the Convention shall apply *mutatis mutandis* to this Protocol, unless otherwise decided by the Contracting Parties.

### **Article 15. Relationship with the Convention**

The rules of procedure adopted pursuant to Article 22, paragraph 9 (c), of the Convention shall apply with respect to this Protocol, unless the Contracting Parties determine otherwise.

### **Article 16. Settlement of Disputes**

Any dispute between the Contracting Parties concerning the application or interpretation of the provisions of this Protocol shall be settled in accordance with Article 30 of the Convention.

### **Article 17. Adoption and Entry into Force of the Protocol**

1. This Protocol shall be adopted by unanimous decision of the Contracting Parties by a Meeting of the Conference of the Parties.

2. This Protocol shall be open for signature only by Caspian littoral States, in the city of Tehran from the 12th of August 2011 to the 12th of February 2012.

3. This Protocol shall be subject to ratification, acceptance or approval by the Caspian littoral States and shall be open for accession by any Caspian littoral State from the date on which the Protocol is closed for signature.

4. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depository of the Convention.

5. This Protocol shall enter into force on the ninetieth day after the date of deposit to the Depository of the Convention of the instrument of ratification, acceptance, approval or accession by all Caspian littoral States.

### **Article 18. Adoption of Amendments and Annexes to the Protocol, and Amendments to the Annexes**

Any Contracting Party may suggest amendments and annexes to this Protocol, as well amendments to its Annexes. These amendments and annexes shall be adopted by the Contracting Parties and enter into force for them in accordance with Articles 24 and 25 of the Convention.

## **IV. FINAL CLAUSES**

### **Article 19. Effect of the Protocol on National Legislation**

The provisions of this Protocol shall not affect the right of the Contracting Parties to adopt relevant stricter national measures for the implementation of this Protocol.

### **Article 20. Relationship with Other International Treaties**

Nothing in this Protocol shall prejudice the rights and obligations of the Contracting Parties under other international treaties to which they are parties.

### **Article 21. Reservation**

No reservations may be made to this Protocol.

## **Article 22. Authentic Texts**

The Azeri, English, Farsi, Kazakh, Russian and Turkmeni texts of this Protocol are equally authentic. In case of dispute arising as to the interpretation or application of this Protocol the English text shall be authoritative.

## **Article 23. Depository**

The Depository of the Protocol is the Depository of the Convention.

## **Article 24. Relationship with the Negotiation of the Legal Status of the Caspian Sea**

Nothing in this Protocol shall be interpreted as to prejudge the outcome of the negotiation on the final legal status of the Caspian Sea.

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

Done at the city of Aktau on the twelfth day of August of 2011

**AMENDMENT TO THE CONVENTION ON THE PROTECTION AND USE OF TRANSBOUNDARY  
WATERCOURSES AND INTERNATIONAL LAKES**

**AMENDMENT TO ARTICLES 25 AND 26 OF THE CONVENTION**

1. On 28 November 2003, the Parties to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes amended articles 25 and 26 of the Convention by decision III/1, following a proposal by the Government of Switzerland dated 20 August 2003 (see MP.WAT/2003/4).

2. The decision, including the text of the amendment, is annexed below.

**Annex**

**DECISION III/1**

**AMENDMENT TO THE WATER CONVENTION**

The Meeting of the Parties,

Expressing the firm belief that cooperation among riparian States on transboundary watercourses and international lakes contributes to peace and security and to sustainable water management, and is to everyone's benefit,

Desiring to promote river basin cooperation throughout the world and to share its experience with other regions in the world,

Wishing therefore to allow States situated outside the UNECE region to become Parties to the Convention, as is already foreseen under other UNECE environmental conventions (i.e. the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters and the Convention on Environmental Impact Assessment in a Transboundary Context) as well as under the Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters,

1. Adopts the following amendments to the Convention:

(a) In article 25, after paragraph 2, insert a new paragraph reading

“3. Any other State, not referred to in paragraph 2, that is a Member of the United Nations may accede to the Convention upon approval by the Meeting of the Parties. In its instrument of accession, such a State shall make a declaration stating that approval for its accession to the Convention had been obtained from the Meeting of the Parties and shall specify the date on which approval was received. Any such request for accession by Members of the United Nations shall not be considered for approval by the Meeting of the Parties until this paragraph has entered into force for all the States and organizations that were Parties to the Convention on 28 November 2003”.

and renumber the remaining paragraphs accordingly;

(b) In article 26, paragraph 3, after “referred to in article 23” insert “or in paragraph 3 of article 25”;

2. Calls upon Parties to the Convention to deposit their instruments of acceptance of the amendment rapidly;

3. Urges any State or organization that ratifies, accepts or approves the Convention to simultaneously ratify, accept or approve the above amendment;

4. Encourages States situated outside the UNECE region, in particular those bordering it, to accede to the Convention and, to that end, to seek the approval of the Meeting of the Parties;

5. Invites interested United Nations Member States to take part in its meetings as observers and to participate in the activities under the Convention's programme of work;

6. Invites the States bordering the UNECE region that have not done so already to enter into technical cooperation and bilateral or multilateral agreements with the riparian UNECE States, in accordance with the provisions of Part II of the Convention, without delay.



