Annex 101

Convention for the Protection of the Natural Resources and Environment of the South Pacific Region, 24 November 1986, Australian Treaty Series No. 31

Australian Treaty Series 1990 No 31

DEPARTMENT OF FOREIGN AFFAIRS AND TRADE

CANBERRA

Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (SPREP)

(Noumea, 24 November 1986)

Entry into force for Australia and generally: 22 August 1990

AUSTRALIAN TREATY SERIES

1990 No. 31

Australian Government Publishing Service

Canberra

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CONVENTION FOR THE PROTECTION OF THE NATURAL RESOURCES AND ENVIRONMENT OF THE SOUTH PACIFIC REGION

THE PARTIES,

FULLY AWARE of the economic and social value of the natural resources of the environment of the South Pacific Region;

TAKING INTO ACCOUNT the traditions and cultures of the Pacific people as expressed in accepted customs and practices;

CONSCIOUS of their responsibility to preserve their natural heritage for the benefit and enjoyment of present and future generations;

RECOGNIZING the special hydrological, geological and ecological characteristics of the region which requires special care and responsible management;

RECOGNIZING FURTHER the threat to the marine and coastal environment, its ecological equilibrium, resources and legitimate uses posed by pollution and by the insufficient integration of an environmental dimension into the development process;

SEEKING TO ENSURE that resource development shall be in harmony with the maintenance of the unique environmental quality of the region and the evolving principles of sustained resource management;

REALIZING FULLY the need for co-operation amongst themselves and with competent international, regional and sub-regional organisations in order to ensure a co-ordinated and comprehensive development of

the natural resources of the region;

RECOGNIZING the desirability for the wider acceptance and national implementation of international agreements already in existence concerning the marine and coastal environment;

NOTING, however, that existing international agreements concerning the marine and coastal environment do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and environmental degradation and do not entirely meet the special requirements of the South Pacific Region;

DESIROUS to adopt the regional convention to strengthen the implementation of the general objectives of the Action Plan for Managing the Natural Resources and Environment of the South Pacific Region adopted at Rarotonga, Cook Islands, on 11 March 1982;

HAVE AGREED as follows:

Article 1

Geographical coverage

1. This Convention shall apply to the South Pacific Region, hereinafter referred to as "the Convention Area" as defined in paragraph (a) of article 2.

2. Except as may be otherwise provided in any Protocol to this Convention, the Convention Area shall not include internal waters or archipelagic waters of the Parties as defined in accordance with international law.

Article 2

Definitions

For the purposes of this Convention and its Protocols unless otherwise defined in any such Protocol:

(a) the "Convention Area" shall comprise:

(i) the 200 nautical mile zones established in accordance with international law off:

American Samoa

Australia (East Coast and Islands to eastward including Macquarie Island)

Cook Islands

Federated States of Micronesia

Fiji

French Polynesia

Guam

Kiribati

Marshall Islands

Nauru

New Caledonia and Dependencies

New Zealand

Niue

Northern Mariana Islands

Palau

Papua New Guinea

Pitcairn Islands

Solomon Islands

Tokelau

Tonga

Tuvalu

Vanuatu

Wallis and Futuna

Western Samoa

(ii) those areas of high seas which are enclosed from all sides by the 200 nautical mile zones referred to in sub-paragraph (i);

(iii) areas of the Pacific Ocean which have been included in the Convention Area pursuant to article 3;

(b) "dumping" means:

- any deliberate disposal at sea of wastes or other matter from vessels, aircraft, platforms or other man-made structures at sea;

- any deliberate disposal at sea of vessels, aircraft, platforms or other man-made structures at sea;

"dumping" does not include:

- the disposal of wastes or other matter incidental to, or derived from the normal operations of vessels, aircraft, platforms or other man-made structures at sea and their equipment, other than wastes or other matter transported by or to vessels, aircraft, platforms or other man-made structures at sea, operating for the purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels, aircraft, platforms or structures;

- placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention;

(c) "wastes or other matter" means material and substances of any kind, form or description;

(d) the following wastes or other matter shall be considered to be non-radioactive: sewage sludge, dredge spoil, fly ash, agricultural wastes, construction materials, vessels, artificial reef building materials and other such materials, provided that they have not been contaminated with radio nuclides of anthropogenic origin (except dispersed global fallout from nuclear weapons testing), nor are potential sources of naturally occurring radio nuclides for commercial purposes, nor have been enriched in natural or artificial radio nuclides;

if there is a question as to whether the material to be dumped should be considered non-radioactive, for the purposes of this Convention, such material shall not be dumped unless the appropriate national authority of the proposed dumper confirms that such dumping would not exceed the individual and collective dose limits of the International Atomic Energy Agency general principles for the exemption of radiation sources and practices from regulatory control. The national authority shall also take into account the relevant recommendations, standards and guidelines developed by the International Atomic Energy Agency;

(e) "vessels" and "aircraft" means waterborne or airborne craft of any type whatsoever. This expression includes air cushioned craft and floating craft, whether self-propelled or not;

(f) "pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment (including estuaries) which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities;

in applying this definition to the Convention obligations, the Parties shall use their best endeavours to comply with the appropriate standards and recommendations established by competent international organisations, including the International Atomic Energy Agency;

(g) "Organisation" means the South Pacific Commission;

(h) "Director" means the Director of the South Pacific Bureau for Economic Co-operation.

Article 3

Addition to the Convention Area

Any Party may add areas under its jurisdiction within the Pacific Ocean between the Tropic of Cancer and 60 degrees South latitude and between 130 degrees East longitude and 120 degrees West longitude to the Convention Area. Such addition shall be notified to the Depositary who shall promptly notify the other Parties and the Organisation. Such areas shall be incorporated within the Convention Area ninety days after notification to the Parties by the Depositary, provided there has been no objection to the proposal to add new areas by any Party affected by that proposal. If there is any such objection the Parties concerned will consult with a view to resolving the matter.

Article 4

General provisions

1. The Parties shall endeavour to conclude bilateral or multilateral agreements, including regional or sub-regional agreements, for the protection, development and management of the marine and coastal environment of the Convention Area. Such agreements shall be consistent with this Convention and in accordance with international law. Copies of such agreements shall be communicated to the Organisation and through it to all Parties to this Convention.

2. Nothing in this Convention or its Protocols shall be deemed to affect obligations assumed by a Party under agreements previously concluded.

3. Nothing in this Convention and its Protocols shall be construed to prejudice or affect the interpretation and application of any provision or term in the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

4. This Convention and its Protocols shall be construed in accordance with international law relating to their subject matter.

5. Nothing in this Convention and its Protocols shall prejudice the present or future claims and legal views of any Party concerning the nature and extent of maritime jurisdiction.

6. Nothing in this Convention shall affect the sovereign right of States to exploit, develop and manage their own natural resources pursuant to their own policies, taking into account their duty to protect and preserve the environment. Each Party shall ensure that activities within its jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of its national jurisdiction.

Article 5

General obligations

1. The Parties shall endeavour, either individually or jointly, to take all appropriate measures in conformity with international law and in accordance with this Convention and those Protocols in force to which they are party to prevent, reduce and control pollution of the Convention Area, from any source, and to ensure sound environmental management and development of natural resources, using for this purpose the best practicable means at their disposal, and in accordance with their capabilities. In doing so the Parties shall endeavour to harmonise their policies at the regional level.

2. The Parties shall use their best endeavours to ensure that the implementation of this Convention shall not result in an increase in pollution in the marine environment outside the Convention Area.

3. In addition to the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping and the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region, the Parties shall co-operate in the formulation and adoption of other Protocols prescribing agreed measures, procedures and standards to prevent, reduce and control pollution from all sources or in promoting environmental management in conformity with the objectives of this Convention.

4. The Parties shall, taking into account existing internationally recognised rules, standards, practices and procedures, co-operate with competent global, regional and sub-regional organisations to establish and adopt recommended practices, procedures and measures to prevent, reduce and control pollution from all sources and to promote sustained resource management and to ensure the sound development of natural resources in conformity with the objectives of this Convention and its Protocols, and to assist each other in fulfilling their obligations under this Convention and its Protocols.

5. The Parties shall endeavour to establish laws and regulations for the effective discharge of the obligations prescribed in this Convention. Such laws and regulations shall be no less effective than international rules, standards and recommended practices and procedures.

Article 6

Pollution from vessels

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by discharges from vessels, and to ensure the effective application in the Convention Area of the generally accepted international rules and standards established through the competent international organisation or general diplomatic conference relating to the control of pollution from vessels.

Article 7

Pollution from land-based sources

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by coastal disposal or by discharges emanating from rivers, estuaries, coastal establishments, outfall structures, or any other sources in their territory.

Article 8

Pollution from sea-bed activities

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting directly or indirectly from exploration and exploitation of the sea-bed and its subsoil.

Article 9

Airborne pollution

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from discharges into the atmosphere from activities under their jurisdiction.

Article 10

Disposal of wastes

1. The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area caused by dumping from vessels, aircraft, or man-made structures at sea, including the effective application of the relevant internationally recognised rules and procedures relating to the control of dumping of wastes and other matter. The Parties agree to prohibit the dumping of radioactive wastes or other radioactive matter in the Convention Area. Without prejudice to whether or not disposal into the seabed and subsoil of wastes or other matter is "dumping", the Parties agree to prohibit the disposal into the seabed and subsoil of the Convention area of radioactive wastes or other radioactive matter.

2. This article shall also apply to the continental shelf of a Party where it extends, in accordance with international law, outward beyond the Convention Area.

Article 11

Storage of toxic and hazardous wastes

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area resulting from the storage of toxic and hazardous wastes. In particular, the Parties shall prohibit the storage of radioactive wastes or other radioactive matter in the Convention Area.

Article 12

Testing of nuclear devices

The Parties shall take all appropriate measures to prevent, reduce and control pollution in the Convention Area which might result from the testing of nuclear devices.

Article 13

Mining and coastal erosion

The Parties shall take all appropriate measures to prevent, reduce and control environmental damage in the Convention Area, in particular coastal erosion caused by coastal engineering, mining activities, sand removal, land reclamation and dredging.

Article 14

Specially protected areas and protection of wild flora and fauna

The Parties shall, individually or jointly, take all appropriate measures to protect and preserve rare or fragile ecosystems and depleted, threatened or endangered flora and fauna as well as their habitat in the Convention Area. To this end, the Parties shall, as appropriate, establish protected areas, such as parks and reserves, and prohibit or regulate any activity likely to have adverse effects on the species, ecosystems or biological processes that such areas are designed to protect. The establishment of such areas shall not affect the rights of other Parties or third States under international law. In addition, the Parties shall exchange information concerning the administration and management of such areas.

Article 15

Co-operation in combating pollution in cases of emergency

1. The Parties shall co-operate in taking all necessary measures to deal with pollution emergencies in the Convention Area, whatever the cause of such emergencies, and to prevent, reduce and control pollution or the threat of pollution resulting therefrom. To this end, the Parties shall develop and promote individual contingency plans and joint contingency plans for responding to incidents involving pollution or the threat thereof in the Convention Area.

2. When a Party becomes aware of a case in which the Convention Area is in imminent danger of being polluted or has been polluted, it shall immediately notify other countries and territories it deems likely to be

affected by such pollution, as well as the Organisation. Furthermore it shall inform, as soon as feasible, such other countries and territories and the Organisation of any measures it has itself taken to reduce or control pollution or the threat thereof.

Article 16

Environmental impact assessment

1. The Parties agree to develop and maintain, with the assistance of competent global, regional and sub-regional organisations as requested, technical guidelines and legislation giving adequate emphasis to environmental and social factors to facilitate balanced development of their natural resources and planning of their major projects which might affect the marine environment in such a way as to prevent or minimise harmful impacts on the Convention Area.

2. Each Party shall, within its capabilities, assess the potential effects of such projects on the marine environment, so that appropriate measures can be taken to prevent any substantial pollution of, or significant and harmful changes within, the Convention Area.

3. With respect to the assessment referred to in paragraph 2, each Party shall, where appropriate, invite:

(a) public comment according to its national procedures,

(b) other Parties that may be affected to consult with it and submit comments.

The results of these assessments shall be communicated to the Organisation, which shall make them available to interested Parties.

Article 17

Scientific and technical co-operation

1. The Parties shall co-operate, either directly or with the assistance of competent global, regional and sub-regional organisations, in scientific research, environmental monitoring, and the exchange of data and other scientific and technical information related to the purposes of the Convention.

2. In addition, the Parties shall, for the purposes of this Convention, develop and co-ordinate research and monitoring programmes relating to the Convention Area and co-operate, as far as practicable, in the establishment and implementation of regional, sub-regional and international research programmes.

Article 18

Technical and other assistance

The Parties undertake to co-operate, directly and when appropriate through the competent global, regional and sub-regional organisations, in the provision to other Parties of technical and other assistance in fields relating to pollution and sound environmental management of the Convention Area, taking into account the special needs of the island developing countries and territories.

Article 19

Transmission of information

The Parties shall transmit to the Organisation information on the measures adopted by them in the implementation of this Convention and of Protocols to which they are Parties, in such form and at such intervals as the Parties may determine.

Article 20

Liability and compensation

The Parties shall co-operate in the formulation and adoption of appropriate rules and procedures in conformity with international law in respect of liability and compensation for damage resulting from pollution of the Convention Area.

Article 21

Institutional arrangements

1. The Organisation shall be responsible for carrying out the following secretariat functions:

(a) to prepare and convene the meetings of Parties;

(b) to transmit to the Parties notifications, reports and other information received in accordance with this Convention and its Protocols;

(c) to perform the functions assigned to it by the Protocols to this Convention;

(d) to consider enquiries by, and information from, the Parties and to consult with them on questions relating to this Convention and the Protocols;

(e) to co-ordinate the implementation of co-operative activities agreed upon by the Parties;

(f) to ensure the necessary co-ordination with other competent global, regional and sub-regional bodies;

(g) to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions;

(h) to perform such other functions as may be assigned to it by the Parties; and

(i) to transmit to the South Pacific Conference and the South Pacific Forum the reports of ordinary and extraordinary meetings of the Parties.

2. Each Party shall designate an appropriate national authority to serve as the channel of communication with the Organisation for the purposes of this Convention.

Article 22

Meetings of the Parties

1. The Parties shall hold ordinary meetings once every two years. Ordinary meetings shall review the implementation of this Convention and its Protocols and, in particular, shall:

(a) assess periodically the state of the environment in the Convention Area;

(b) consider the information submitted by the Parties under article 19;

(c) adopt, review and amend as required annexes to this Convention and to its Protocols, in accordance with the provisions of article 25;

(d) make recommendations regarding the adoption of any Protocols or any amendments to this Convention or its Protocols in accordance with the provisions of articles 23 and 24;

(e) establish working groups as required to consider any matters concerning this Convention and its Protocols;

(f) consider co-operative activities to be undertaken within the framework of this Convention and its Protocols, including their financial and institutional implications and to adopt decisions relating thereto;

(g) consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and its Protocols; and

(h) adopt by consensus financial rules and budget, prepared in consultation with the Organisation, to determine, *inter alia*, the financial participation of the Parties under this Convention and those Protocols to which they are party.

2. The Organisation shall convene the first ordinary meeting of the Parties not later than one year after the date on which the Convention enters into force in accordance with article 31.

3. Extraordinary meetings shall be convened at the request of any Party or upon the request of the Organisation, provided that such requests are supported by at least two-thirds of the Parties. It shall be the function of an extraordinary meeting of the Parties to consider those items proposed in the request for the holding of the extraordinary meeting and any other items agreed to by all the Parties attending the meeting.

4. The Parties shall adopt by consensus at their first ordinary meeting, rules of procedure for their meetings.

Article 23

Adoption of Protocols

1. The Parties may, at a conference of plenipotentiaries, adopt Protocols to this Convention pursuant to paragraph 3 of article 5.

2. If so requested by a majority of the Parties, the Organisation shall convene a conference of plenipotentiaries for the purpose of adopting Protocols to this Convention.

Article 24

Amendment of the Convention and its Protocols

1. Any Party may propose amendments to this Convention. Amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties.

2. Any Party to this Convention may propose amendments to any Protocol. Such amendments shall be adopted by a conference of plenipotentiaries which shall be convened by the Organisation at the request of two-thirds of the Parties to the Protocol concerned.