# Doha amendment

<i>1</i>			<i>4</i>	<i>5</i>	<i>6</i>
<i>Party</i>	<i>Quantified emission limitation or reduction commitment (2008-2012) (percentage of base year or period)</i>	<i>Quantified emission limitation or reduction commitment (2013-2020) (percentage of base year or period)</i>	<i>Reference year<sup>1</sup></i>	<i>Quantified emission limitation or reduction commitment (2013-2020) (expressed as percentage of reference year)<sup>1</sup></i>	<i>Pledges for the reduction of greenhouse gas emissions by 2020 (percentage of reference year)<sup>2</sup></i>
Australia	108	99.5	2000	98	-5 to -15% or -25% <sup>3</sup>
Austria	92	80 <sup>4</sup>	NA	NA	
Belarus <sup>5*</sup>		88	1990	NA	-8%
Belgium	92	80 <sup>4</sup>	NA	NA	
Bulgaria*	92	80 <sup>4</sup>	NA	NA	
Croatia*	95	80 <sup>6</sup>	NA	NA	-20%/-30% <sup>7</sup>
Cyprus		80 <sup>4</sup>	NA	NA	
Czech Republic*	92	80 <sup>4</sup>	NA	NA	
Denmark	92	80 <sup>4</sup>	NA	NA	
Estonia*	92	80 <sup>4</sup>	NA	NA	
European Union	92	80 <sup>4</sup>	1990	NA	-20%/-30% <sup>7</sup>
Finland	92	80 <sup>4</sup>	NA	NA	
France	92	80 <sup>4</sup>	NA	NA	
Germany	92	80 <sup>4</sup>	NA	NA	
Greece	92	80 <sup>4</sup>	NA	NA	
Hungary*	94	80 <sup>4</sup>	NA	NA	
Iceland	110	80 <sup>8</sup>	NA	NA	
Ireland	92	80 <sup>4</sup>	NA	NA	
Italy	92	80 <sup>4</sup>	NA	NA	
Kazakhstan*		95	1990	95	-7%
Latvia*	92	80 <sup>4</sup>	NA	NA	
Liechtenstein	92	84	1990	84	-20%/-30% <sup>9</sup>
Lithuania*	92	80 <sup>4</sup>	NA	NA	
Luxembourg	92	80 <sup>4</sup>	NA	NA	
Malta		80 <sup>4</sup>	NA	NA	

*Abbreviation:* NA = not applicable.

Countries that are undergoing the process of transition to a market economy.  
All footnotes below, except for footnotes 1, 2 and 5, have been provided through communications from the respective Parties.

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<i>Party</i>	<i>Quantified emission limitation or reduction commitment (2008-2012) (percentage of base year or period)</i>	<i>Quantified emission limitation or reduction commitment (2013-2020) (percentage of base year or period)</i>	<i>Reference year<sup>1</sup></i>	<i>Quantified emission limitation or reduction commitment (2013-2020) (expressed as percentage of reference year)<sup>1</sup></i>	<i>Pledges for the reduction of greenhouse gas emissions by 2020 (percentage of reference year)<sup>1,2</sup>*</i>
Monaco	92	78	1990	78	-30%
Netherlands	92	80 <sup>4</sup>	NA	NA	
Norway	101	84	1990	84	-30% to -40% <sup>10</sup>
Poland*	94	80 <sup>4</sup>	NA	NA	
Portugal	92	80 <sup>4</sup>	NA	NA	
Romania*	92	80 <sup>4</sup>	NA	NA	
Slovakia*	92	80 <sup>4</sup>	NA	NA	
Slovenia*	92	80 <sup>4</sup>	NA	NA	
Spain	92	80 <sup>4</sup>	NA	NA	
Sweden	92	80 <sup>4</sup>	NA	NA	
Switzerland	92	84.2	1990	NA	-20% to -30% <sup>11</sup>
Ukraine*	100	76 <sup>12</sup>	1990	NA	-20%
United Kingdom of Great Britain and Northern Ireland	92	80 <sup>4</sup>	NA	NA	
<i>Party</i>	<i>Quantified emission limitation or reduction commitment (2008-2012) (percentage of base year or period)</i>				
Canada <sup>13</sup>	94				
Japan <sup>14</sup>	94				
New Zealand <sup>15</sup>	100				
Russian Federation <sup>16*</sup>	100				

<sup>2</sup> Further information on these pledges can be found in documents FCCC/KP/AWG/2012/MISC.1, Add.1 and Add.2.

<sup>1</sup> A reference year may be used by a Party on an optional basis for its own purposes to express its quantified emission limitation or reduction commitment (QELRC) as a percentage of emissions of that year, that is not internationally binding under the Kyoto Protocol, in addition to the listing of its QELRC(s) in relation to the base year in the

3

achievement of Australia's unconditional 2020 target of 5 per cent below 2000 levels. Australia retains the option later to move up within its 2020 target of 5 to 15, or 25 per cent below 2000 levels, subject to certain conditions being met. This reference retains the status of these pledges as made under the Cancun Agreements and does not amount to a new legally binding commitment under this Protocol or its associated rules and modalities.

4

The QELRCs for the European Union and its member States for a second commitment period under the Kyoto Protocol are based on the understanding that these will be fulfilled jointly with the European Union and its member States, in accordance with Article 4 of the Kyoto Protocol. The QELRCs are without prejudice to the subsequent notification by the European Union and its member States of an agreement to fulfil their commitments jointly in accordance with the provisions of the Kyoto Protocol.

5

Added to Annex B by an amendment adopted pursuant to decision 10/CMP.2. This amendment has not yet entered into force.

6

Croatia's QELRC for a second commitment period under the Kyoto Protocol is based on the understanding that it will fulfil this QELRC jointly with the European Union and its member States, in accordance with Article 4 of the Kyoto Protocol. As a consequence, Croatia's accession to the European Union shall not affect its participation in such joint fulfilment agreement pursuant to Article 4 or its QELRC.