3. A proposed amendment to the Convention or any Protocol shall be communicated to the Organisation, which shall promptly transmit such proposal for consideration to all the other Parties.

4. A conference of plenipotentiaries to consider a proposed amendment to the Convention or any Protocol shall be convened not less than ninety days after the requirements for the convening of the Conference have been met pursuant to paragraphs 1 or 2, as the case may be.

5. Any amendment to this Convention shall be adopted by a three-fourths majority vote of the Parties to the Convention which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Convention. Amendments to any Protocol shall be adopted by a three-fourths majority vote of the Parties to the Protocol which are represented at the conference of plenipotentiaries and shall be submitted by the Depositary for acceptance by all Parties to the Protocol.

6. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments shall enter into force between Parties having accepted such amendments on the thirtieth day following the date of receipt by the Depositary of the instruments of at least three-fourths of the Parties to this Convention or to the Protocol concerned, as the case may be. Thereafter the amendments shall enter into force for any other Party on the thirtieth day after the date on which that Party deposits its instrument.

7. After the entry into force of an amendment to this Convention or to a Protocol, any new Party to the Convention or such protocol shall become a Party to the Convention or Protocol as amended.

Article 25

Annexes and amendment of Annexes

1. Annexes to this Convention or to any Protocol shall form an integral part of the Convention or such Protocol respectively.

2. Except as may be otherwise provided in any Protocol with respect to its annexes, the following procedures shall apply to the adoption and entry into force of any amendments to annexes to this Convention or to annexes to any Protocol:

(a) any Party may propose amendments to the annexes to this Convention or annexes to any Protocol;

(b) any proposed amendment shall be notified by the Organisation to the Parties not less than sixty days before the convening of a meeting of the Parties unless this requirement is waived by the meeting;

(c) such amendments shall be adopted at a meeting of the Parties by a three-fourths majority vote of the Parties to the instrument in question;

(d) the Depositary shall without delay communicate the amendments so adopted to all Parties;

(e) any Party that is unable to approve an amendment to the annexes to this Convention or to annexes to any Protocol shall so notify in writing to the Depositary within one hundred days from the date of the communication of the amendment by the Depositary. A Party may at any time substitute an acceptance for a previous declaration of objection, and the amendment shall thereupon enter into force for that Party;

(f) the Depositary shall without delay notify all Parties of any notification received pursuant to the preceding sub-paragraph; and

(g) on expiry of the period referred to in sub-paragraph (e) above, the amendment to the annex shall become effective for all Parties to this Convention or to the Protocol concerned which have not submitted a notification in accordance with the provisions of that sub-paragraph.

3. The adoption and entry into force of a new annex shall be subject to the same procedure as that for the adoption and entry into force of an amendment to an annex as set out in the provisions of paragraph 2, provided that, if any amendment to the Convention or the Protocol concerned is involved, the new annex shall not enter into force until such time as that amendment enters into force.

4. Amendments to the Annex on Arbitration shall be considered to be amendments to this Convention or its Protocols and shall be proposed and adopted in accordance with the procedures set out in article 24.

Article 26

Settlement of disputes

1. In case of a dispute between Parties as to the interpretation or application of this Convention or its Protocols, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice. If the Parties concerned cannot reach agreement, they should seek the good offices of, or jointly request mediation by, a third Party.

2. If the Parties concerned cannot settle their dispute through the means mentioned in paragraph 1, the dispute shall, upon common agreement, except as may be otherwise provided in any Protocol to this Convention, be submitted to arbitration under conditions laid down in the Annex on Arbitration to this Convention. However, failure to reach common agreement on submission of the dispute to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by means referred to in paragraph 1.

3. A Party may at any time declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any other Party accepting the same obligation, the application of the arbitration procedure set out in the Annex on Arbitration. Such declaration shall be notified in writing to the Depositary who shall promptly communicate it to the other Parties.

Article 27

Relationship between this Convention and its Protocols

1. No State may become a Party to this Convention unless it becomes at the same time a Party to one or more Protocols. No State may become a Party to a Protocol unless it is, or becomes at the same time, a Party to this Convention.

2. Decisions concerning any Protocol pursuant to articles 22, 24 and 25 of this Convention shall be taken only by the Parties to the Protocol concerned.

Article 28

Signature

This Convention, the Protocol Concerning Co-operation in Combating Pollution Emergencies in the South Pacific Region,[1] and the Protocol for the Prevention of Pollution of the South Pacific Region by Dumping[2] shall be open for signature[3] at the South Pacific Commission Headquarters in Noumea, New Caledonia on 25 November 1986 and at the South Pacific Bureau for Economic Co-operation Headquarters, Suva, Fiji from 26 November 1986 to 25 November 1987 by States which were invited to participate in the Plenipotentiary Meeting of the High Level Conference on the Protection of the Natural Resources and Environment of the South Pacific Region held at Noumea, New Caledonia from 24 November 1986 to 25 November 1986.

Article 29

Ratification, acceptance or approval

This Convention and any Protocol thereto shall be subject to ratification, acceptance or approval by States referred to in article 28.[4] Instruments of ratification, acceptance or approval shall be deposited with the Director who shall be the Depositary.

Article 30

Accession

1. This Convention and any Protocol thereto shall be open to accession by the States referred to in article 28 as from the day following the date on which the Convention or Protocol concerned was closed for signature.

2. Any State not referred to in paragraph 1 may accede to the Convention and to any Protocols subject to prior approval by three-fourths of the Parties to the Convention or the Protocol concerned.

3. Instruments of accession shall be deposited with the Depositary.

Article 31

Entry into force

1. This Convention shall enter into force on the thirtieth day following the date of deposit of at least ten instruments of ratification, acceptance, approval or accession.[5]

2. Any Protocol to this Convention, except as otherwise provided in such Protocol, shall enter into force on the thirtieth day following the date of deposit of at least five instruments of ratification, acceptance or approval of such Protocol, or of accession thereto, provided that no Protocol shall enter into force before the Convention. Should the requirements for entry into force of a Protocol be met prior to those for entry into force of the Convention pursuant to paragraph 1, such Protocol shall enter into force on the same date as the Convention.

3. Thereafter, this Convention and any Protocol shall enter into force with respect to any State referred to in articles 28 or 30 on the thirtieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 32

Denunciation

1. At any time after two years from the date of entry into force of this Convention with respect to a Party, that Party may denounce the Convention by giving written notification to the Depositary.

2. Except as may be otherwise provided in any Protocol to this Convention, any Party may, at any time after two years from the date of entry into force of such Protocol with respect to that Party, denounce the Protocol by giving written notification to the Depositary.

3. Denunciation shall take effect ninety days after the date on which notification of denunciation is received by the Depositary.

4. Any Party which denounces this Convention shall be considered as also having denounced any Protocol to which it was a Party.

5. Any Party which, upon its denunciation of a Protocol, is no longer a Party to any Protocol to this Convention, shall be considered as also having denounced this Convention.

Article 33

Responsibilities of the Depositary

1. The Depositary shall inform the Parties, as well as the Organisation:

(a) of the signature of this Convention and of any Protocol thereto and of the deposit of instruments of ratification, acceptance, approval, or accession in accordance with articles 29 and 30;

(b) of the date on which the Convention and any Protocol will come into force in accordance with the provisions of article 31;

(c) of notification of denunciation made in accordance with article 32;

(d) of notification of any addition to the Convention Area in accordance with article 3;

(d) of the amendments adopted with respect to the Convention and to any Protocol, their acceptance by the Parties and the date of their entry into force in accordance with the provisions of article 24; and

(f) of the adoption of new annexes and of the amendments of any annex in accordance with article 25.

2. The original of this Convention and of any Protocol thereto shall be deposited with the Depositary who shall send certified copies thereof to the Signatories, the Parties, to the Organisation and to the Secretary-General of the United Nations for registration and publication in accordance with article 102 of the United Nations Charter.

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

DONE at Noumea, New Caledonia on the twenty-fourth day of November in the year one thousand nine hundred and eighty-six in a single copy in the English and French languages, the two texts being equally authentic.

[Signatures not reproduced here.]

ANNEX ON ARBITRATION

Article 1

Unless the agreement referred to in article 26 of the Convention provides otherwise, the arbitration procedure shall be in accordance with the rules set out in this Annex.

Article 2

The claimant Party shall notify the Organisation that the Parties have agreed to submit the dispute to arbitration pursuant to paragraph 2, or that paragraph 3 of article 26 of the Convention is applicable. The notification shall state the subject matter of the arbitration and include the provisions of the Convention or any Protocol thereto, the interpretation or application of which is the subject of disagreement. The Organisation shall transmit this information to all Parties to the Convention or Protocol concerned.

Article 3

1. The Tribunal shall consist of a single arbitrator if so agreed between the Parties to the dispute within thirty days from the date of receipt of the notification for arbitration.

2. In the case of the death, disability or default of the arbitrator, the Parties to a dispute may agree upon a replacement within thirty days of such death, disability or default.

Article 4

1. Where the Parties to a dispute do not agree upon a Tribunal in accordance with article 3 of this Annex, the Tribunal shall consist of three members:

(i) one arbitrator nominated by each Party to the dispute, and

(ii) a third arbitrator who shall be nominated by agreement between the two first named and who shall act as its Chairman.

2. If the Chairman of a Tribunal is not nominated within thirty days of nomination of the second arbitrator, the Parties to a dispute shall, upon the request of one Party, submit to the Secretary-General of the Organisation within a further period of thirty days, an agreed list of qualified persons. The Secretary-General shall select the Chairman from such list as soon as possible. He shall not select a Chairman who is, or has been, a national of one Party to the dispute except with the consent of the other Party to the dispute.

3. If one Party to a dispute fails to nominate an arbitrator as provided in subparagraph 1(i) within sixty days from the date of receipt of the notification for arbitration, the other Party may request the submission to the Secretary-General of the Organisation within a period of thirty days of an agreed list of qualified persons. The Secretary-General shall select the Chairman of the Tribunal from such list as soon as possible. The Chairman shall then request the Party which has not nominated an arbitrator to do so. If this Party does not nominate an arbitrator within fifteen days of such request, the Secretary-General shall, upon request of the Chairman, nominate the arbitrator from the agreed list of qualified persons.

4. In the case of the death, disability or default of an arbitrator, the Party to the dispute who nominated him shall nominate a replacement within thirty days of such death, disability or default. If the Party does not nominate a replacement, the arbitration shall proceed with the remaining arbitrators. In the case of the death, disability or default of the Chairman, a replacement shall be nominated in accordance with paragraphs 1(ii) and 2 within ninety days of such death, disability or default.

5. A list of arbitrators shall be maintained by the Secretary-General of the Organisation and composed of qualified persons nominated by the Parties. Each Party may designate for inclusion in the list four persons who shall not necessarily be its nationals. If the Parties to the dispute have failed within the specified time limits to submit to the Secretary-General an agreed list of qualified persons as provided for in paragraphs 2, 3 and 4, the Secretary-General shall select from the list maintained by him the arbitrator or arbitrators not yet nominated.

Article 5

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

Article 6

The Tribunal may, at the request of one of the Parties to the dispute, recommend interim measures of protection.

Article 7

Each Party to the dispute shall be responsible for the costs entailed by the preparation of its own case. The remuneration of the members of the Tribunal and of all general expenses incurred by the arbitration shall be borne equally by the Parties to the dispute. The Tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the Parties.

Article 8

Any Party which has an interest of a legal nature which may be affected by the decision in the case may, after giving written notice to the Parties to the dispute which have originally initiated the procedure, intervene in the arbitration procedure with the consent of the Tribunal which should be freely given. Any intervenor shall participate at its own expense. Any such intervenor shall have the right to present evidence, briefs and oral arguments on the matter giving rise to its intervention, in accordance with procedures established pursuant to article 9 of this Annex but shall have no rights with respect to the composition of the Tribunal.

Article 9

A Tribunal established under the provisions of this Annex shall decide its own rules of procedure.

Article 10

1. Unless a Tribunal consists of a single arbitrator, decisions of the Tribunal as to its procedure, its place of meeting, and any question related to the dispute laid before it, shall be taken by majority vote of its members. However, the absence or abstention of any member of the Tribunal who was nominated by a Party to the dispute shall not constitute an impediment to the Tribunal reaching a decision. In case of equal voting, the vote of the Chairman shall be decisive.

2. The Parties to the dispute shall facilitate the work of the Tribunal and in particular shall, in accordance with their legislation and using all means at their disposal:

(i) provide the Tribunal with all necessary documents and information, and

(ii) enable the Tribunal to enter their territory, to hear witnesses or experts, and to visit the scene of the subject matter of the arbitration.

3. The failure of a Party to the dispute to comply with the provisions of paragraph 2 or to defend its case shall not preclude the Tribunal from reaching a decision and rendering an award.

Article 11

The Tribunal shall render its award within five months from the time it is established unless it finds it necessary to extend that time limit for a period not to exceed five months. The award of the Tribunal shall be accompanied by a statement of reasons for the decision. It shall be final and without appeal and shall be communicated to the Secretary-General of the Organisation who shall inform the Parties. The Parties to the dispute shall immediately comply with the award.

[1]ATS 1990 No. 32 SD 34 p. 196; ILM 26 p. 38.

[2] SD 34 p. 176; ILM 26 p. 38.

[3] The Convention was signed for Australia 24 November 1987.

[4] Instrument of ratification deposited for Australia 19 July 1989.

Annex 102

Montreal Protocol on Substances that Deplete the Ozone Layer, 16 September 1987, 1522 UNTS 3

No. 26369

MULTILATERAL

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

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

MULTILATÉRAL

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

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.
Enregistré d'office le 1er janvier 1989.

MONTREAL PROTOCOL[1] ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

The Parties to this Protocol,

Being Parties to the Vienna Convention for the Protection of the Ozone Layer,[2]

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

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

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

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

State or organization	*Date of deposit of the instrument of ratification, acceptance (A) or approval (AA)*
Byelorussian Soviet Socialist Republic	31 October 1988 *A*
Canada	30 June 1988
Denmark (With declaration of non-application to the Faroe Islands and Greenland.)	16 December 1988
Egypt	2 August 1988
Finland	23 December 1988 *A*
France	28 December 1988 *AA*
Germany, Federal Republic of (With a declaration of application to Berlin (West).)	16 December 1988
Ireland	16 December 1988
Italy	16 December 1988
Japan	30 September 1988 *A*
Malta	29 December 1988
Mexico	31 March 1988 *A*
Netherlands (For the Kingdom in Europe, the Netherlands Antilles and Aruba.)	16 December 1988 *A*
New Zealand (With a declaration of non-application to the Cook Islands and Niue.)	21 July 1988
Norway	24 June 1988
Spain	16 December 1988
Sweden	29 June 1988
Switzerland	28 December 1988
Uganda	15 September 1988
Ukrainian Soviet Socialist Republic	20 September 1988 *A*
Union of Soviet Socialist Republics	10 November 1988 *A*
United Kingdom of Great Britain and Northern Ireland (In respect of the United Kingdom of Great Britain and Northern Ireland and the following territories: Bailiwick of Jersey, Isle of Man, Anguilla, Bermuda, British Antarctic Territory, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Hong Kong, Montserrat, Pitcairn, Henderson, Ducie and Oeno Islands, Saint Helena and Dependencies, South Georgia and South Sandwich Islands and Turks and Caicos Islands.)	16 December 1988
United States of America	21 April 1988

In accordance with article 16 (1) of the Vienna Convention for the Protection of the Ozone Layer concluded at Vienna on 22 March 1985,[2] the above-mentioned States had become Parties to the said Convention on the date of deposit of their instrument of ratification, acceptance, approval of the Protocol or accession thereto.

(Continued on page 30)

Aware that measures taken to protect the ozone layer from depletion should be based on relevant scientific knowledge, taking into account technical and economic considerations,

Determined to protect the ozone layer by taking precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge, taking into account technical and economic considerations,

Acknowledging that special provision is required to meet the needs of developing countries for these substances,

Noting the precautionary measures for controlling emissions of certain chlorofluorocarbons that have already been taken at national and regional levels,

Considering the importance of promoting international co-operation in the research and development of science and technology relating to the control and reduction of emissions of substances that deplete the ozone layer, bearing in mind in particular the needs of developing countries,

Have agreed as follows:

Article 1. DEFINITIONS

For the purposes of this Protocol:

1. "Convention" means the Vienna Convention for the Protection of the Ozone Layer, adopted on 22 March 1985.