7

As part of a global and comprehensive agreement for the period beyond 2012, the European Union reiterates its conditional offer to move to a 30 per cent reduction by 2020 compared to 1990 levels, provided that other developed countries commit themselves to comparable emission reductions and developing countries contribute adequately according to their responsibilities and respective capabilities.

8

The QELRC for Iceland for a second commitment period under the Kyoto Protocol is based on the understanding that it will be fulfilled jointly with the European Union and its member States, in accordance with Article 4 of the Kyoto Protocol.

9

The QELRC presented in column three refers to a reduction target of 20 per cent by 2020 compared to 1990 levels. Liechtenstein would consider a higher reduction target of up to 30 per cent by 2020 compared to 1990 levels under the condition that other developed countries commit themselves to comparable emission reductions and that economically more advanced developing countries contribute adequately according to their responsibilities and respective capabilities.

10

Norway's QELRC of 84 is consistent with its target of 30 per cent reduction of emissions by 2020, compared to 1990. If it can contribute to a global and comprehensive agreement where major emitting Parties agree on emission reductions in line with the 2° C target, Norway will move to a level of 40 per cent reduction for 2020 based on 1990 levels. This reference retains the status of the pledge made under the Cancun Agreements and does not amount to a new legally binding commitment under this Protocol.

11

The QELRC presented in the third column of this table refers to a reduction target of 20 per cent by 2020 compared to 1990 levels. Switzerland would consider a higher reduction target up to 30 per cent by 2020 compared to 1990 levels subject to comparable emission reduction commitments from other developed countries and adequate contribution from developing countries according to their responsibilities and capabilities in line with the 2° C target. This reference retains the status of the pledge made under the Cancun Agreements and does not amount to a new legally binding commitment under this Protocol or its associated rules and modalities.

12

Should be full carry-over and there is no acceptance of any cancellation or any limitation on use of this legitimately acquired sovereign property.

13

On 15 December 2011, the Depositary received written notification of Canada's withdrawal from the Kyoto Protocol. This action will become effective for Canada on 15 December 2012.

14

In a communication dated 10 December 2010, Japan indicated that it does not have any intention to be under obligation of the second commitment period of the Kyoto Protocol after 2012.

15

New Zealand remains a Party to the Kyoto Protocol. It will be taking a quantified economy-wide emission reduction target under the United Nations Framework Convention on Climate Change in the period 2013 to 2020.

16

In a communication dated 8 December 2010 that was received by the secretariat on 9 December 2010, the Russian Federation indicated that it does not intend to assume a quantitative emission limitation or reduction commitment for the second commitment period.

## **B. Annex A to the Kyoto Protocol**

The following list shall replace the list under the heading “Greenhouse gases” in Annex A to the Protocol:

### **Greenhouse gases**

Carbon dioxide (CO<sub>2</sub>)

Methane (CH<sub>4</sub>)

Nitrous oxide (N<sub>2</sub>O)

Hydrofluorocarbons (HFCs)

Perfluorocarbons (PFCs)

Sulphur hexafluoride (SF<sub>6</sub>)

Nitrogen trifluoride (NF<sub>3</sub>)<sup>1</sup>

## **C. Article 3, paragraph 1 bis**

The following paragraph shall be inserted after paragraph 1 of Article 3 of the Protocol:

1 bis. The Parties included in Annex I shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in the third column of the table contained in Annex B and in accordance with the provisions of this Article, with a view to reducing their overall emissions of such gases by at least 18 per cent below 1990 levels in the commitment period 2013 to 2020.

## **D. Article 3, paragraph 1 ter**

The following paragraph shall be inserted after paragraph 1 bis of Article 3 of the Protocol:

1 ter. A Party included in Annex B may propose an adjustment to decrease the percentage inscribed in the third column of Annex B of its quantified emission limitation and reduction commitment inscribed in the third column of the table contained in Annex B. A proposal for such an adjustment shall be communicated to the Parties by the secretariat at least three months before the meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol at which it is proposed for adoption.

## **E. Article 3, paragraph 1 quater**

The following paragraph shall be inserted after paragraph 1 ter of Article 3 of the Protocol:

1 quater. An adjustment proposed by a Party included in Annex I to increase the ambition of its quantified emission limitation and reduction commitment in accordance with Article 3, paragraph 1 ter, above shall be considered adopted by the Conference of the Parties serving as the meeting of the Parties to this Protocol unless more than three-fourths of the Parties present and voting object to its adoption. The adopted adjustment shall be communicated by the secretariat to the Depository, who shall circulate it to all Parties, and

<sup>1</sup> Applies only from the beginning of the second commitment period.

shall enter into force on 1 January of the year following the communication by the Depository. Such adjustments shall be binding upon Parties.

**F. Article 3, paragraph 7 bis**

The following paragraphs shall be inserted after paragraph 7 of Article 3 of the Protocol:

7 bis. In the second quantified emission limitation and reduction commitment period, from 2013 to 2020, the assigned amount for each Party included in Annex I shall be equal to the percentage inscribed for it in the third column of the table contained in Annex B of its aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A in 1990, or the base year or period determined in accordance with paragraph 5 above, multiplied by eight. Those Parties included in Annex I for whom land-use change and forestry constituted a net source of greenhouse gas emissions in 1990 shall include in their 1990 emissions base year or period the aggregate anthropogenic carbon dioxide equivalent emissions by sources minus removals by sinks in 1990 from land-use change for the purposes of calculating their assigned amount.

**G. Article 3, paragraph 7 ter**

The following paragraph shall be inserted after paragraph 7 bis of Article 3 of the Protocol:

7 ter. Any positive difference between the assigned amount of the second commitment period for a Party included in the Annex I and average annual emissions for the first three years of the preceding commitment period multiplied by eight shall be transferred to the cancellation account of that Party.

**H. Article 3, paragraph 8**

In paragraph 8 of Article 3 of the Protocol, the words: calculation referred to in paragraph 7 above shall be substituted by:

calculations referred to in paragraphs 7 and 7 bis above

**I. Article 3, paragraph 8 bis**

The following paragraph shall be inserted after paragraph 8 of Article 3 of the Protocol:

8 bis. Any Party included in Annex I may use 1995 or 2000 as its base year for nitrogen trifluoride for the purposes of the calculation referred to in paragraph 7 bis above.

**J. Article 3, paragraphs 12 bis and ter**

The following paragraphs shall be inserted after paragraph 12 of Article 3 of the Protocol:

12 bis. Any units generated from market-based mechanisms to be established under the Convention or its instruments may be used by Parties included in Annex I to assist them in achieving compliance with their quantified emission limitation and reduction commitments under Article 3. Any such units which a Party acquires from another Party to the Convention shall be added to the assigned amount for the acquiring Party and subtracted from the quantity of units held by the transferring Party.

12 ter. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall ensure that, where units from approved activities under market-based mechanisms referred to in paragraph 12 bis above are used by Parties included in Annex I to assist them in achieving compliance with their quantified emission limitation and reduction commitments under Article 3, a share of these units is used to cover administrative expenses, as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation if these units are acquired under Article 17.

**K. Article 4, paragraph 2**

The following words shall be added to the end of the first sentence of paragraph 2 of Article 4 of the Protocol:

, or on the date of deposit of their instruments of acceptance of any amendment to Annex B pursuant to Article 3, paragraph 9

**L. Article 4, paragraph 3**

In paragraph 3 of Article 4 of the Protocol, the words:

, paragraph 7 shall be substituted

by: to which it relates

## **Article 2: Entry into force**

This amendment shall enter into force in accordance with Articles 20 and 21 of the Kyoto Protocol.

## PARIS AGREEMENT

THE PARTIES TO THIS AGREEMENT,

BEING Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as ‘the Convention’,

PURSUANT to the Durban Platform for Enhanced Action established by decision 1/CP. 17 of the Conference of the Parties to the Convention at its seventeenth session,

IN PURSUIT of the objective of the Convention, and being guided by its principles, including the principle of equity and common but differentiated responsibilities and respective capabilities, in the light of different national circumstances,

RECOGNIZING the need for an effective and progressive response to the urgent threat of climate change on the basis of the best available scientific knowledge,

ALSO RECOGNIZING the specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, as provided for in the Convention,

TAKING FULL ACCOUNT of the specific needs and special situations of the least developed countries with regard to funding and transfer of technology,

RECOGNIZING that Parties may be affected not only by climate change, but also by the impacts of the measures taken in response to it,

EMPHASIZING the intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and eradication of poverty,

RECOGNIZING the fundamental priority of safeguarding food security and ending hunger, and the particular vulnerabilities of food production systems to the adverse impacts of climate change,

TAKING INTO ACCOUNT the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities,

ACKNOWLEDGING that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,

RECOGNIZING the importance of the conservation and enhancement, as appropriate, of sinks and reservoirs of the greenhouse gases referred to in the Convention, NOTING the importance of ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity, recognized by some cultures as Mother Earth, and noting the importance for some of the concept of ‘climate justice’, when taking action to address climate change,

AFFIRMING the importance of education, training, public awareness, public participation, public access to information and cooperation at all levels on the matters addressed in this Agreement,

RECOGNIZING the importance of the engagements of all levels of government and various actors, in accordance with respective national legislations of Parties, in addressing climate change,

ALSO RECOGNIZING that sustainable lifestyles and sustainable patterns of consumption and production, with developed country Parties taking the lead, play an important role in addressing climate change,

HAVE AGREED AS FOLLOWS:

### Article 1

For the purpose of this Agreement, the definitions contained in Article 1 of the Convention shall apply. In addition:

(a) ‘Convention’ means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992;

(b) ‘Conference of the Parties’ means the Conference of the Parties to the Convention;

(c) ‘Party’ means a Party to this Agreement.

### Article 2

1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

(a) Holding the increase in the global average temperature to well below 2 °C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1,5 °C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production; and

(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

2. This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

### **Article 3**

As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.

### **Article 4**

1. In order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.

2. Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.

3. Each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

4. Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.

5. Support shall be provided to developing country Parties for the implementation of this Article, in accordance with Articles 9, 10 and 11, recognizing that enhanced support for developing country Parties will allow for higher ambition in their actions.

6. The least developed countries and small island developing States may prepare and communicate strategies, plans and actions for low greenhouse gas emissions development reflecting their special circumstances.

7. Mitigation co-benefits resulting from Parties' adaptation actions and/or economic diversification plans can contribute to mitigation outcomes under this Article.

8. In communicating their nationally determined contributions, all Parties shall provide the information necessary for clarity, transparency and understanding in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to this Agreement.

9. Each Party shall communicate a nationally determined contribution every five years in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to this Agreement and be informed by the outcomes of the global stocktake referred to in Article 14.



10. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall consider common time frames for nationally determined contributions at its first session.

11. A Party may at any time adjust its existing nationally determined contribution with a view to enhancing its level of ambition, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

12. Nationally determined contributions communicated by Parties shall be recorded in a public registry maintained by the secretariat.