2. "Parties" means, unless the text otherwise indicates, Parties to this Protocol.

3. "Secretariat" means the secretariat of the Convention.

4. "Controlled substance" means a substance listed in Annex A to this Protocol, whether existing alone or in a mixture. It excludes, however, any such substance or mixture which is in a manufactured product other than a container used for the transportation or storage of the substance listed.

5. "Production" means the amount of controlled substances produced minus the amount destroyed by technologies to be approved by the Parties.

(Continued from page 29)

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

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

[2] United Nations, *Treaty Series*, vol. 1513, No. I-26164.

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

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

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

Article 2. CONTROL MEASURES

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

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

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

4. Each Party shall ensure that for the period 1 July 1998 to 30 June 1999, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex A does not exceed, annually, fifty per cent of its calculated level of consumption in 1986. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated

level of production of the substances does not exceed, annually, fifty per cent of its calculated level of production in 1986. However, in order to satisfy the basic domestic needs of the Parties operating under Article 5 and for the purposes of industrial rationalization between Parties, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production in 1986. This paragraph will apply unless the Parties decide otherwise at a meeting by a two-thirds majority of Parties present and voting, representing at least two thirds of the total calculated level of consumption of these substances of the Parties. This decision shall be considered and made in the light of the assessments referred to in Article 6.

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

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

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

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

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

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

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

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

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

the scope, amount and timing of any such adjustments and reductions should be.

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

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

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

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

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

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

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

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

Article 3. CALCULATION OF CONTROL LEVELS

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

(*a*) Production by:

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

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

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

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

Article 4. CONTROL OF TRADE WITH NON-PARTIES

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

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

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

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

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

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

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

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

Article 5. SPECIAL SITUATION OF DEVELOPING COUNTRIES

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

2. The Parties undertake to facilitate access to environmentally safe alternative substances and technology for Parties that are developing countries and assist them to make expeditious use of such alternatives.

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

Article 6. ASSESSMENT AND REVIEW OF CONTROL MEASURES

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

Article 7. REPORTING OF DATA

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

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

Article 8. NON-COMPLIANCE

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

Article 9. RESEARCH, DEVELOPMENT, PUBLIC AWARENESS AND EXCHANGE OF INFORMATION

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

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

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

(*c*) Costs and benefits of relevant control strategies.

2. The Parties, individually, jointly or through competent international bodies, shall co-operate in promoting public awareness of the environmental

effects of the emissions of controlled substances and other substances that deplete the ozone layer.

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

Article 10. TECHNICAL ASSISTANCE

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

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

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

Article 11. MEETINGS OF THE PARTIES

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

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

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

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

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

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

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

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

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

(*a*) Review the implementation of this Protocol;

(*b*) Decide on any adjustments or reductions referred to in paragraph 9 of Article 2;

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

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

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

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

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

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

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

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

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

Article 12. SECRETARIAT

For the purposes of this Protocol, the secretariat shall:

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

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

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

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

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

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

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

Article 13. FINANCIAL PROVISIONS

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

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

Article 14. RELATIONSHIP OF THIS PROTOCOL TO THE CONVENTION

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

Article 15. SIGNATURE

This Protocol shall be open for signature by States and by regional economic integration organizations in Montreal on 16 September 1987, in Ottawa from 17 September 1987 to 16 January 1988, and at United Nations Headquarters in New York from 17 January 1988 to 15 September 1988.

Article 16. ENTRY INTO FORCE

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

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

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

Article 17. PARTIES JOINING AFTER ENTRY INTO FORCE

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

Article 18. RESERVATIONS

No reservations may be made to this Protocol.

Article 19. WITHDRAWAL

For the purposes of this Protocol, the provisions of Article 19 of the Convention relating to withdrawal shall apply, except with respect to Parties referred to in paragraph 1 of Article 5. Any such Party may withdraw from this Protocol by

giving written notification to the Depositary at any time after four years of assuming the obligations specified in paragraphs 1 to 4 of Article 2. Any such withdrawal shall take effect upon expiry of one year after the date of its receipt by the Depositary, or on such later date as may be specified in the notification of the withdrawal.

Article 20. AUTHENTIC TEXTS

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

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

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

[*For the signatures, see p. 76 of this volume.*]

ANNEX A

CONTROLLED SUBSTANCES

Group	*Substance*	*Ozone Depleting Potential**
Group I		
	$CFCl_3$ (CFC-11)	1.0
	CF_2Cl_2 (CFC-12)	1.0
	$C_2F_3Cl_3$ (CFC-113)	0.8
	$C_2F_4Cl_2$ (CFC-114)	1.0
	C_2F_5Cl (CFC-115)	0.6
Group II		
	CF_2BrCl (halon-1211)	3.0
	CF_3Br (halon-1301)	10.0
	$C_2F_4Br_2$ (halon-2402)	(To be determined)[1]

* These ozone depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically.

[1] In accordance with the relevant provisions of article 11 of the Protocol, the Parties decided, at their first meeting held in Helsinki, on 5 May 1989, to set the value for the ozone depleting potential for halon-2402 to 6.0.

باسم أفغانستان :

代表阿富汗：

In the name of Afghanistan:
Au nom de l'Afghanistan :
От имени Афганистана:
En nombre del Afganistán:

باسم ألبانيا :

代表阿尔巴尼亚：

In the name of Albania:
Au nom de l'Albanie :
От имени Албании:
En nombre de Albania:

باسم الجزائر :

代表阿尔及利亚：

In the name of Algeria:
Au nom de l'Algérie :
От имени Алжира:
En nombre de Argelia:

باسم أنغولا :

代表安哥拉：

In the name of Angola:
Au nom de l'Angola :
От имени Анголы:
En nombre de Angola:

باسم أنتيغوا وبربودا :

代表安提瓜和巴布达：

In the name of Antigua and Barbuda:
Au nom d'Antigua-et-Barbuda :
От имени Антигуа и Барбуды:
En nombre de Antigua y Barbuda:

باسم الأرجنتين :

代表阿根廷：
In the name of Argentina:
Au nom de l'Argentine :
От имени Аргентины:
En nombre de la Argentina:

MARCELO E. R. DELPECH
6.29.1988

باسم استراليا :

代表澳大利亚：
In the name of Australia:
Au nom de l'Australie :
От имени Австралии:
En nombre de Australia:

RICHARD A. WOOLCOTT, A. O.
8 June 1988

باسم النمسا :

代表奥地利：
In the name of Austria:
Au nom de l'Autriche :
От имени Австрии:
En nombre de Austria:

HELMUT FREUDENSCHUSS
29 August 1988

باسم البهاما :

代表巴哈马：
In the name of the Bahamas:
Au nom des Bahamas :
От имени Багамских островов:
En nombre de las Bahamas:

باسم البحرين :

代表巴林：

In the name of Bahrain:
Au nom de Bahreïn :
От имени Бахрейна:
En nombre de Bahrein:

باسم بنغلاديش:

代表孟加拉国：

In the name of Bangladesh:
Au nom du Bangladesh :
От имени Бангладеш:
En nombre de Bangladesh:

باسم بربادوس:

代表巴巴多斯：

In the name of Barbados:
Au nom de la Barbade :
От имени Барбадоса:
En nombre de Barbados:

باسم بلجيكا :

代表比利时：

In the name of Belgium:
Au nom de la Belgique :
От имени Бельгии:
En nombre de Bélgica:

M. SMET

باسم بليز :

代表伯利兹

In the name of Belize:
Au nom de Belize :
От имени Белиза:
En nombre de Belice:

باسم بنـــين :

代表贝宁：
In the name of Benin:
Au nom du Bénin :
От имени Бенина:
En nombre de Benin:

باسم بوتـان :

代表不丹：
In the name of Bhutan:
Au nom du Bhoutan :
От имени Бутана:
En nombre de Bhután:

باسم بوليفيا :

代表玻利维亚：
In the name of Bolivia:
Au nom de la Bolivie :
От имени Боливии:
En nombre de Bolivia:

باسم بوتسوانا :

代表博茨瓦纳：
In the name of Botswana:
Au nom du Botswana :
От имени Ботсваны:
En nombre de Botswana:

باسم البرازيـل :

代表巴西：
In the name of Brazil:
Au nom du Brésil :
От имени Бразилии:
En nombre del Brasil:

باسم بروني دار السلام:

代表文莱国：

In the name of Brunei Darussalam:
Au nom de Brunei Darussalam :
От имени Брунея Даруссалама:
En nombre de Brunei Darussalam:

باسم بلغاريا:

代表保加利亚：

In the name of Bulgaria:
Au nom de la Bulgarie :
От имени Болгарии:
En nombre de Bulgaria:

باسم بوركينا فاسو:

代表布尔基纳法索：

In the name of Burkina Faso:
Au nom du Burkina Faso :
От имени Буркина Фасо:
En nombre de Burkina Faso:

MICHEL MONVEL DAH
14-09-1988

باسم بورما:

代表缅甸：

In the name of Burma:
Au nom de la Birmanie :
От имени Бирмы:
En nombre de Birmania:

باسم بوروندي:

代表布隆迪：

In the name of Burundi:
Au nom du Burundi :
От имени Бурунди:
En nombre de Burundi:

باسم جمهورية بيلوروسيا الاشتراكية السوفياتية:

代表白俄罗斯苏维埃社会主义共和国:

In the name of the Byelorussian Soviet Socialist Republic:
Au nom de la République socialiste soviétique de Biélorussie :
От имени Белорусской Советской Социалистической Республики:
En nombre de la República Socialista Soviética de Bielorrusia:

OLEG NIKOLAEVICH PASHKEVICH
01.22.88

باسم كندا:

代表加拿大:

In the name of Canada:
Au nom du Canada :
От имени Канады:
En nombre del Canadá:

TOM MCMILLAN

باسم الرأس الأخضر:

代表佛得角:

In the name of Cape Verde:
Au nom du Cap-Vert :
От имени Островов Зеленого Мыса:
En nombre de Cabo Verde:

باسم جمهورية افريقيا الوسطى:

代表中非共和国:

In the name of the Central African Republic:
Au nom de la République centrafricaine :
От имени Центральноафриканской Республики:
En nombre de la República Centroafricana:

باسم تشاد:

代表乍得:

In the name of Chad:
Au nom du Tchad :
От имени Чада:
En nombre del Chad:

باسم شيلي :

代表智利：
In the name of Chile:
Au nom du Chili :
От имени Чили:
En nombre de Chile:

PEDRO DAZA
14 June 1988

باسم الصين :

代表中国：
In the name of China:
Au nom de la Chine :
От имени Китая:
En nombre de China:

باسم كولومبيا :

代表哥伦比亚：
In the name of Colombia:
Au nom de la Colombie :
От имени Колумбии:
En nombre de Colombia:

باسم كومورو :

代表科摩罗：
In the name of the Comoros:
Au nom des Comores :
От имени Коморских островов:
En nombre de las Comoras:

باسم الكونغو :

代表刚果：
In the name of the Congo:
Au nom du Congo :
От имени Конго:
En nombre del Congo:

MARTIN ADOUKI
15/9/88

باسم كوستاريكا :

代表哥斯达黎加：
In the name of Costa Rica:
Au nom du Costa Rica :
От имени Коста-Рики:
En nombre de Costa Rica:

باسم كوت د يفوار :

科特迪瓦代表：
In the name of Côte d'Ivoire:
Au nom de la Côte d'Ivoire :
От имени Кот д'Ивуар:
En nombre de Côte d'Ivoire:

باسم كوبا :

代表古巴：
In the name of Cuba:
Au nom de Cuba :
От имени Кубы:
En nombre de Cuba:

باسم قبرص :

代表塞浦路斯：
In the name of Cyprus:
Au nom de Chypre :
От имени Кипра:
En nombre de Chipre:

باسم تشيكوسلوفاكيا :

代表捷克斯洛伐克：
In the name of Czechoslovakia:
Au nom de la Tchécoslovaquie :
От имени Чехословакии:
En nombre de Checoslovaquia:

باسم كمبوتشيا الديمقراطية :

代表民主柬埔寨:
In the name of Democratic Kampuchea:
Au nom du Kampuchea démocratique :
От имени Демократической Кампучии:
En nombre de Kampuchea Democrática:

باسم جمهورية كوريا الشعبية الديمقراطية :

代表朝鲜民主主义人民共和国:
In the name of the Democratic People's Republic of Korea:
Au nom de la République populaire démocratique de Corée :
От имени Корейской Народно-Демократической Республики:
En nombre de la República Popular Democrática de Corea:

باسم اليمن الديمقراطية :

代表民主也门:
In the name of Democratic Yemen:
Au nom du Yémen démocratique :
От имени Демократического Йемена:
En nombre del Yemen Democrático:

باسم الدانمرك :

代表丹麦:
In the name of Denmark:
Au nom du Danemark :
От имени Дании:
En nombre de Dinamarca:

PER FERGO

باسم جيبوتي :

代表吉布提:
In the name of Djibouti:
Au nom de Djibouti :
От имени Джибути:
En nombre de Djibouti:

باسم دومينيكـــا :

代表多米尼加：

In the name of Dominica:
Au nom de la Dominique :
От имени Доминики:
En nombre de Dominica:

باسم الجمهورية الدومينيكية :

代表多米尼加共和国：

In the name of the Dominican Republic:
Au nom de la République dominicaine :
От имени Доминиканской Республики:
En nombre de la República Dominicana:

باسم اكـــــوادور :

代表厄瓜多尔：

In the name of Ecuador:
Au nom de l'Equateur :
От имени Эквадора:
En nombre del Ecuador:

باسم مصـــــر :

代表埃及：

In the name of Egypt:
Au nom de l'Egypte :
От имени Египта:
En nombre de Egipto:

ISSAM EL DIN MOHAMAD HAWAS

باسم السلفـــــادور :

代表萨尔瓦多：

In the name of El Salvador:
Au nom d'El Salvador :
От имени Сальвадора:
En nombre de El Salvador:

باسم غينيا الاستوائية :

代表赤道几内亚：

In the name of Equatorial Guinea:
Au nom de la Guinée équatoriale :
От имени Экваториальной Гвинеи:
En nombre de Guinea Ecuatorial:

باسم اثيوبيا :

代表埃塞俄比亚：

In the name of Ethiopia:
Au nom de l'Ethiopie :
От имени Эфиопии:
En nombre de Etiopía:

باسم جمهورية المانيا الاتحادية :

代表德意志联邦共和国：

In the name of the Federal Republic of Germany:
Au nom de la République fédérale d'Allemagne :
От имени Федеративной Республики Германии:
En nombre de la República Federal de Alemania:

WOLFGANG BEHRENDS
WOLFGANG GRÖBL

باسم فيجي :

代表斐济：

In the name of Fiji:
Au nom de Fidji :
От имени Фиджи:
En nombre de Fiji:

باسم فنلندا :

代表芬兰：

In the name of Finland:
Au nom de la Finlande :
От имени Финляндии:
En nombre de Finlandia:

KAJ BÄRLAND

باسم فرنسا :

代表法国：
In the name of France:
Au nom de la France :
От имени Франции:
En nombre de Francia:

ALBERT THIBAULT

باسم غابون :

代表加蓬：
In the name of Gabon:
Au nom du Gabon :
От имени Габона:
En nombre del Gabón:

باسم غامبيا :

代表冈比亚：
In the name of the Gambia:
Au nom de la Gambie :
От имени Гамбии:
En nombre de Gambia:

باسم الجمهورية الديمقراطية الألمانية :

代表德意志民主共和国：
In the name of the German Democratic Republic:
Au nom de la République démocratique allemande :
От имени Германской Демократической Республики:
En nombre de la República Democrática Alemana:

باسم غانا :

代表加纳：
In the name of Ghana:
Au nom du Ghana :
От имени Ганы:
En nombre de Ghana:

D. O. AGYEKUM

باسم اليونـــــان :

代表希腊：
In the name of Greece:
Au nom de la Grèce :
От имени Греции:
En nombre de Grecia:

ELIAS DIMITRAKOPOULOS

باسم غرينـــــــادا :

代表格林纳达：
In the name of Grenada:
Au nom de la Grenade :
От имени Гренады:
En nombre de Granada:

باسم غواتيمـــــــالا :

代表危地马拉：
In the name of Guatemala:
Au nom du Guatemala :
От имени Гватемалы:
En nombre de Guatemala:

باسم غينيا - بيساو :

代表几内亚比绍：
In the name of Guinea-Bissau:
Au nom de la Guinée-Bissau :
От имени Гвинеи-Бисау:
En nombre de Guinea-Bissau:

باسم غيانـــــا :

代表圭亚那：
In the name of Guyana:
Au nom de la Guyane :
От имени Гвианы:
En nombre de Guyana:

باسم هايـــــتي :

代表海地：
In the name of Haiti:
Au nom d'Haïti :
От имени Гаити:
En nombre de Haití:

باسم الكرسي الرسولي :

代表教廷：
In the name of the Holy See:
Au nom du Saint-Siège :
От имени Святейщего престола:
En nombre de la Santa Sede:

باسم هنـــــد وراس:

代表洪都拉斯：
In the name of Honduras:
Au nom du Honduras :
От имени Гондураса:
En nombre de Honduras:

باسم هنغاريـــــا :

代表匈牙利：
In the name of Hungary:
Au nom de la Hongrie :
От имени Венгрии:
En nombre de Hungría:

باسم ايسلنـــــــدا :

代表冰岛：
In the name of Iceland:
Au nom de l'Islande :
От имени Исландии:
En nombre de Islandia:

باسم الهنـــــد :

代表印度：
In the name of India:
Au nom de l'Inde :
От имени Индии:
En nombre de la India:

باسم اندونيســـا :

代表印度尼西亚：
In the name of Indonesia:
Au nom de l'Indonésie :
От имени Индонезии:
En nombre de Indonesia:

NANA S. SUTRESNA
21 July 1988

باسم العـــــراق :

代表伊拉克：
In the name of Iraq:
Au nom de l'Iraq :
От имени Ирака:
En nombre del Iraq:

باسم ايرلنـــــــدا :

代表爱尔兰：
In the name of Ireland:
Au nom de l'Irlande :
От имени Ирландии:
En nombre de Irlanda:

ROBERT MCDONAGH
15 September 1988

باسم جمهورية ايران الاسلاميـــــة :

代表伊朗伊斯兰共和国：
In the name of the Islamic Republic of Iran:
Au nom de la République islamique d'Iran :
От имени Исламской Республики Иран:
En nombre de la República Islámica del Irán:

باسم اسرائيل :

代表以色列：

In the name of Israel:
Au nom d' Israël :
От имени Израиля:
En nombre de Israel:

ISRAEL GUR-ARIEH

باسم ايطاليـــــا :

代表意大利：

In the name of Italy:
Au nom de l'Italie :
От имени Италии:
En nombre de Italia:

G. P. TOZZOLI

باسم ساحـــل العـــاج :

代表象牙海岸：

In the name of the Ivory Coast:
Au nom de la Côte d'Ivoire :
От имени Берега Слоновой Кости:
En nombre de la Costa de Marfil:

باسم جامايكـــــا :

代表牙买加：

In the name of Jamaica:
Au nom de la Jamaïque :
От имени Ямайки:
En nombre de Jamaica:

باسم اليابـــــان :

代表日本：

In the name of Japan:
Au nom du Japon :
От имени Японии:
En nombre del Japón:

YOSHIO OKAWA

باسم الأردن :

代表约旦：

In the name of Jordan:
Au nom de la Jordanie :
От имени Иордании:
En nombre de Jordania:

باسم كينيـــــا :

代表肯尼亚：

In the name of Kenya:
Au nom du Kenya :
От имени Кении:
En nombre de Kenya:

EARNEST CHERNIYOT ARAP LANGAT

باسم كيريباتـــي :

代表基里巴斯：

In the name of Kiribati:
Au nom de Kiribati :
От имени Кирибати:
En nombre de Kiribati:

باسم الكويـــت :

代表科威特：

In the name of Kuwait:
Au nom du Koweït :
От имени Кувейта:
En nombre de Kuwait:

باسم جمهورية لاو الديمقراطية الشعبيـــة :

代表老挝人民民主共和国：

In the name of the Lao People's Democratic Republic:
Au nom de la République démocratique populaire lao :
От имени Лаосской Народно-Демократической Республики:
En nombre de la República Democrática Popular Lao:

باسم لبنـــــان :

代表黎巴嫩：

In the name of Lebanon:
Au nom du Liban :
От имени Ливана:
En nombre del Líbano:

باسم ليسوتـــو :

代表莱索托：

In the name of Lesotho:
Au nom du Lesotho :
От имени Лесото:
En nombre de Lesotho:

باسم ليبريـــا :

代表利比里亚：

In the name of Liberia:
Au nom du Libéria :
От имени Либерии:
En nombre de Liberia:

باسم الجماهيرية العربية الليبيـة :

代表阿拉伯利比亚民众国：

In the name of the Libyan Arab Jamahiriya:
Au nom de la Jamahiriya arabe libyenne :
От имени Ливийской Арабской Джамахирии:
En nombre de la Jamahiriya Arabe Libia:

باسم لختنشتايـن :

代表列支敦士登：

In the name of Liechtenstein:
Au nom du Liechtenstein :
От имени Лихтенштейна:
En nombre de Liechtenstein:

باسم لكسمبرغ :

代表卢森堡：

In the name of Luxembourg:
Au nom du Luxembourg :
От имени Люксембурга:
En nombre de Luxemburgo:

JEAN FEYDER
29/1/88

باسم مدغشقر :

代表马达加斯加：

In the name of Madagascar:
Au nom de Madagascar :
От имени Мадагаскара:
En nombre de Madagascar:

باسم ملاوى :

代表马拉维：

In the name of Malawi:
Au nom du Malawi :
От имени Малави:
En nombre de Malawi:

باسم ماليزيا :

代表马来西亚：

In the name of Malaysia:
Au nom de la Malaisie :
От имени Малайзии:
En nombre de Malasia:

باسم ملديف :

代表马尔代夫：

In the name of Maldives:
Au nom des Maldives :
От имени Мальдивов:
En nombre de Maldivas:

HUSSEIN MARIKFAN
July 12, 1988

باسم مالـــي :

代表马里：

In the name of Mali:
Au nom du Mali :
От имени Мали:
En nombre de Malí:

باسم مالطـــه :

代表马耳他：

In the name of Malta:
Au nom de Malte :
От имени Мальты:
En nombre de Malta:

ALEXANDER BORG OLIVIER
15 Sept. 1988

باسم موريتانيـــا :

代表毛里塔尼亚：

In the name of Mauritania:
Au nom de la Mauritanie :
От имени Мавритании:
En nombre de Mauritania:

باسم موريشيـــوس :

代表毛里求斯：

In the name of Mauritius:
Au nom de Maurice :
От имени Маврикия:
En nombre de Mauricio:

باسم المكسيـــك :

代表墨西哥：

In the name of Mexico:
Au nom du Mexique :
От имени Мексики:
En nombre de México:

SERGIO REYES LUJÁN

باسم موناكـــو:

代表摩纳哥:

In the name of Monaco:
Au nom de Monaco :
От имени Монако:
En nombre de Mónaco:

باسم منغوليـــا:

代表蒙古:

In the name of Mongolia:
Au nom de la Mongolie :
От имени Монголии:
En nombre de Mongolia:

باسم المغـــرب:

代表摩洛哥:

In the name of Morocco:
Au nom du Maroc :
От имени Марокко:
En nombre de Marruecos:

MAÂTI JORIO

باسم موزامبيـــق:

代表莫桑比克:

In the name of Mozambique:
Au nom du Mozambique :
От имени Мозамбика:
En nombre de Mozambique:

باسم نـــاورو:

代表瑙鲁:

In the name of Nauru:
Au nom de Nauru :
От имени Науру:
En nombre de Nauru:

باسم نيبـــــال :

代表尼泊尔：
In the name of Nepal:
Au nom du Népal :
От имени Непала:
En nombre de Nepal:

باسم هولنـــــدا :

代表荷兰：
In the name of the Netherlands:
Au nom des Pays-Bas :
От имени Нидерландов:
En nombre de los Países Bajos:

E. H. T. M. NIJPELS
J. F. E. BREMAN

باسم نيوزيلنـــــدا :

代表新西兰：
In the name of New Zealand:
Au nom de la Nouvelle-Zélande :
От имени Новой Зеландии:
En nombre de Nueva Zelandia:

PHILIP WOOLLASTON

باسم نيكاراغـــــوا :

代表尼加拉瓜：
In the name of Nicaragua:
Au nom du Nicaragua :
От имени Никарагуа:
En nombre de Nicaragua:

باسم النيجـــــــر :

代表尼日尔：
In the name of the Niger:
Au nom du Niger :
От имени Нигера:
En nombre del Níger:

باسم نيجيريـــــا :

代表尼日利亚：

In the name of Nigeria:
Au nom du Nigéria :
От имени Нигерии:
En nombre de Nigeria:

باسم النرويـــــــج :

代表挪威：

In the name of Norway:
Au nom de la Norvège :
От имени Норвегии:
En nombre de Noruega:

SISSEL RONBECK

باسم عمـان :

代表阿曼：

In the name of Oman:
Au nom de l'Oman :
От имени Омана:
En nombre de Omán:

باسم باكستـان :

代表巴基斯坦：

In the name of Pakistan:
Au nom du Pakistan :
От имени Пакистана:
En nombre del Pakistán:

باسم بنمـــا :

代表巴拿马：

In the name of Panama:
Au nom du Panama :
От имени Панамы:
En nombre de Panamá:

ELOY GIBBS

باسم بابوا غينيا الجديدة :

代表巴布亚新几内亚:

In the name of Papua New Guinea:
Au nom de la Papouasie-Nouvelle-Guinée :
От имени Папуа-Новой Гвинеи:
En nombre de Papua Nueva Guinea:

باسم باراغـــــــواي :

代表巴拉圭:

In the name of Paraguay:
Au nom du Paraguay :
От имени Парагвая:
En nombre del Paraguay:

باسم بيـــــــرو:

代表秘鲁:

In the name of Peru:
Au nom du Pérou :
От имени Перу:
En nombre del Perú:

باسم الفلبـــــــين :

代表菲律宾:

In the name of the Philippines:
Au nom des Philippines :
От имени Филиппин:
En nombre de Filipinas:

CLAUDIO TEEHANKEE
September 14, 1988

باسم بولنـــــدا :

代表波兰:

In the name of Poland:
Au nom de la Pologne :
От имени Польши:
En nombre de Polonia:

باسم البرتغـــــال :

代表葡萄牙：

In the name of Portugal:
Au nom du Portugal :
От имени Португалии:
En nombre de Portugal:

CARLOS DAVID CALDER

باسم قطـــــر :

代表卡塔尔：

In the name of Qatar:
Au nom du Qatar :
От имени Катара:
En nombre de Qatar:

باسم جمهورية الكاميرون :

代表喀麦隆共和国：

In the name of the Republic of Cameroon:
Au nom de la République du Cameroun :
От имени Республики Камерун:
En nombre de la República del Camerún:

باسم جمهورية غينيـــــا :

代表几内亚共和国：

In the name of the Republic of Guinea:
Au nom de la République de Guinée :
От имени Гвинейской Республики:
En nombre de la República de Guinea:

باسم جمهورية كوريـــــا :

代表大韩民国：

In the name of the Republic of Korea:
Au nom de la République de Corée :
От имени Корейской Республики:
En nombre de la República de Corea:

باسم رومانيـــا :

代表罗马尼亚：

In the name of Romania:
Au nom de la Roumanie :
От имени Румынии:
En nombre de Rumania:

باسم رواندا :

代表卢旺达：

In the name of Rwanda:
Au nom du Rwanda :
От имени Руанды:
En nombre de Rwanda:

باسم سان كريستوفر ـ نفيس ـ أنغيلا :

代表圣克里斯托弗－尼维斯－安圭拉：

In the name of St. Christopher-Nevis-Anguilla:
Au nom de Saint-Christophe-et-Nièves et Anguilla :
От имени Сент-Кристофер-Невис-Ангильи:
En nombre de San Cristóbal-Nieves-Anguila:

باسم سانت لوسيـــا :

代表圣卢西亚：

In the name of Saint Lucia:
Au nom de Sainte-Lucie :
От имени Сент-Люсии:
En nombre de Santa Lucía:

باسم سانت فنسنت وجزر غرينادين :

代表圣文森特和格林纳丁斯：

In the name of Saint Vincent and the Grenadines:
Au nom de Saint-Vincent-et-Grenadines :
От имени Сент-Винсента и Гренады:
En nombre de San Vicente y las Granadinas:

باسم ساموا:

代表萨摩亚:

In the name of Samoa:
Au nom du Samoa :
От имени Самоа:
En nombre de Samoa:

باسم سان مارينو:

代表圣马力诺:

In the name of San Marino:
Au nom de Saint-Marin :
От имени Сан-Марино:
En nombre de San Marino:

باسم سان تومي وبرينسيبي:

代表圣多美和普林西比:

In the name of Sao Tome and Principe:
Au nom de Sao Tomé-et-Principe :
От имени Сан-Томе и Принсипи:
En nombre de Santo Tomé y Príncipe:

باسم المملكة العربية السعودية:

代表沙特阿拉伯:

In the name of Saudi Arabia:
Au nom de l'Arabie saoudite :
От имени Саудовской Аравии:
En nombre de Arabia Saudita:

باسم السنغال:

代表塞内加尔:

In the name of Senegal:
Au nom du Sénégal :
От имени Сенегала:
En nombre del Senegal:

AMADOU DEMBA DIOP

باسم سيشيـــل :

代表塞舌尔：

In the name of Seychelles:
Au nom des Seychelles :
От имени Сейшельских островов:
En nombre de Seychelles:

باسم سيراليـــون :

代表塞拉利昂：

In the name of Sierra Leone:
Au nom de la Sierra Leone :
От имени Сьерра-Леоне:
En nombre de Sierra Leona:

باسم سنغافـــوره :

代表新加坡：

In the name of Singapore:
Au nom de Singapour :
От имени Сингапура:
En nombre de Singapur:

باسم جزر سليمـــان :

代表所罗门群岛：

In the name of Solomon Islands:
Au nom des Iles Salomon :
От имени Соломоновых Островов:
En nombre de las Islas Salomón:

باسم الصومـــال :

代表索马里：

In the name of Somalia:
Au nom de la Somalie :
От имени Сомали:
En nombre de Somalia:

باسم افريقيا الجنوبية :

代表南非：

In the name of South Africa:
Au nom de l'Afrique du Sud :
От имени Южной Африки:
En nombre de Sudáfrica:

باسم اسبانيـــــا :

代表西班牙：

In the name of Spain:
Au nom de l'Espagne :
От имени Испании
En nombre de España:

FRANCISCO VILLAR
21 julio 1988[1]

باسم سرى لانكـــا :

代表斯里兰卡：

In the name of Sri Lanka:
Au nom de Sri Lanka :
От имени Шри Ланки:
En nombre de Sri Lanka:

باسم الســـودان :

代表苏丹：

In the name of the Sudan:
Au nom du Soudan :
От имени Судана:
En nombre del Sudán:

باسم سورينـــام :

代表苏里南：

In the name of Suriname:
Au nom du Suriname :
От имени Суринама:
En nombre de Suriname:

[1] 21 July 1988 — 21 juillet 1988.