13. Parties shall account for their nationally determined contributions. In accounting for anthropogenic emissions and removals corresponding to their nationally determined contributions, Parties shall promote environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

14. In the context of their nationally determined contributions, when recognizing and implementing mitigation actions with respect to anthropogenic emissions and removals, Parties should take into account, as appropriate, existing methods and guidance under the Convention, in the light of the provisions of paragraph 13 of this Article.

15. Parties shall take into consideration in the implementation of this Agreement the concerns of Parties with economies most affected by the impacts of response measures, particularly developing country Parties.

16. Parties, including regional economic integration organizations and their member States, that have reached an agreement to act jointly under paragraph 2 of this Article shall notify the secretariat of the terms of that agreement, including the emission level allocated to each Party within the relevant time period, when they communicate their nationally determined contributions. The secretariat shall in turn inform the Parties and signatories to the Convention of the terms of that agreement.

17. Each party to such an agreement shall be responsible for its emission level as set out in the agreement referred to in paragraph 16 of this Article in accordance with paragraphs 13 and 14 of this Article and Articles 13 and 15.

18. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization which is itself a Party to this Agreement, each member State of that regional economic integration organization individually, and together with the regional economic integration organization, shall be responsible for its emission level as set out in the agreement communicated under paragraph 16 of this Article in accordance with paragraphs 13 and 14 of this Article and Articles 13 and 15.

19. All Parties should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of Article 2 taking into account their common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

## **Article 5**

1. Parties should take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases as referred to in Article 4, paragraph 1(d), of the Convention, including forests.

2. Parties are encouraged to take action to implement and support, including through results-based payments, the existing framework as set out in related guidance and decisions already agreed under the Convention for: policy approaches and positive incentives for activities relating to reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries; and alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests, while reaffirming the importance of incentivizing, as appropriate, non-carbon benefits associated with such approaches.

## **Article 6**

1. Parties recognize that some Parties choose to pursue voluntary cooperation in the implementation of their nationally determined contributions to allow for higher ambition in their mitigation and adaptation actions and to promote sustainable development and environmental integrity.

2. Parties shall, where engaging on a voluntary basis in cooperative approaches that involve the use of internationally transferred mitigation outcomes towards nationally determined contributions, promote

sustainable development and ensure environmental integrity and transparency, including in governance, and shall apply robust accounting to ensure, inter alia, the avoidance of double counting, consistent with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

3. The use of internationally transferred mitigation outcomes to achieve nationally determined contributions under this Agreement shall be voluntary and authorized by participating Parties.

4. A mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development is hereby established under the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement for use by Parties on a voluntary basis. It shall be supervised by a body designated by the Conference of the Parties serving as the meeting of the Parties to this Agreement, and shall aim:

(a) To promote the mitigation of greenhouse gas emissions while fostering sustainable development;

(b) To incentivize and facilitate participation in the mitigation of greenhouse gas emissions by public and private entities authorized by a Party;

(c) To contribute to the reduction of emission levels in the host Party, which will benefit from mitigation activities resulting in emission reductions that can also be used by another Party to fulfil its nationally determined contribution; and

(d) To deliver an overall mitigation in global emissions.

5. Emission reductions resulting from the mechanism referred to in paragraph 4 of this Article shall not be used to demonstrate achievement of the host Party's nationally determined contribution if used by another Party to demonstrate achievement of its nationally determined contribution.

6. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall ensure that a share of the proceeds from activities under the mechanism referred to in paragraph 4 of this Article is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

7. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall adopt rules, modalities and procedures for the mechanism referred to in paragraph 4 of this Article at its first session.

8. Parties recognize the importance of integrated, holistic and balanced non-market approaches being available to Parties to assist in the implementation of their nationally determined contributions, in the context of sustainable development and poverty eradication, in a coordinated and effective manner, including through, inter alia, mitigation, adaptation, finance, technology transfer and capacity-building, as appropriate. These approaches shall aim to:

(a) Promote mitigation and adaptation ambition;

(b) Enhance public and private sector participation in the implementation of nationally determined contributions; and

(c) Enable opportunities for coordination across instruments and relevant institutional arrangements.

9. A framework for non-market approaches to sustainable development is hereby defined to promote the non-market approaches referred to in paragraph 8 of this Article.

## **Article 7**

1. Parties hereby establish the global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the temperature goal referred to in Article 2.

2. Parties recognize that adaptation is a global challenge faced by all with local, subnational, national, regional and international dimensions, and that it is a key component of and makes a contribution to the long-term global response to climate change to protect people, livelihoods and ecosystems, taking into account the urgent and immediate needs of those developing country Parties that are particularly vulnerable to the adverse effects of climate change.

3. The adaptation efforts of developing country Parties shall be recognized, in accordance with the modalities to be adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement at its first session.

4. Parties recognize that the current need for adaptation is significant and that greater levels of mitigation can reduce the need for additional adaptation efforts, and that greater adaptation needs can involve greater adaptation costs.

5. Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.

6. Parties recognize the importance of support for and international cooperation on adaptation efforts and the importance of taking into account the needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change.

7. Parties should strengthen their cooperation on enhancing action on adaptation, taking into account the Cancun Adaptation Framework, including with regard to:

(a) Sharing information, good practices, experiences and lessons learned, including, as appropriate, as these relate to science, planning, policies and implementation in relation to adaptation actions;

(b) Strengthening institutional arrangements, including those under the Convention that serve this Agreement, to support the synthesis of relevant information and knowledge, and the provision of technical support and guidance to Parties;

(c) Strengthening scientific knowledge on climate, including research, systematic observation of the climate system and early warning systems, in a manner that informs climate services and supports decision-making;

(d) Assisting developing country Parties in identifying effective adaptation practices, adaptation needs, priorities, support provided and received for adaptation actions and efforts, and challenges and gaps, in a manner consistent with encouraging good practices; and

(e) Improving the effectiveness and durability of adaptation actions.

8. United Nations specialized organizations and agencies are encouraged to support the efforts of Parties to implement the actions referred to in paragraph 7 of this Article, taking into account the provisions of paragraph 5 of this Article.

9. Each Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions, which may include:

(a) The implementation of adaptation actions, undertakings and/or efforts;

(b) The process to formulate and implement national adaptation plans; (c) The assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems;

(d) Monitoring and evaluating and learning from adaptation plans, policies, programmes and actions; and

(e) Building the resilience of socioeconomic and ecological systems, including through economic diversification and sustainable management of natural resources.

10. Each Party should, as appropriate, submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs, plans and actions, without creating any additional burden for developing country Parties.

11. The adaptation communication referred to in paragraph 10 of this Article shall be, as appropriate, submitted and updated periodically, as a component of or in conjunction with other communications or documents, including a national adaptation plan, a nationally determined contribution as referred to in Article 4, paragraph 2, and/or a national communication.

12. The adaptation communications referred to in paragraph 10 of this Article shall be recorded in a public registry maintained by the secretariat.

13. Continuous and enhanced international support shall be provided to developing country Parties for the implementation of paragraphs 7, 9, 10 and 11 of this Article, in accordance with the provisions of Articles 9, 10 and 11.

14. The global stocktake referred to in Article 14 shall, inter alia:

(a) Recognize adaptation efforts of developing country Parties;

(b) Enhance the implementation of adaptation action taking into account the adaptation communication referred to in paragraph 10 of this Article;

(c) Review the adequacy and effectiveness of adaptation and support provided for adaptation; and

(d) Review the overall progress made in achieving the global goal on adaptation referred to in paragraph 1 of this Article.

## **Article 8**

1. Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage.

2. The Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement and may be enhanced and strengthened, as determined by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

3. Parties should enhance understanding, action and support, including through the Warsaw International Mechanism, as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change.

4. Accordingly, areas of cooperation and facilitation to enhance understanding, action and support may include:

- (a) Early warning systems;
- (b) Emergency preparedness;
- (c) Slow onset events;
- (d) Events that may involve irreversible and permanent loss and damage;
- (e) Comprehensive risk assessment and management;
- (f) Risk insurance facilities, climate risk pooling and other insurance solutions; (g) Non-economic losses; and
- (h) Resilience of communities, livelihoods and ecosystems.

5. The Warsaw International Mechanism shall collaborate with existing bodies and expert groups under the Agreement, as well as relevant organizations and expert bodies outside the Agreement.

## **Article 9**

1. Developed country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention.

2. Other Parties are encouraged to provide or continue to provide such support voluntarily.

3. As part of a global effort, developed country Parties should continue to take the lead in mobilizing climate finance from a wide variety of sources, instruments and channels, noting the significant role of public funds, through a variety of actions, including supporting country-driven strategies, and taking into account the needs and priorities of developing country Parties. Such mobilization of climate finance should represent a progression beyond previous efforts.

4. The provision of scaled-up financial resources should aim to achieve a balance between adaptation and mitigation, taking into account country-driven strategies, and the priorities and needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change and have significant capacity constraints, such as the least developed countries and small island developing States, considering the need for public and grant-based resources for adaptation.

5. Developed country Parties shall biennially communicate indicative quantitative and qualitative information related to paragraphs 1 and 3 of this Article, as applicable, including, as available, projected levels of public financial resources to be provided to developing country Parties. Other Parties providing resources are encouraged to communicate biennially such information on a voluntary basis.

6. The global stocktake referred to in Article 14 shall take into account the relevant information provided by developed country Parties and/or Agreement bodies on efforts related to climate finance.

7. Developed country Parties shall provide transparent and consistent information on support for developing country Parties provided and mobilized through public interventions biennially in accordance with the modalities, procedures and guidelines to be adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement, at its first session, as stipulated in Article 13, paragraph 13. Other Parties are encouraged to do so.

8. The Financial Mechanism of the Convention, including its operating entities, shall serve as the financial mechanism of this Agreement.

9. The institutions serving this Agreement, including the operating entities of the Financial Mechanism of the Convention, shall aim to ensure efficient access to financial resources through simplified approval procedures and enhanced readiness support for developing country Parties, in particular for the least developed countries and small island developing States, in the context of their national climate strategies and plans.

## **Article 10**

1. Parties share a long-term vision on the importance of fully realizing technology development and transfer in order to improve resilience to climate change and to reduce greenhouse gas emissions.

2. Parties, noting the importance of technology for the implementation of mitigation and adaptation actions under this Agreement and recognizing existing technology deployment and dissemination efforts, shall strengthen cooperative action on technology development and transfer.

3. The Technology Mechanism established under the Convention shall serve this Agreement.

4. A technology framework is hereby established to provide overarching guidance to the work of the Technology Mechanism in promoting and facilitating enhanced action on technology development and transfer in order to support the implementation of this Agreement, in pursuit of the long-term vision referred to in paragraph 1 of this Article.

5. Accelerating, encouraging and enabling innovation is critical for an effective, longterm global response to climate change and promoting economic growth and sustainable development. Such effort shall be, as appropriate, supported, including by the Technology Mechanism and, through financial means, by the Financial Mechanism of the Convention, for collaborative approaches to research and development, and facilitating access to technology, in particular for early stages of the technology cycle, to developing country Parties.