باسم سوازيلنـــــد :

代表斯威士兰：

In the name of Swaziland:
Au nom du Swaziland :
От имени Свазиленда:
En nombre de Swazilandia:

باسم السويـــــد :

代表瑞典：

In the name of Sweden:
Au nom de la Suède :
От имени Швеции:
En nombre de Suecia:

BRIGITTA DAHL

باسم سويســـــرا :

代表瑞士：

In the name of Switzerland:
Au nom de la Suisse :
От имени Швейцарии:
En nombre de Suiza:

P. DUERST

باسم الجمهورية العربية السورية :

代表阿拉伯叙利亚共和国：

In the name of the Syrian Arab Republic:
Au nom de la République arabe syrienne :
От имени Сирийской Арабской Республики:
En nombre de la República Arabe Siria:

باسم تايلنـــــد :

代表泰国：

In the name of Thailand:
Au nom de la Thaïlande :
От имени Таиланда:
En nombre de Tailandia:

NITYA PIBULSONGGRAM

باسم توغـــو:

代表多哥:

In the name of Togo:
Au nom du Togo :
От имени Того:
En nombre del Togo:

KOSSIVI OSSEYI

باسم تونغـــا:

代表汤加:

In the name of Tonga:
Au nom des Tonga :
От имени Тонга:
En nombre de Tonga:

باسم ترينيداد وتوباغـــو:

代表特立尼达和多巴哥:

In the name of Trinidad and Tobago:
Au nom de la Trinité-et-Tobago :
От имени Тринидада и Тобаго:
En nombre de Trinidad y Tabago:

باسم تونـــس:

代表突尼斯:

In the name of Tunisia:
Au nom de la Tunisie :
От имени Туниса:
En nombre de Túnez:

باسم تركيـــا:

代表土耳其:

In the name of Turkey:
Au nom de la Turquie :
От имени Турции:
En nombre de Turquía:

باسم توفالو:

代表图瓦卢：

In the name of Tuvalu:
Au nom de Tuvalu :
От имени Тувалу:
En nombre de Tuvalu:

باسم أوغندا:

代表乌干达：

In the name of Uganda:
Au nom de l'Ouganda :
От имени Уганды:
En nombre de Uganda:

PEREZ KAMUNANWIRE
15.9.88

باسم جمهورية اوكرانيا الاشتراكية السوفياتية:

代表乌克兰苏维埃社会主义共和国：

In the name of the Ukrainian Soviet Socialist Republic:
Au nom de la République socialiste soviétique d'Ukraine :
От имени Украинской Советской Социалистической Республики:
En nombre de la República Socialista Soviética de Ucrania:

GUENNADI I. OUDOVENKO
18.02.1988

باسم اتحاد الجمهوريات الاشتراكية السوفياتية:

代表苏维埃社会主义共和国联盟：

In the name of the Union of Soviet Socialist Republics:
Au nom de l'Union des Républiques socialistes soviétiques :
От имени Союза Советских Социалистических Республик:
En nombre de la Unión de Repúblicas Socialistas Soviéticas:

ALEXI A. RODIONOV

باسم الامارات العربية المتحدة:

代表阿拉伯联合酋长国：

In the name of the United Arab Emirates:
Au nom des Emirats arabes unis :
От имени Объединенных Арабских Эмиратов:
En nombre de los Emiratos Arabes Unidos:

باسم المملكة المتحدة لبريطانيا العظمى وايرلندا الشمالية:

代表大不列颠及北爱尔兰联合王国:

In the name of the United Kingdom of Great Britain and Northern Ireland:
Au nom du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord :
От имени Соединенного Королевства Великобритании и Северной Ирладии:
En nombre del Reino Unido de Gran Bretaña e Irlanda del Norte:

FIONA MCCONNELL

باسم جمهورية تنزانيا المتحـــدة:

代表坦桑尼亚联合共和国:

In the name of the United Republic of Tanzania:
Au nom de la République-Unie de Tanzanie :
От имени Объединенной Республики Танзания:
En nombre de la República Unida de Tanzanía:

باسم الولايات المتحدة الأمريكيـــة:

代表美利坚合众国:

In the name of the United States of America:
Au nom des Etats-Unis d'Amérique :
От имени Соединенных Штатов Америки:
En nombre de los Estados Unidos de América:

LEE M. THOMAS

باسم أوروغـــواي:

代表乌拉圭:

In the name of Uruguay:
Au nom de l'Uruguay :
От имени Уругвая:
En nombre del Uruguay:

باسم فانواتـــو:

代表瓦努阿图:

In the name of Vanuatu:
Au nom de Vanuatu :
От имени Вануату:
En nombre de Vanuatu:

باسم فنزويلا :

代表委内瑞拉：

In the name of Venezuela:
Au nom du Venezuela :
От имени Венесуэлы:
En nombre de Venezuela:

IMERIA DE ODREMÁN
Ad referendum

باسم فيت نام :

代表越南社会主义共和国：

In the name of Viet Nam:
Au nom du Viet Nam :
От имени Вьетнама:
En nombre de Viet Nam:

باسم اليمن :

代表也门：

In the name of Yemen:
Au nom du Yémen :
От имени Йемена:
En nombre del Yemen:

باسم يوغوسلافيا :

代表南斯拉夫：

In the name of Yugoslavia:
Au nom de la Yougoslavie :
От имени Югославии:
En nombre de Yugoslavia:

باسم زائير :

代表扎伊尔：

In the name of Zaire:
Au nom du Zaïre :
От имени Заира:
En nombre del Zaire:

باسم زامبيا :

代表赞比亚：

In the name of Zambia:
Au nom de la Zambie :
От имени Замбии:
En nombre de Zambia:

باسم زمبابوي :

代表津巴布韦：

In the name of Zimbabwe:
Au nom du Zimbabwe :
От имени Зимбабве:
En nombre de Zimbabwe:

باسم مجلس التعاضد الاقتصادي :

代表经济互助委员会：

In the name of the Council for Mutual Economic Assistance:
Au nom du Conseil d'aide économique mutuelle :
От имени Совета Экономической Взаимопомощи:
En nombre del Consejo de Asistencia Económica Mutua:

باسم المجتمع الاقتصادي الأوروبي :

代表欧洲经济共同体：

In the name of the European Economic Community:
Au nom de la Communauté économique européenne :
От имени Европейского экономического сообщества:
En nombre de la Comunidad Económica Europea:

PER FERGO
LAURENS JAN BRINKHORST

رئيس المؤتمر :

会议主席：

The President of the Conference:
Le Président de la Conférence :
Председатель Конференции:
El Presidente de la Conferencia:

W. LANG

الأمين العـــام:

秘书长:

The Secretary-General:
Le Secrétaire général :
Генеральный секретарь:
El Secretario General:

MOSTAFA K. TOLBA

الأمين التنفيذى للمؤتمر:

会议执行秘书:

The Executive Secretary of the Conference:
Le Secrétaire exécutif de la Conférence :
Исполнительный секретарь Конференции:
El Secretario Ejecutivo de la Conferencia:

IWONA RUMMEL-BULSKA

Annex 103

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 22 March 1989, 1673 UNTS 57

No. 28911

MULTILATERAL

Basel Convention on the control of transboundary movements of hazardous wastes and their disposal (with annexes). Concluded at Basel on 22 March 1989

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

MULTILATÉRAL

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

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.
Enregistré d'office le 5 mai 1992.

BASEL CONVENTION[1] ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

PREAMBLE

The Parties to this Convention,

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,

---

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

Participant	*Date of deposit of the instrument of ratification, accession* (a), *acceptance* (A) *or approval* (AA)	*Participant*	*Date of deposit of the instrument of ratification, accession* (a), *acceptance* (A) *or approval* (AA)
Argentina	27 June 1991	Mexico*	22 February 1991
Australia	5 February 1992 *a*	Nigeria	13 March 1991
China	17 December 1991	Norway*	2 July 1990
Czechoslovakia	24 July 1991 *a*	Panama	22 February 1991
El Salvador	13 December 1991	Romania*	27 February 1991 *a*
Finland	19 November 1991 *A*	Saudi Arabia	7 March 1990
France	7 January 1991 *AA*	Sweden	2 August 1991
Hungary	21 May 1990 *AA*	Switzerland	31 January 1990
Jordan	22 June 1989 *AA*	Syrian Arab Republic	22 January 1992
Liechtenstein	27 January 1992	Uruguay	20 December 1991

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

Participant	*Date of deposit of the instrument of ratification or accession* (a)
Poland*	20 March 1992
(With effect from 18 June 1992.)	
Latvia	14 April 1992 *a*
(With effect from 13 July 1992.)	
Maldives	28 April 1992 *a*
(With effect from 27 July 1992.)	

* See p. 335 of this volume for the texts of the declarations made upon ratification or accession.

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),[1] the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes[2] adopted by the Governing Council of the United Nations Environment Programme (UNEP) by decision 14/30 of 17 June 1987,[3] the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods (formulated in 1957 and updated biennially),[4] relevant recommendations, declarations, instruments and regulations adopted within the United Nations system and the work and studies done within other international and regional organizations,

[1] *Report of the United Nations Conference on the Human Environment*, Stockholm, 5-16 June 1972 (document A/CONF.48/14/Rev.1 or United Nations publication, Sales No. E.73.II.A.14).

[2] UNEP/GC.14/17, annex II.

[3] United Nations, *Official Records of the General Assembly, Forty-second Session, Supplement No. 25* (A/42/25), p. 83.

[4] United Nations, *Recommendations on Transport of Dangerous Goods*, seventh revised edition, New York, 1991 (document ST/SG/AC.10/1/Rev.7 or United Nations publication, Sales No. E.91.VIII.2).

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)[1] 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,[2]

Recognizing also that hazardous wastes and other wastes should he 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:

[1] United Nations, *Official Records of the General Assembly, Thirty-seventh Session, Supplement No. 51* (A/37/51), resolution No. 37/7 of 28 October 1982, p. 17.

[2] *Ibid., Forty-second Session, Supplement No. 25* (A/42/25), p. 67.

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.

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

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

2. Each Party shall take the appropriate measures to:

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

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

(c) Ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such

management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment;

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

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

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

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

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

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

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

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

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

7. Furthermore, each Party shall:

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

(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in

conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

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

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

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

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

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

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

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

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

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

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

Article 5

Designation of Competent Authorities and Focal Point

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

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

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

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

Article 6

Transboundary Movement between Parties

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in
Annex 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 [1][1] of Article 6 of the Convention shall apply mutatis mutandis to transboundary movement of hazardous wastes or other wastes from a Party through a State or States which are not Parties.

Article 8

Duty to Re-import

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

Article 9

Illegal Traffic

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

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

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

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

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

[1] The text between brackets reflects the corrections effected in the original English text of the Convention by Procès-verbal dated 4 November 1992. For the text of the said corrections, see United Nations, *Treaty Series*, vol. 1688, No. A-28911 — Le texte entre crochets reflète les corrections apportées au texte original anglais de la Convention par procès-verbal en date du 4 novembre 1992. Pour le texte desdites corrections, voir Nations Unies, *Recueil des Traités*, vol. 1688, n° A-28911.

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

shall be deemed to be illegal traffic.

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

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

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

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

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

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

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

Article 10

International Co-operation

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

2. To this end, the Parties shall:

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

technical standards and practices for the adequate management of hazardous wastes and other wastes;

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

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

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

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

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

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

Article 11

Bilateral, Multilateral and Regional Agreements

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

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

movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention.

Article 12

Consultations on Liability

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

Article 13

Transmission of Information

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

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

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

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

and, as soon as possible,

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

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

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

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

(a) Competent authorities and focal points that have been designated by them pursuant to Article 5;

(b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including:

(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 sub-regional centres for training and technology transfers regarding the management of hazardous wastes and other

wastes and the minimization of their generation should be established. The Parties shall decide on the establishment of appropriate funding mechanisms of a voluntary nature.

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

Article 15

Conference of the Parties

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

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

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

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

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

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

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

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

(d) Consider and adopt protocols as required; and

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

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

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

Article 16

Secretariat

1. The functions of the Secretariat shall be:

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

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

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

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

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

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

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

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

- 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 responsibillty 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 he 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 tbe United Nations Council for Namlbia, and to formal confirmation or approval by political and/or economic integration organizations. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depositary.

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

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

Article 23

Accession

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

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

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

Article 24

Right to Vote

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

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

Article 25

Entry into Force

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

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

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

Article 26

Reservations and Declarations

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

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

Article 27

Withdrawal

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

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

Article 28

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

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

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 congenor of polychlorinated dibenzo-furan
Y44 Any congenor of polychlorinated dibenzo-p-dioxin
Y45 Organohalogen compounds other than substances referred to in this Annex (eg. 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 wastes

Annex III

LIST OF HAZARDOUS CHARACTERISTICS

UN Class*	Code	Characteristics
1	H1	Explosive An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.
3	H3	Flammable liquids The word "flammable" has the same meaning as "inflammable". Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.)
4.1	H4.1	Flammable solids Solids, 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.
4.2	H4.2	Substances or wastes liable to spontaneous combustion Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.
4.3	H4.3	Substances or wastes which, in contact with water emit flammable gases Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

* 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).

5.1	H5.1	Oxidizing Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.
5.2	H5.2	Organic Peroxides Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
6.1	H6.1	Poisonous (Acute) Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
6.2	H6.2	Infectious substances Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8	Corrosives Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
9	H10	Liberation of toxic gases in contact with air or water Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic (Delayed or chronic) Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12	Ecotoxic Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
9	H13	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

Tests

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

Annex IV

DISPOSAL OPERATIONS

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

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

D1 Deposit into or onto land, (e.g., landfill, etc.)
D2 Land treatment, (e.g., biodegradation of liquid or 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 A
D9 Physico chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A, (e.g., evaporation, drying, calcination, neutralisation, precipitation, etc.)
D10 Incineration on land
D11 Incineration at sea
D12 Permanent storage (e.g., emplacement of containers in a mine, etc.)
D13 Blending or mixing prior to submission to any of the operations in Section A
D14 Repackaging prior to submission to any of the operations in Section A
D15 Storage pending any of the operations in Section A

B. OPERATIONS WHICH MAY LEAD TO RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES

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

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-R11
R13 Accumulation of material intended for any operation in Section B

Annex V A

INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export

2. Exporter of the waste 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 composition 5/ and information on any special handling requirements including emergency provisions in case of accidents

14. Type of packaging envisaged (eg. bulk, drummed, tanker)

15. Estimated quantity in weight/volume 6/

16. Process by which the waste is generated 7/

17. For wastes listed in Annex I, classifications from Annex III: 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 to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.

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

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

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

Annex V B

INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT

1. Exporter of the waste 1/

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

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

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

5. Subject of general or single notification

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

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

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

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

10. Type and number of packages

11. Quantity in weight/volume

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

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

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

Notes

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

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

Annex VI

ARBITRATION

Article 1

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

Article 2

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

Article 3

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

Article 4

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

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

Article 5

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

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

Article 6

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

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

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

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

Article 7

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

Article 8

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

Article 9

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

Article 10

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

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

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

Annex 104

European Charter on Environment and Health, 8 December 1989, WHO/ EURO:1989-3845-43604-61265, World Health Organization Regional Office for Europe

EUROPE

European Charter on Environment and Health, 1989

Preamble

In the light of WHO's strategy for health for all in Europe, the report of the World Commission on Environment and Development and the related Environmental Perspective to the Year 2000 and Beyond (resolutions 42/187 and 42/186 of the United Nations General Assembly) and World Health Assembly resolution WHA42.26,

- Recognizing the dependence of human health on a wide range of crucial environmental factors,
- Stressing the vital importance of preventing health hazards by protecting the environment,
- Acknowledging the benefits to health and wellbeing that accrue from a clean and harmonious environment,
- Encouraged by the many examples of positive achievement in the abatement of pollution and the restoration of a healthy environment,
- Mindful that the maintenance and improvement of health and wellbeing require a sustainable system of development,
- Concerned at the ill-considered use of natural resources and man-made products in ways liable to damage the environment and endanger health,
- Considering the international character of many environmental and health issues and the interdependence of nations and individuals in these matters,
- Conscious of the fact that, since developing countries are faced with major environmental problems, there is a need for global cooperation,
- Responding to the specific characteristics of the European Region, and notably its large population, intensive industrialization and dense traffic,
- Taking into account existing international instruments (such as agreements on protection of the ozone layer) and other initiatives relating to the environment and health,

The Ministers of the Environment and of Health of the Member States of the European Region of WHO, meeting together for the first time at Frankfurt-am-Main on 7 and 8 December 1989, have adopted the attached European Charter on Environment and Health and have accordingly agreed upon the principles and strategies laid down therein as a firm commitment to action. In view of its environmental mandate, the Commission of the European Communities was specially invited to participate and, acting on behalf of the Community, also adopted the Charter as a guideline for future action by the Community in areas which lie within Community competence.

Entitlements and responsibilities

1. Every individual is entitled to:
    - an environment conducive to the highest attainable level of health and wellbeing;
    - information and consultation on the state of the environment, and on plans, decisions and activities likely to affect both the environment and health;
    - participation in the decision-making process.
2. Every individual has a responsibility to contribute to the protection of the environment, in the interests of his or her own health and the health of others.
3. All sections of society are responsible for protecting the environment and health as an intersectoral matter involving many disciplines; their respective duties should be clarified.
4. Every public authority and agency at different levels, in its daily work, should cooperate with other sectors in order to resolve problems of the environment and health.
5. Every government and public authority has the responsibility to protect the environment and to promote human health within the area under its jurisdiction, and to ensure that activities under its jurisdiction or control do not cause damage to human health in other states. Furthermore, each shares the common responsibility for safeguarding the global environment.
6. Every public and private body should assess its activities and carry them out in such a way as to protect people's health from harmful effects related to the physical, chemical, biological, microbiological and social environments. Each of these bodies should be accountable for its actions.
7. The media play a key role in promoting awareness and a positive attitude towards protection of health and the environment. They are entitled to adequate and accurate information and should be encouraged to communicate this information effectively to the public.
8. Nongovernmental organizations also play an important role in disseminating information to the public and promoting public awareness and response.

Principles for public policy

1. Good health and wellbeing require a clean and harmonious environment in which physical, psychological, social and aesthetic factors are all given their due importance. The environment should be regarded as a resource for improving living conditions and increasing wellbeing.
2. The preferred approach should be to promote the principle of "prevention is better than cure".
3. The health of every individual, especially those in vulnerable and high-risk groups, must be protected. Special attention should be paid to disadvantaged groups.
4. Action on problems of the environment and health should be based on the best available scientific information.
5. New policies, technologies and developments should be introduced with prudence and not before appropriate prior assessment of the potential environmental and health impact. There should be a responsibility to show that they are not harmful to health or the environment.
6. The health of individuals and communities should take clear precedence over considerations of economy and trade.
7. All aspects of socioeconomic development that relate to the impact of the environment on health and wellbeing must be considered.

8. The entire flow of chemicals, materials, products and waste should be managed in such a way as to achieve optimal use of natural resources and to cause minimal contamination.
9. Governments, public authorities and private bodies should aim at both preventing and reducing adverse effects caused by potentially hazardous agents and degraded urban and rural environments.
10. Environmental standards need to be continually reviewed to take account of new knowledge about the environment and health and of the effects of future economic development. Where applicable such standards should be harmonized.
11. The principle should be applied whereby every public and private body that causes or may cause damage to the environment is made financially responsible (the polluter pays principle).
12. Criteria and procedures to quantify, monitor and evaluate environmental and health damage should be further developed and implemented.
13. Trade and economic policies and development assistance programmes affecting the environment and health in foreign countries should comply with all the above principles. Export of environmental and health hazards should be avoided.
14. Development assistance should promote sustainable development and the safeguarding and improvement of human health as one of its integral components.

Strategic elements

1. The environment should be managed as a positive resource for human health and wellbeing.
2. In order to protect health comprehensive strategies are required, including, *inter alia,* the following elements:
    - The responsibilities of public and private bodies for implementing appropriate measures should be clearly defined at all levels.
    - Control measures and other tools should be applied, as appropriate, to reduce risks to health and wellbeing from environmental factors. Fiscal, administrative and economic instruments and land-use planning have a vital role to play in promoting environmental conditions conducive to health and wellbeing and should be used for that purpose.
    - Better methods of prevention should be introduced as knowledge expands, including the use of the most appropriate and cost-effective technologies and, if necessary, the imposition of bans.
    - Low-impact technology and products and the recycling and reuse of wastes should be encouraged. Changes should be made, as necessary, in raw materials, production processes and waste management techniques.
    - High standards of management and operation should be followed to ensure that appropriate technologies and best practices are applied, that regulations and guidance are adhered to, and that accidents and human failures are avoided.
    - Appropriate regulations should be promulgated; they should be both enforceable and enforced.
    - Standards should be set on the basis of the best available scientific information. The cost and benefit of action or lack of action and feasibility may also have to be assessed but in all cases risks should be minimized.
    - Comprehensive strategies should be developed that take account of the risks to human health and the environment arising from chemicals. These strategies should include, *inter alia,* registration procedures for new chemicals and systematic examination of existing chemicals.

- Contingency planning should be undertaken to deal with all types of serious accident, including those with transfrontier consequences.
- Information systems should be strengthened to support monitoring of the effectiveness of measures taken, trend analysis, priority-setting and decision-making.
- Environmental impact assessment should give greater emphasis to health aspects. Individuals and communities directly affected by the quality of a specific environment should be consulted and involved in managing that environment.

3. Medical and other relevant disciplines should be encouraged to pay greater attention to all aspects of environmental health. Environmental toxicology and environmental epidemiology are key tools of environmental health research and should be strengthened and further developed as special disciplines within the Region.
4. Interdisciplinary research programmes in environmental epidemiology with the aim of clarifying links between the environment and health should be encouraged and strengthened at regional, national and international levels.
5. The health sector should have responsibility for epidemiological surveillance through data collection, compilation, analysis and risk assessment of the health impact of environmental factors and for informing other sectors of society and the general public of trends and priorities.
6. National and international programmes of multidisciplinary training, as well as the provision of health education and information for public and private bodies, should be encouraged and strengthened.

Priorities

1. Governments and other public authorities, without prejudice to the importance of problem areas specific to their respective countries, the European Community and other intergovernmental organizations, as appropriate, should pay particular attention to the following urgent issues of the environment and health at local, regional, national and international levels and to take action on them:

    - global disturbances to the environment such as the destruction of the ozone layer and climatic change;
    - urban development, planning and renewal to protect health and promote wellbeing;
    - safe and adequate drinking-water supplies on the basis of the WHO Guidelines for drinking-water quality together with hygienic waste disposal for all urban and rural communities;
    - water quality in relation to surface, ground, coastal and recreational waters;
    - microbiological and chemical safety of food;
    - the environment and health impact of:
        - various energy options
        - transport, especially road transport
        - agricultural practices, including the use of fertilizers and pesticides, and waste disposal;
        - air quality on the basis of the WHO Air quality guidelines for Europe, especially in relation to oxides of sulfur and nitrogen, the photochemical oxidants ("summer smog") and volatile organic compounds;
        - indoor air quality (residential, recreational and occupational), including the effects of radon, passive smoking and chemicals;
        - persistent chemicals and those causing chronic effects;

- hazardous wastes including management, transport and disposal;
- biotechnology and in particular genetically modified organisms;
- contingency planning for and in response to accidents and disasters;
- cleaner technologies as preventive measures.

2. In addressing all of these priorities, the importance of intersectoral environmental planning and community management to generate optimal health and wellbeing should be borne in mind.
3. Health promotion should be added to health protection so as to induce the adoption of healthy lifestyles in a clean and harmonious environment.
4. It should be recognized that some urgent problems require direct and immediate international cooperation and joint efforts.

The way forward

1. Member States of the European Region should:

- take all necessary steps to reverse negative trends as soon as possible and to maintain and increase the health-related improvements already taking place. In particular, they should make every effort to implement WHO's regional strategy for health for all as it concerns the environment and health;
- strengthen collaboration among themselves and, where appropriate, with the European Community and other intergovernmental bodies on mutual and transfrontier environmental problems that pose a threat to health;
- ensure that the Charter adopted at this meeting is made widely available in the languages of the European Region.

2. The WHO Regional Office for Europe is invited to:

- explore ways of strengthening international mechanisms for assessing potential hazards to health associated with the environment and for developing guidance on their control;
- make a critical study of existing indicators of the effects of the environment on health and, where necessary, develop others that are both specific and effective;
- establish a European Advisory Committee on the Environment and Health in consultation with the governments of the countries of the Region;
- in collaboration with the governments of the European countries, examine the desirability and feasibility of establishing a European Centre for the Environment and Health or other suitable institutional arrangements, with a view to strengthening collaboration on the health aspects of environmental protection with special emphasis on information systems, mechanisms for exchanging experience and coordinated studies. In such arrangements, cooperation with the United Nations Environment Programme, the United Nations Economic Commission for Europe and other organizations is desirable. Account should be taken of the environmental agency to be established within the European Community.

3. Member States of the European Region and WHO should:

- promote the widest possible endorsement of the principles and attainment of the objectives of the Charter.

4. European Ministers of the Environment and of Health should:

- meet again within five years to evaluate national and international progress and to endorse specific action plans drawn up by WHO and other international organizations for eliminating the most significant environmental threats to health as rapidly as possible.

See also the books on environment and health in the WHO/Europe **publications catalogue.**

Annex 105

Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, 29 June 1990, 1598 UNTS 469

No. 26369. Multilateral

MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER. MONTREAL, 16 SEPTEMBER 1987[1]

AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER. BEIJING, 3 DECEMBER 1999

Entry into force : 25 February 2002, in accordance with article 3 (1) of the amendment (see following page)

Authentic texts : Arabic, Chinese, English, French, Russian and Spanish

Registration with the Secretariat of the Uuited Nations : ex officio, 25 February 2002

No. 26369. Multilatéral

PROTOCOLE DE MONTRÉAL RELATIF À DES SUBSTANCES QUI APPAUVRISSENT LA COUCHE D'OZONE. MONTRÉAL, 16 SEPTEMBRE 1987[1]

AMENDEMENT AU PROTOCOLE DE MONTRÉAL RELATIF À DES SUBSTANCES QUI APPAUVRISSENT LA COUCHE D'OZONE. BEIJING, 3 DÉCEMBRE 1999

Entrée en vigueur : 25 février 2002, conformément au paragraphe 1 de l'article 3 de l'amendement (voir la page suivante)

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol

Enregistrement auprès du Secrétariat des Nations Unies : d'office, 25 février 2002

1. United Nations, Treaty Series Vol. 1522, I-26369 — Nations Unies, Recueil des Traités Vol. 1522, I-26369

Participant	Ratification, Accession (a) and Acceptance (A)			
Burundi	18	Oct	2001	A
Canada	9	Feb	2001	A
Chile	3	May	2000	
Congo	19	Oct	2001	a
Czech Republic	9	May	2001	A
Finland	18	Jun	2001	A
Gabon	4	Dec	2000	a
Jordan	1	Feb	2001	
Luxembourg	22	Jan	2001	
Malaysia	26	Oct	2001	
Micronesia (Federated States of)	27	Nov	2001	a
Netherlands	13	Nov	2001	A
New Zealand	8	Jun	2001	
Palau	29	May	2001	a
Samoa	4	Oct	2001	A
Sao Tome and Principe	19	Nov	2001	a
Sierra Leone	29	Aug	2001	a
Somalia	1	Aug	2001	a
Togo	26	Nov	2001	A
United Kingdom of Great Britain and Northern Ireland	12	Oct	2001	

Participant	**Ratification, Adhésion (a) et Acceptation (A)**
Burundi	18 oct 2001 A
Canada	9 févr 2001 A
Chili	3 mai 2000
Congo	19 oct 2001 a
Finlande	18 juin 2001 A
Gabon	4 déc 2000 a
Jordanie	1 févr 2001
Luxembourg	22 janv 2001
Malaisie	26 oct 2001
Micronésie (États fédérés de)	27 nov 2001 a
Nouvelle-Zélande	8 juin 2001
Palaos	29 mai 2001 a
Pays-Bas	13 nov 2001 A
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord	12 oct 2001
République tchèque	9 mai 2001 A
Samoa	4 oct 2001 A
Sao Tomé-et-Principe	19 nov 2001 a
Sierra Leone	29 août 2001 a
Somalie	1 août 2001 a
Togo	26 nov 2001 A

[ENGLISH TEXT — TEXTE ANGLAIS]

AMENDMENT TO THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

Article 1: Amendment

A. Article 2, paragraph 5

In paragraph 5 of Article 2 of the Protocol, for the words:

Articlcs 2A to 2E

there shall be substituted:

Articles 2A to 2F

B. Article 2, paragraphs 8(a) and 11

In paragraphs 3(a) and 11 of Article 2 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

C. Articlc 2F, paragraph 8

The following paragraph shall be addcd after paragraph 7 of Article 2F of the Protocol:

8. Each Party producing one or more of these substances shall ensure that for the twelve-month period commencing on 1 January 2004, and in each twelve-month period thereafter, its calculated level of production of thc controlled substances in Group I of Annex C does not exceed, annually, the average of:

(a) The sum of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of consumption in 1989 of the controlled substances in Group I of Annex A; and

(b) The sum of its calculated level of production in 1989 of the controlled substances in Group I of Annex C and two point eight per cent of its calculated level of production in 1989 of the controlled substances in Group I of Annex A.

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to fifteen per cent of its calculated level of production of the controlled substances in Group I of Annex C as defined above.

D. Article 2I

The following Article shall be inserted after Article 2H of the Protocol:

Article 2I: Bromochloromethane

Each Party shall ensure that for the twelve-month period commencing on 1 January 2002, and in each twelvemonth period thereafter, its calculated level of consumption and

production of the controlled substance in Group III of Annex C does not exceed zero. This paragraph will apply save to the extent that the Parties decide to permit the level of production or consumption that is necessary to satisfy uses agreed by them to be essential.

E. Article 3

In Article 3 of the Protocol, for the words:

Articles 2, 2A to 2H

there shall be substituted:

Articles 2, 2A to 2I

F. Article 4, paragraphs 1 quin. and 1 sex.

The following paragraphs shall be added to Article 4 of the Protocol after paragraph 1 qua:

1 quin. As of 1 January 2004, each Party shall ban the import of the controlled substances in Group I of Annex C from any State not party to this Protocol.

1 sex. Within one year of the date of entry into force of this paragraph, each Party shall ban the import of the controlled substance in Group III of Annex C from any State not party to this Protocol.

G. Article 4, paragraphs 2 quin. and 2 sex.

The following paragraphs shall be added to Article 4 of the Protocol after paragraph 2 qua:

2 quin. As of 1 January 2004, each Party shall ban the export of the controlled substances in Group I of Annex C to any State not party to this Protocol.

2 sex. Within one year of the date of entry into force of this paragraph, each Party shall ban the export of the controlled substance in Group III of Annex C to any State not party to this Protocol.

H. Article 4, paragraphs 5 to 7

In paragraphs 5 to 7 of Article 4 of the Protocol, for the words:

Annexes A and B, Group II of Annex C and Annex E

there shall be substituted:

Annexes A, B, C and E

I. Article 4, paragraph 8

In paragraph 8 of Article 4 of the Protocol, for the words:

Articles 2A to 2E, Articles 2G and 2H

there shall be substituted:

Articles 2A to 2I

J. Article 5, paragraph 4

In paragraph 4 of Article 5 of the Protocol, for the words:

Articles 2A to 2H

there shalt be substituted:

Articles 2A to 2I

K. Article 5, paragraphs 5 and 6

In paragraphs 5 and 6 of Article 5 of the Protocol, for the words:

Articles 2A to 2E

there shall be substituted:

Articles 2A to 2E and Article 2I

L. Article 5, paragraph 8 ter (a)

The following sentence shall be added at the end of subparagraph 8 ter (a) of Article 5 of the Protocol:

As of 1 January 2016 each Party operating under paragraph 1 of this Article shall comply with the control measures set out in paragraph 8 of Article 2F and, as the basis for its compliance with these control measures, it shall use the average of its calculated levels of production and consumption in 2015;

M. Article 6

In Article 6 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

N. Article 7, paragraph 2

In paragraph 2 of Article 7 of the Protocol, for the words:

Annexes B and C

there shall be substituted:

Annex B and Groups I and II of Annex C

O. Article 7, paragraph 3

The following sentence shall be added after the first sentence of paragraph 3 of Article 7 of the Protocol:

Each Party shall provide to the Secretariat statistical data on the annual amount of the controlled substance listed in Annex E used for quarantine and pre-shipment applications.