6. Support, including financial support, shall be provided to developing country Parties for the implementation of this Article, including for strengthening cooperative action on technology development and transfer at different stages of the technology cycle, with a view to achieving a balance between support for mitigation and adaptation. The global stocktake referred to in Article 14 shall take into account available information on efforts related to support on technology development and transfer for developing country Parties.

## **Article 11**

1. Capacity-building under this Agreement should enhance the capacity and ability of developing country Parties, in particular countries with the least capacity, such as the least developed countries, and those that are particularly vulnerable to the adverse effects of climate change, such as small island developing States, to take effective climate change action, including, inter alia, to implement adaptation and mitigation actions, and should facilitate technology development, dissemination and deployment, access to climate finance, relevant aspects of education, training and public awareness, and the transparent, timely and accurate communication of information.

2. Capacity-building should be country-driven, based on and responsive to national needs, and foster country ownership of Parties, in particular, for developing country Parties, including at the national, subnational and local levels. Capacity-building should be guided by lessons learned, including those from capacity-building activities under the Convention, and should be an effective, iterative process that is participatory, cross-cutting and gender- responsive.

3. All Parties should cooperate to enhance the capacity of developing country Parties to implement this Agreement. Developed country Parties should enhance support for capacity- building actions in developing country Parties.

4. All Parties enhancing the capacity of developing country Parties to implement this Agreement, including through regional, bilateral and multilateral approaches, shall regularly communicate on these actions or measures on capacitybuilding. Developing country Parties should regularly communicate progress made on implementing capacity- building plans, policies, actions or measures to implement this Agreement.

5. Capacity-building activities shall be enhanced through appropriate institutional arrangements to support the implementation of this Agreement, including the appropriate institutional arrangements established under the Convention that serve this Agreement. The Conference of the Parties serving as the

meeting of the Parties to this Agreement shall, at its first session, consider and adopt a decision on the initial institutional arrangements for capacitybuilding.

## **Article 12**

Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information, recognizing the importance of these steps with respect to enhancing actions under this Agreement.

## **Article 13**

1. In order to build mutual trust and confidence and to promote effective implementation, an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties' different capacities and builds upon collective experience is hereby established.

2. The transparency framework shall provide flexibility in the implementation of the provisions of this Article to those developing country Parties that need it in the light of their capacities. The modalities, procedures and guidelines referred to in paragraph 13 of this Article shall reflect such flexibility.

3. The transparency framework shall build on and enhance the transparency arrangements under the Convention, recognizing the special circumstances of the least developed countries and small island developing States, and be implemented in a facilitative, non-intrusive, non-punitive manner, respectful of national sovereignty, and avoid placing undue burden on Parties.

4. The transparency arrangements under the Convention, including national communications, biennial reports and biennial update reports, international assessment and review and international consultation and analysis, shall form part of the experience drawn upon for the development of the modalities, procedures and guidelines under paragraph 13 of this Article.

5. The purpose of the framework for transparency of action is to provide a clear understanding of climate change action in the light of the objective of the Convention as set out in its Article 2, including clarity and tracking of progress towards achieving Parties' individual nationally determined contributions under Article 4, and Parties' adaptation actions under Article 7, including good practices, priorities, needs and gaps, to inform the global stocktake under Article 14.

6. The purpose of the framework for transparency of support is to provide clarity on support provided and received by relevant individual Parties in the context of climate change actions under Articles 4, 7, 9, 10 and 11, and, to the extent possible, to provide a full overview of aggregate financial support provided, to inform the global stocktake under Article 14.

7. Each Party shall regularly provide the following information:

(a) A national inventory report of anthropogenic emissions by sources and removals by sinks of greenhouse gases, prepared using good practice methodologies accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties serving as the meeting of the Parties to this Agreement; and

(b) Information necessary to track progress made in implementing and achieving its nationally determined contribution under Article 4.

8. Each Party should also provide information related to climate change impacts and adaptation under Article 7, as appropriate.

9. Developed country Parties shall, and other Parties that provide support should, provide information on financial, technology transfer and capacity-building support provided to developing country Parties under Articles 9, 10 and 11.

10. Developing country Parties should provide information on financial, technology transfer and capacity-building support needed and received under Articles 9, 10 and 11.

11. Information submitted by each Party under paragraphs 7 and 9 of this Article shall undergo a technical expert review, in accordance with decision 1/CP.21. For those developing country Parties that need it in the light of their capacities, the review process shall include assistance in identifying capacity-building needs. In addition, each Party shall participate in a facilitative, multilateral consideration of progress with respect to efforts under Article 9, and its respective implementation and achievement of its nationally determined contribution.

12. The technical expert review under this paragraph shall consist of a consideration of the Party's support provided, as relevant, and its implementation and achievement of its nationally determined

contribution. The review shall also identify areas of improvement for the Party, and include a review of the consistency of the information with the modalities, procedures and guidelines referred to in paragraph

13 of this Article, taking into account the flexibility accorded to the Party under paragraph 2 of this Article. The review shall pay particular attention to the respective national capabilities and circumstances of developing country Parties. 13. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall, at its first session, building on experience from the arrangements related to transparency under the Convention, and elaborating on the provisions in this Article, adopt common modalities, procedures and guidelines, as appropriate, for the transparency of action and support.

14. Support shall be provided to developing countries for the implementation of this Article.

15. Support shall also be provided for the building of transparency-related capacity of developing country Parties on a continuous basis.

#### **Article 14**

1. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the 'global stocktake'). It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and in the light of equity and the best available science.

2. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall undertake its first global stocktake in 2023 and every five years thereafter unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

3. The outcome of the global stocktake shall inform Parties in updating and enhancing, in a nationally determined manner, their actions and support in accordance with the relevant provisions of this Agreement, as well as in enhancing international cooperation for climate action.