P. Article 10

In paragraph 1 of Article 10 of the Protocol, for the words:

Articles 2A to 2E

there shall be substituted:

Articles 2A to 2E and Article 2I

Q. Article 17

In Article 17 of the Protocol, for the words:

Articles 2A to 2H

there shall be substituted:

Articles 2A to 2I

R. Annex C

The following group shall be added to Annex C to the Protocol:

Group	Substance	Number of Isomers	Ozone-Depleting Potential
Group III			
CH2BrCI	bromochloromethane	1	0.12

Article 2: Relationship to the 1997 Amendment

No State or regional economic integration organization may deposit an instrument of ratification, acceptance or approval of or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Ninth Meeting of the Parties in Montreal, 17 September 1997.

Article 3: Entry into force

1. This Amendment shall enter into force on I January 2001, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the cvent that this condition has not been fulfilled by that date, the Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.

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

3. After the entry into-force of this Amendment, as provided under paragraph 1, it shall enter into force for any other Party to the Protocol on the ninetieth day following the date of deposit of its instrument of ratification, acceptance or approval.

RATIFICATION

Norway

Deposit of instrument with the Secretary-General of the United Nations: 29 November 2001

Date of effect: 27 February 2002

Registration with the Secretariat of the United Nations: ex officio, 25 February 2002

RATIFICATION

Panama

Deposit of instrument with the Secretary-General of the United Nations: 5 December 2001

Date of effect: 5 March 2002

Registration with the Secretariat of the United Nations: ex officio, 25 February 2002

RATIFICATION

Saint Lncia

Deposit of instrument with the Secretary-General of the United Nations: 12 December 2001

Date of effect: 12 March 2002

Registration with the Secretariat of the United Nations: ex officio, 25 February 2002

RATIFICATION

Norvège

Dépôt de l'instrument auprès du Secrétaire général de l'Organisation des Nations Unies : 29 novembre 2001

Date de prise d'effet : 27 février 2002

Enregistrement auprès du Secrétariat des Nations Unies : d'office, 25 février 2002

RATIFICATION

Panama

Dépôt de l'instrument auprès du Secrétaire général de l'Organisation des Nations Unies : 5 décembre 2001

Date de prise d'effet : 5 mars 2002

Enregistrement auprès du Secrétariat des Nations Unies : d'office, 25 février 2002

RATIFICATION

Sainte-Lucie

Dépôt de l'instrument auprès du Secrétaire général de l'Organisation des Nations Unies : 12 décembre 2001

Date de prise d'effet : 12 mars 2002

Enregistrement auprès du Secrétariat des Nations Unies : d'office, 25 février 2002

ACCESSION

Democratic People's Republic of Korea

Deposit of instrument with the Secretary-General of the United Nations: 13 December 2001

Date of effect: 13 March 2002

Registration with the Secretariat of the United Nations: ex officio, 25 February 2002

ADHÉSION

République populaire démocratique de Corée

Dépôt de l'instrument auprès du Secrétaire général de l'Organisation des Nations Unies : 13 décembre 2001

Date de prise d'effet : 13 mars 2002

Enregistrement auprès du Secrétariat des Nations Unies : d'office, 25 février 2002

ACCESSION

Madagascar

Deposit of instrument with the Secretary-General of the United Nations: 16 January 2002

Date of effect: 16 April 2002

Registration with the Secretariat of the United Nations: ex officio, 25 February 2002

ADHÉSION

Madagascar

Dépôt de l'instrument auprès du Secrétaire général de l'Organisation des Nations Unies : 16 janvier 2002

Date de prise d'effet : 16 avril 2002

Enregistrement auprès du Secrétariat des Nations Unies : d'office, 25 février 2002

ACCESSION

Guatemala

Deposit of instrument with the Secretary-General of the United Nations: 21 January 2002

Date of effect: 21 April 2002

Registration with the Secretariat of the United Nations: ex officio, 25 February 2002

ADHÉSION

Guatemala

Dépôt de l'instrument auprès du Secrétaire général de l'Organisation des Nations Unies : 21 janvier 2002

Date de prise d'effet : 21 avril 2002

Enregistrement auprès du Secrétariat des Nations Unies : d'office, 25 février 2002

ACCEPTANCE

Spain

Deposit of instrument with the Secretary-General of the United Nations: 19 February 2002

Date of effect: 20 May 2002

Registration with the Secretariat of the United Nations: ex officio, 25 February 2002

ACCEPTATION

Espagne

Dépôt de l'instrument auprès du Secrétaire général de l'Organisation des Nations Unies : 19 février 2002

Date de prise d'effet : 20 mai 2002

Enregistrement auprès du Secrétariat des Nations Unies : d'office, 25 février 2002

Annex 106

International Convention on Oil Pollution Preparedness, Response and Co-operation, 30 November 1990, 1891 UNTS 78

No. 32194

MULTILATERAL

International Convention on oil pollution preparedness, response and cooperation, 1990 (with annex and procès-verbal of rectification). Concluded at London on 30 November 1990

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish.

Registered by the International Maritime Organization on 18 October 1995.

MULTILATÉRAL

Convention internationale de 1990 sur la préparation, la lutte et la coopération en matière de pollution par les hydrocarbures (avec annexe et procès-verbal de rectification). Conclue à Londres le 30 novembre 1990

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.

Enregistrée par l'Organisation maritime internationale le 18 octobre 1995.

INTERNATIONAL CONVENTION[1] ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 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,

[1] Came into force on 13 May 1995 in respect of the following States, i.e., 12 months after the date on which not less than 15 States had either signed it without reservation as to ratification, acceptance or approval, or deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the International Maritime Organization, in accordance with article 16 (1):

Participant	*Date of deposit of the instrument of ratification, accession (a) or approval (AA)*	
Australia	6 July	1992 *a*
Canada	7 March	1994 *a*
Egypt	29 June	1992
Finland	21 July	1993 *AA*
France	6 November	1992 *AA*
Iceland	21 June	1993
Mexico	13 May	1994 *a*
Nigeria	25 May	1993 *a*
Norway	8 March	1994
Pakistan	21 July	1993 *a*
Senegal	24 March	1994
Seychelles	26 June	1992 *a*
Spain	12 January	1994
Sweden	30 March	1992
United States of America	27 March	1992

In addition and prior to the entry into force of the Convention, the Convention came into force for the following States on the date of entry into force of the Convention or three months after the date of deposit of their instruments of ratification, acceptance, approval or accession whichever is the later date, in accordance with article 16 (2).

Participant	*Date of deposit of the instrument of ratification or of signature (s)*	
Argentina	13 July	1994
(With effect from 13 May 1995.)*		
Uruguay	27 September	1994 *s*
(With effect from 13 May 1995.)		
Netherlands	1 December	1994
(With effect from 13 May 1995.)		
Venezuela	12 December	1994
(With effect from 13 May 1995.)		
Germany	15 February	1995
(With effect from 13 May 1995.)		
Greece	7 March	1995
(With effect from 7 June 1995.)		

Subsequently, the Convention came into force for the following States, three months after the date of deposit of their instrument of ratification, acceptance, approval or accession in accordance with article 16 (3).

Participant	*Date of deposit of the instrument of accession*	
Liberia	5 October	1995
(With effect from 5 January 1996.)		
El Salvador	9 October	1995
(With effect from 9 January 1996.)		

* See p. 143 for the text of the reservation made upon ratification.

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,[1] and the International Convention for the Prevention of Pollution from Ships, 1973,[2] as modified by the Protocol of 1978[3] 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[4] (CLC); and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND);[5] 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,[6] in particular of its part XII,

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[1] United Nations, *Treaty Series*, vol. 1184, p. 2 (authentic Chinese and English texts); vol. 1185, p. 2 (authentic French, Russian and Spanish texts); vol. 1300, p. 391 (rectification of the authentic English, French, Russian and Spanish texts); vol. 1331, p. 400 (rectification of the authentic Chinese text); for the texts of the amendments of 20 November 1981, see vol. 1370, p. 2 (Chinese and English); vol. 1371, p. 2 (French and Russian); and vol. 1372, p. 61 (Spanish); vol. 1402, p. 375 (rectification of the authentic English, French, Russian and Spanish texts of the amendments of 20 November 1981); vol. 1419, p. 398 (rectification of the authentic English text of the amendments of 20 November 1981, incorporated into the text of said amendments and published in vol. 1370); for the texts of the amendments of 17 June 1983, see vol. 1431, p. 2 (Chinese and English); vol. 1432, p. 2 (French and Russian); vol. 1433, p. 92 (Spanish); vol. 1484, p. 442 (rectification of the authentic Spanish text of the amendments of 20 November 1981); vol. 1522, p. 234 (amendments of 29 April 1987); vol. 1558, No. A-18961 (amendments of 21 April 1988); vol. 1566, No. A-18961 (amendments of 28 October 1988); vol. 1593, p. 417 (rectification of the authentic Spanish text of the amendments of 28 October 1988); vol. 1674, No. A-18961 (amendments of 9 November 1988, 11 April 1989 and 25 May 1990); vol. 1765, No. A-18961 (amendments of 23 May 1991).

[2] *Ibid.*, vol. 1340, p. 184.

[3] *Ibid.*, p. 61.

[4] *Ibid.*, vol. 973, p. 3.

[5] *Ibid.*, vol. 1110, p. 57.

[6] *Ibid.*, vols. 1833, 1834 and 1835, No. I-31363.

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.

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 accesaion, 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.

[*For the signatures, see p. 133 of this volume.*]

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.

عن الارجنتين:

代表 阿根廷:

For Argentina:
Pour l'Argentine :
За Аргентину:
Por la Argentina:

[MARIO CÁMPORA][1]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

عن البرازيل:

代表 巴西:

For Brazil:
Pour le Brésil :
За Бразилию:
Por el Brasil:

[PAULO TARSO FLECHA DE LIMA]

["Ad referendum" of the Senate and House of the Brazilian Congress — "Ad referendum" du Sénat et du Parlement du Congrès brésilien]

[30 November 1990 — 30 novembre 1990]

عن كوت ديفوار:

代表科特迪瓦:

For Côte d'Ivoire:
Pour la Côte d'Ivoire :
За Кот д'Ивуар:
Por la Côte d'Ivoire:

[C. BAKARY]

[G. B. BLEDE]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

[1] The names of signatories between brackets were not legible and have been supplied by the International Maritime Organization — Les noms des signataires donnés entre crochets étaient illisibles et ont été fournis par l'Organisation maritime internationale.

عن الدانمرك:

代表 丹麦:

For Denmark:
Pour le Danemark :
За Данию:
Por Dinamarca:

[FILIP FACIUS]

[Subject to ratification and with reservation for application to the Faroe Islands and Greenland — Sous réserve de ratification et avec réserve pour l'application des îles Féroé et le Groenland]

[30 November 1990 — 30 novembre 1990]

عن الاكـــوادور:

代表 厄瓜多尔:

For Ecuador:
Pour l'Equateur :
За Эквадор:
Por el Ecuador:

[CARLOS LUZURIAGA]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

عن مصـــــر:

代表 埃及:

For Egypt:
Pour l'Egypte :
За Египет:
Por Egipto:

[MOHAMED IBRAHIM SHAKER]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

عن فنلندا:

代表 芬兰：

For Finland:
Pour la Finlande :
За Финляндию:
Por Finlandia:

[JUKKA LEINO]

[Subject to approval — Sous réserve d'approbation]

[23 April 1991 — 23 avril 1991]

عن فرنسا:

代表 法国：

For France:
Pour la France :
За Францию:
Por Francia:

[J.-CH. LECLAIR]

[Subject to approval — Sous réserve d'approbation]

[13 September 1991 — 13 septembre 1991]

عن جامبيا:

代表 冈比亚：

For the Gambia:
Pour la Gambie :
За Гамбию:
Por Gambia:

[M. YAYA BALDEH]

[Subject to ratification — Sous réserve de ratification]

[1 November 1991 — 1 novembre 1991]

عن جمهورية ألمانيا الاتحادية:

代表德意志联邦共和国:

For the Federal Republic of Germany:
Pour la République Fédérale d'Allemagne :
За Федеративную Республику Германия:
Por la República Federal de Alemania:

[HELMUT WEGNER]

[CHRISTOPH HINZ]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

عن غانا:

代表 加纳:

For Ghana:
Pour le Ghana :
За Гану:
Por Ghana:

[W. K. ANSA-OTU]

[Subject to acceptance — Sous réserve d'acceptation]

[30 November 1990 — 30 novembre 1990]

عن اليونان:

代表 希腊:

For Greece:
Pour la Grèce :
За Грецию:
Por Grecia:

[A. AGATHOCLIS]

[Subject to acceptance — Sous réserve d'acceptation]

[30 November 1990 — 30 novembre 1990]

عن غينيـــــا:

代表 几内亚:

For Guinea:
Pour la Guinée :
За Гвинею:
Por Guinea:

[S. BAH]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

عن أيسلندا:

代表 冰岛:

For Iceland:
Pour l'Islande :
За Исландию:
Por Islandia:

[MAGNÚS JÓHANNESSON]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

عن اسرائيـــل:

代表 以色列:

For Israel:
Pour Israël :
За Израиль:
Por Israel:

[YOAV BIRAN]

[Subject to ratification — Sous réserve de ratification]

[27 November 1991 — 27 novembre 1991]

عن ايطاليا:

代表 意大利:

For Italy:
Pour l'Italie :
За Италию:
Por Italia:

[MATTEO BARADÀ]

[Subject to ratification — Sous réserve de ratification]

[25 November 1991 — 25 novembre 1991]

عن لبنان:

代表 黎巴嫩:

For Lebanon:
Pour le Liban :
За Ливан:
Por el Líbano:

[MAHMOUD HAMMOUD]

[M. JARIJOUI]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

عن مالطا:

代表 马耳他:

For Malta:
Pour Malte :
За Мальту:
Por Malta:

[JOE FENECH]

[Subject to ratification — Sous réserve de ratification]

[21 June 1991 — 21 juin 1991]

عن المغـــرب:

代表 摩洛哥:

For Morocco:
Pour le Maroc :
За Марокко:
Por Marruecos:

[ABDESLAM ZENINED]

[Subject to ratification by the Moroccan Government — Sous réserve de ratification par le Gouvernement marocain]

[20 February 1991 — 20 février 1991]

عن هولنـــدا:

代表 荷兰:

For the Netherlands:
Pour les Pays-Bas :
За Нидерланды:
Por los Países Bajos:

[J. B. HOEKMAN]

[Subject to ratification — Sous réserve de ratification]

[21 November 1991 — 21 novembre 1991]

عن النرويج:

代表 挪威:

For Norway:
Pour la Norvège :
За Норвегию:
Por Noruega:

[KJELL ELIASSEN]

[Subject to ratification — Sous réserve de ratification]

[21 November 1991 — 21 novembre 1991]

عن الفلبين:

代表 菲律宾：

For the Philippines:
Pour les Philippines :
За Филиппины:
Por Filipinas:

[C. L. AGUSTIN]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

عن بولندا:

代表 波兰：

For Poland:
Pour la Pologne :
За Польшу:
Por Polonia:

[JERZY VONAU]

[Subject to ratification — Sous réserve de ratification]

[7 November 1991 — 7 novembre 1991]

عن السنغال:

代表 塞内加尔：

For Senegal:
Pour le Sénégal :
За Сенегал:
Por el Senegal:

[SEYDON MADANI SY]

[Subject to ratification — Sous réserve de ratification]

[20 June 1991 — 20 juin 1991]

عن اسبانيا:

代表 西班牙:

For Spain:
Pour l'Espagne :
За Испанию
Por España:

[FELIPE DE LA MORENA]

[Subject to ratification — Sous réserve de ratification]

[27 November 1991 — 27 novembre 1991]

عن السويد:

代表 瑞典:

For Sweden:
Pour la Suède :
За Швецию:
Por Suecia:

[LENNART ECKERBERG]

[Subject to ratification — Sous réserve de ratification]

[3 April 1991 — 3 avril 1991]

عن الولايات المتحدة الأمريكية:

代表 美利坚合众国:

For the United States of America:
Pour les Etats-Unis d'Amérique :
За Соединенные Штаты Америки:
Por los Estados Unidos de América:

[J. WILLIAM KIME]

[Subject to ratification — Sous réserve de ratification]

[30 November 1990 — 30 novembre 1990]

عن الأوروجواى:

代表 乌拉圭:

For Uruguay:
Pour l'Uruguay :
За Уругвай:
Por el Uruguay:

[RICARDO MEDINA]
ad referendum
[30 November 1990 — 30 novembre 1990]

عن فنزويـــلا:

代表 委内瑞拉:

For Venezuela:
Pour le Venezuela :
За Венесуэлу:
Por Venezuela:

[ELENA MORA]
[JOSÉ VELASCO COLLAZO]
[Subject to ratification — Sous réserve de ratification]
[20 May 1991 — 20 mai 1991]

RESERVATION MADE UPON RATIFICATION

RÉSERVE FAITE LORS DE LA RATIFICATION

ARGENTINA

ARGENTINE

[SPANISH TEXT — TEXTE ESPAGNOL]

"La República Argentina, hace expresa reserva de sus derechos de soberanía y jurisdicción territorial y marítima, sobre las Islas Malvinas, Georgias del Sur, Sandwich del Sur y los espacios marítimos correspondientes, reconocidos y definidos por ley de la Nación Argentina Nº 23.968 del 14 de agosto de 1991 y rechaza cualquier extensión de la aplicación del Convenio internacional sobre cooperación, preparación y lucha contra la contaminación por hidrocarburos 1990, que cualquier otro Estado, comunidad o entidad pudiera hace a esos territorios insulares y/o áreas marítimas argentinos."