#### **Article 15**

1. A mechanism to facilitate implementation of and promote compliance with the provisions of this Agreement is hereby established.

2. The mechanism referred to in paragraph 1 of this Article shall consist of a committee that shall be expert-based and facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive. The committee shall pay particular attention to the respective national capabilities and circumstances of Parties.

3. The committee shall operate under the modalities and procedures adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement at its first session and report annually to the Conference of the Parties serving as the meeting of the Parties to this Agreement.

#### **Article 16**

1. The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to this Agreement.

2. Parties to the Convention that are not Parties to this Agreement may participate as observers in the proceedings of any session of the Conference of the Parties serving as the meeting of the Parties to this Agreement. When the Conference of the Parties serves as the meeting of the Parties to this Agreement, decisions under this Agreement shall be taken only by those that are Parties to this Agreement.

3. When the Conference of the Parties serves as the meeting of the Parties to this Agreement, any member of the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Agreement, shall be replaced by an additional member to be elected by and from amongst the Parties to this Agreement.

4. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall keep under regular review the implementation of this Agreement and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Agreement and shall:

(a) Establish such subsidiary bodies as deemed necessary for the implementation of this Agreement; and

(b) Exercise such other functions as may be required for the implementation of this Agreement.

5. The rules of procedure of the Conference of the Parties and the financial procedures applied under the Convention shall be applied *mutatis mutandis* under this Agreement, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

6. The first session of the Conference of the Parties serving as the meeting of the Parties to this Agreement shall be convened by the secretariat in conjunction with the first session of the Conference of the Parties that is scheduled after the date of entry into force of this Agreement. Subsequent ordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Agreement shall be held in conjunction with ordinary sessions of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

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

8. The United Nations and its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented at sessions of the Conference of the Parties serving as the meeting of the Parties to this Agreement as observers. Anybody or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by this Agreement and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties serving as the meeting of the Parties to this Agreement as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure referred to in paragraph 5 of this Article.

#### **Article 17**

1. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this Agreement.

2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention, on the arrangements made for the functioning of the secretariat, shall apply *mutatis mutandis* to this Agreement. The secretariat shall, in addition, exercise the functions assigned to it under this Agreement and by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

#### **Article 18**

1. The Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation established by Articles 9 and 10 of the Convention shall serve, respectively, as the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Agreement. The provisions of the Convention relating to the functioning of these two bodies shall apply *mutatis mutandis* to this Agreement. Sessions of the meetings of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Agreement shall be held in conjunction with the meetings of, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of the Convention.

2. Parties to the Convention that are not Parties to this Agreement may participate as observers in the proceedings of any session of the subsidiary bodies. When the subsidiary bodies serve as the subsidiary bodies of this Agreement, decisions under this Agreement shall be taken only by those that are Parties to this Agreement.

3. When the subsidiary bodies established by Articles 9 and 10 of the Convention exercise their functions with regard to matters concerning this Agreement, any member of the bureaux of those subsidiary bodies representing a Party to the Convention but, at that time, not a Party to this Agreement, shall be replaced by an additional member to be elected by and from amongst the Parties to this Agreement.

#### **Article 19**



1. Subsidiary bodies or other institutional arrangements established by or under the Convention, other than those referred to in this Agreement, shall serve this Agreement upon a decision of the Conference of the Parties serving as the meeting of the Parties to this Agreement. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall specify the functions to be exercised by such subsidiary bodies or arrangements.

2. The Conference of the Parties serving as the meeting of the Parties to this Agreement may provide further guidance to such subsidiary bodies and institutional arrangements.

## **Article 20**

1. This Agreement shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations that are Parties to the Convention. It shall be open for signature at the United Nations Headquarters in New York from 22 April 2016 to 21 April 2017. Thereafter, this Agreement shall be open for accession from the day following the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depository.

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

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

## **Article 21**

1. This Agreement shall enter into force on the thirtieth day after the date on which at least 55 Parties to the Convention accounting in total for at least an estimated 55 per cent of the total global greenhouse gas emissions have deposited their instruments of ratification, acceptance, approval or accession.

2. Solely for the limited purpose of paragraph 1 of this Article, 'total global greenhouse gas emissions' means the most up-to-date amount communicated on or before the date of adoption of this Agreement by the Parties to the Convention.

3. For each State or regional economic integration organization that ratifies, accepts or approves this Agreement or accedes thereto after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, this Agreement shall enter into force on the thirtieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

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

## **Article 22**

The provisions of Article 15 of the Convention on the adoption of amendments to the Convention shall apply *mutatis mutandis* to this Agreement.

## **Article 23**

1. The provisions of Article 16 of the Convention on the adoption and amendment of annexes to the Convention shall apply *mutatis mutandis* to this Agreement.

2. Annexes to this Agreement shall form an integral part thereof and, unless otherwise expressly provided for, a reference to this Agreement constitutes at the same time a reference to any annexes

thereto. Such annexes shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

#### **Article 24**

The provisions of Article 14 of the Convention on settlement of disputes shall apply mutatis mutandis to this Agreement.

#### **Article 25**

1. Each Party shall have one vote, except as provided for in paragraph 2 of this Article.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to this Agreement. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

#### **Article 26**

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

#### **Article 27**

No reservations may be made to this Agreement.

#### **Article 28**

1. At any time after three years from the date on which this Agreement has entered into force for a Party, that Party may withdraw from this Agreement by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from this Agreement.

#### **Article 29**

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

DONE at Paris this twelfth day of December two thousand and fifteen.

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