[TRANSLATION][1]

The Argentine Republic hereby expressly reserves its rights of sovereignty and of territorial and maritime jurisdiction over the Malvinas Islands, South Georgia and South Sandwich Islands, and the maritime areas corresponding thereto, as recognized and defined in Law No. 23.968 of the Argentine Nation of 14 August 1991, and repudiates any extension of the scope of the International Convention on Oil Pollution Preparadness, Response and Co-operation, 1990, which may be made by any other State, community or entity to those Argentine island territories and/or maritime areas.

[TRADUCTION][1]

La République argentine réserve expressément ses droits de souveraineté et de juridiction territoriale et maritime sur les îles Malouines, les îles de Géorgie du Sud et les îles Sandwich du Sud ainsi que sur les zones maritimes correspondantes telles que reconnues et définies par la loi de la nation argentine nº 23 968 du 14 août 1991; et elle récuse toute extension éventuelle par tout autre Etat, collectivité ou entité du champ d'application de la Convention internationale de 1990 sur la préparation, la lutte et la coopération en matière de pollution par les hydrocarbures à ces territoires et/ou zones maritimes argentins.

[1] Translation supplied by the International Maritime Organization.

[1] Traduction fournie par l'Organisation maritime internationale.

INTERNATIONAL CONVENTION ON OIL POLLUTION PREPARADNESS, RESPONSE AND CO-OPERATION, 1990

PROCÈS-VERBAL OF RECTIFICATION

CONVENTION INTERNATIONALE DE 1990 SUR LA PRÉPARATION, LA LUTTE ET LA COOPÉRATION EN MATIÈRE DE POLLUTION PAR LES HYDROCARBURES

PROCÈS-VERBAL DE RECTIFICATION

CONVENIO INTERNACIONAL SOBRE COOPERACIÓN, PREPARACIÓN Y LUCHA CONTRA LA CONTAMINACIÓN POR HIDROCARBUROS, 1990

ACTA DE RECTIFICACIÓN

Whereas an International Convention on Oil Pollution Preparedness, Response and Co-operation was adopted on 30 November 1990 by the diplomatic conference convened by IMO and held in London from 19 to 30 November 1990 the text of which is deposited with the Secretary-General of the International Maritime Organization;

Whereas certain errors have been discovered in the Russian authentic text of the Convention and brought to the notice of the States Signatories or Parties to the Convention;

Whereas all these Governments have agreed to these errors being corrected as indicated hereunder:

Attendu qu'une convention internationale sur la préparation, la lutte et la coopération en matière de pollution par les hydrocarbures a été adoptée le 30 novembre 1990 par la Conférence diplomatique convoquée par l'OMI qui s'est tenue à Londres du 19 au 30 novembre 1990 et que le texte de cette convention est déposé auprès du Secrétaire général de l'Organisation maritime internationale;

Attendu que certaines erreurs ont été relevées dans le texte russe authentique de ladite convention et portées à l'attention des Etats signataires ou Parties à la Convention;

Attendu que tous ces gouvernements ont approuvé la correction de ces erreurs, il est apporté les rectifications ci-après :

Considerando que el Convenio internacional sobre cooperación, preparación y lucha contra la contaminación por hidrocarburos, 1990, fue adoptado el 30 de noviembre de 1990 por la conferencia diplomática convocada por la OMI y celebrada en Londres del 19 al 30 de noviembre de 1990, cuyo texto se encuentra depositado ante el secretario General de la Organización Marítima Internacional;

Considerando que en el texto ruso auténtico del Convenio se han hallado ciertos errores y que éstos han sido puestos en conocimiento de los Estados signatarios o Partes en el Convenio;

Considerando que todos esos gobiernos han acordado corregir tales errores del modo que se indica a continuación:

International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990

Russian authentic text

(All references relate to the text of the Convention as it appears in the certified true copy)

Page 2, Preamble, para 5 - line 2	Delete "международные" and insert "региональные"
Page 4, Article 3, para 1, subpara (a) - line 4	Delete "или под ее эгидой"
Page 6, Article 5, para 2 - line 3	Delete "региональный или субрегиональный орган" and insert "региональную организацию"
Page 6, Article 5, para 3 - line 4	Delete "региональный или субрегиональный орган" and insert "соответствующие региональные организации"
Page 7, Article 6, para 2, subpara (d) - lines 1, 2	Delete "со значительным" and insert "с"
Page 8, Article 7, para 2 line 3	Delete "финансовых гарантий в отношении" and insert "временного финансирования"
Page 10, Article 11 - lines 2, 3	Delete "наносящее ущерб правам или обязанностям любой Стороны, предусмотренным в любых других конвенциях и международных соглашениях" and insert "изменяющее права или обязанности любой Стороны, предусмотренные в любой другой конвенции или международном соглашении"
Page 10, Article 12, para 1, subpara (ii) - lines 1, 2	Delete "финансовых гарантий в отношении" and insert "временного финансирования"
Page 11, Article 14, para 1 - line 1	Delete "путем процедур" and insert "путем одной процедуры"
Page 14, Article 16, para 2 - line 3	Delete "их" and insert "ее"

Now therefore, I the undersigned, William Andrew O'Neil, Secretary-General of the International Maritime Organization, depositary of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990, have caused the authentic Russian text of the Convention to be modified by the corrections indicated above, and initialled in the margin thereof.

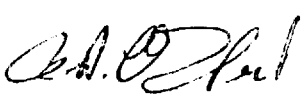
In witness whereof, I have signed the present Procès-Verbal at the Headquarters of the Organization this fourteenth day of March 1994, in a single copy which shall be kept in the archives of the Organization with the authentic text of the Convention.

Je soussigné, William Andrew O'Neil, Secrétaire général de l'Organisation maritime internationale, dépositaire de la Convention internationale de 1990 sur la préparation, la lutte et la coopération en matière de pollution par les hydrocarbures, ai fait modifier le texte russe authentique de ladite convention en y apportant les corrections indiquées ci-dessus, qui sont paraphées dans la marge.

En foi de quoi, j'ai signé le présent procès-verbal au Siège de l'Organisation le quatorzième jour de mars 1994, en un seul exemplaire original, lequel sera conservé dans les archives de l'Organisation avec le texte authentique de la Convention.

Yo, William Andrew O'Neil, Secretario General de la Organización Marítima Internacional, depositario del Convenio internacional sobre cooperación, preparación y lucha contra la contaminación por hidrocarburos, 1990, visto lo que antecede, he hecho modificar el texto ruso auténtico del Convenio introduciendo las correcciones arriba indicadas y he puesto mis iniciales al margen de las mismas.

En fe de lo cual, firmo la presente acta de rectificación en la sede de la Organización, hoy, día decimocuarto de marzo de 1994 en un solo ejemplar original que se guardará en los archivos de la Organización, junto con el texto auténtico del Convenio.



FINAL ACT[1] OF THE CONFERENCE ON INTERNATIONAL CO-OPERATION ON OIL POLLUTION PREPAREDNESS AND RESPONSE

1 In accordance with Article 2(b) of the Convention on the International Maritime Organization, the Assembly of the Organization at its sixteenth regular session decided, by adoption of resolution A.674(16) of 19 October 1989, to convene an international conference to consider the adoption of an international convention on oil pollution preparedness and response.

2 In this connection, by adoption of resolution A.644(16) of 19 October 1989 on the work programme and budget for the sixteenth financial period 1990-1991, the Assembly at the above-mentioned session noted that the Government of the United States had kindly agreed to provide the necessary funds for one preparatory meeting and for a one-week diplomatic conference.

3 Subsequently, the Organization was informed that the Government of Japan and the Japan Shipbuilding Industry Foundation had kindly agreed to provide additional funding in order that the duration of the diplomatic conference could be extended to two weeks.

4 The Conference was held in London, at the Headquarters of the International Maritime Organization from 19 to 30 November 1990.

5 Representatives of 90 States participated in the Conference, namely the representatives of:

ALGERIA
ANTIGUA AND BARBUDA
ARGENTINA
AUSTRALIA
BAHAMAS
BAHRAIN
BANGLADESH
BARBADOS
BELGIUM
BRAZIL
CAMBODIA
CAMEROON
CANADA
CAPE VERDE
CHILE
CHINA
COSTA RICA
COTE D'IVOIRE
CYPRUS
DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA
DENMARK
ECUADOR
EGYPT
EL SALVADOR
ETHIOPIA
FIJI
FINLAND
FRANCE
GABON
MALAYSIA
MALDIVES
MALTA
MARSHALL ISLANDS
MAURITIUS
MEXICO
MONACO
MOROCCO
MYANMAR
NETHERLANDS
NEW ZEALAND
NIGERIA
NORWAY
PAKISTAN
PERU
PHILIPPINES
POLAND
PORTUGAL
REPUBLIC OF KOREA
ROMANIA
SAINT LUCIA
SAINT VINCENT AND THE GRENADINES
SAUDI ARABIA
SENEGAL
SEYCHELLES
SINGAPORE
SPAIN
SUDAN
SWEDEN
THAILAND

[1] Published for information only.

GERMANY
GHANA
GREECE
GRENADA
GUINEA
ICELAND
INDIA
INDONESIA
IRAN (ISLAMIC REPUBLIC OF)
ITALY
JAPAN
JORDAN
KENYA
KUWAIT
LEBANON
LIBERIA
MALAWI
TRINIDAD AND TOBAGO
TUNISIA
TURKEY
UGANDA
UKRAINIAN SOVIET SOCIALIST REPUBLIC
UNION OF SOVIET SOCIALIST REPUBLICS
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
UNITED REPUBLIC OF TANZANIA
UNITED STATES OF AMERICA
URUGUAY
VANUATU
VENEZUELA
VIET NAM
ZAIRE

6 The following States sent observers to the Conference:

CUBA
GUATEMALA
YUGOSLAVIA

7 HONG KONG, an Associate Member of the International Maritime Organization, sent an observer to the Conference.

8 Representatives of the following bodies of the United Nations attended the Conference:

UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP)
UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION (UNIDO)
UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION (UNESCO)
INTERGOVERNMENTAL OCEANOGRAPHIC COMMISSION (IOC)

9 The following four intergovernmental organizations sent observers to the Conference:

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT (OECD)
COMMISSION OF THE EUROPEAN COMMUNITIES (EEC)
INTERNATIONAL OIL POLLUTION COMPENSATION FUND (IOPC FUND)
HELSINKI COMMISSION (HELCOM)

10 The following nine non-governmental international organizations sent observers to the Conference:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)
INTERNATIONAL MARITIME COMMITTEE (CMI)
INTERNATIONAL ASSOCIATION OF PORTS AND HARBORS (IAPH)
INTERNATIONAL ASSOCIATION OF CLASSIFICATION SOCIETIES (IACS)
OIL COMPANIES INTERNATIONAL MARINE FORUM (OCIMF)
OIL INDUSTRY INTERNATIONAL EXPLORATION AND PRODUCTION FORUM (E & P FORUM)
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS (INTERTANKO)
INTERNATIONAL TANKER OWNERS POLLUTION FEDERATION LIMITED (ITOPF)
ADVISORY COMMITTEE ON POLLUTION OF THE SEA (ACOPS)

11 His Excellency, Mr. Abdeslam Zenined, Ambassador Extraordinary and Plenipotentiary of the Kingdom of Morocco to the United Kingdom, Head of the delegation of Morocco, was elected President of the Conference.

12 The Vice-Presidents elected by the Conference were:

Vice-Admiral C. Toledo de la Maza	(Chile)
Mr. Yu Zhizhong	(China)
Mr. J. Østergaard	(Denmark)
Mr. O.O. George	(Nigeria)
H.E. The Honourable T.T. Syquia	(Philippines)
Mr. O.A. Savin	(USSR)

13 The Secretariat of the Conference consisted of the following officers:

Secretary-General	Mr. W.A. O'Neil
Executive Secretary	Mr. K. Voskresensky, Director, Marine Environment Division
Deputy Executive Secretaries:	Mr. J. Wonham, Senior Deputy Director, Marine Environment Division
	Mr. D.T. Edwards, Deputy Director, Marine Environment Division

14 The Conference established a Committee of the Whole with the mandate to consider the draft text of an international convention on oil pollution preparedness and response and related recommendations and resolutions.

15 The Drafting Committee established by the Conference was composed of representatives of the following nine States:

ARGENTINA	FRANCE	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
CHINA	JAPAN	UNION OF SOVIET SOCIALIST REPUBLICS
EGYPT	SPAIN	UNITED STATES OF AMERICA

16 A Credentials Committee was appointed to examine the credentials of representatives attending the Conference. The Committee was composed of representatives of the following States:

CAMEROON
IRAN (ISLAMIC REPUBLIC OF)
ITALY
POLAND
VENEZUELA

17 The officers elected for the Committees were as follows:

Committee of the Whole:

Chairman:	Mr. E. Jansen (Norway)
Vice-Chairmen:	H.E. Mr. G.B. Cooper (Liberia)
	H.E. Dr. P.E.J. Rodgers (Bahamas)

Drafting Committee:

Chairman:	Mr. Y. Sasamura (Japan)
Vice-Chairman:	Mr. J-F. Lévy (France)

Credentials Committee:

Chairman:	Mr. J. Vonau (Poland)

18 The Conference used as the basis of its work:

- draft text of an international convention on oil pollution preparedness and response prepared by a preparatory meeting; and

- draft Conference resolutions prepared by the preparatory meeting.

19 The Conference also considered proposals and comments on the above-mentioned documents submitted to the Conference by Governments and interested organizations.

20 As a result of its deliberations, the Conference adopted the:

INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 1990.

21 The Conference further adopted the following resolutions:

1 References to instruments and other documents developed by the International Maritime Organization under articles of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990

2 Implementation of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 pending its entry into force

3 Early implementation of the provisions of article 12 of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990

4 Implementation of the provisions of article 6 of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990

5 Establishment of oil pollution combating equipment stockpiles

6 Promotion of technical assistance

7 Development and implementation of a training programme for oil pollution preparedness and response

8 Improving salvage services

9 Co-operation between States and insurers

10 Expansion of the scope of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 to include hazardous and noxious substances

These resolutions are contained in the Attachment to this Final Act.

22 This Final Act is established in a single original text in the Arabic, Chinese, English, French, Russian and Spanish languages which is to be deposited with the Secretary-General of the International Maritime Organization.

23 The Secretary-General shall send certified copies of this Final Act with its Attachment and certified copies of the authentic text of the Convention to the Governments of the States invited to be represented at the Conference, in accordance with the wishes of those Governments.

IN WITNESS WHEREOF the undersigned have affixed their signature to this Final Act.

DONE AT LONDON this thirtieth day of November, one thousand nine hundred and ninety.

[*For the signatures, see p. 180 of this volume.*]

الرئيـــس:
主 席:
President:
Président :
Председатель:
Presidente:

H. E. Mr. ABDESLAM ZENINED

أمين عام المنظمة البحرية الدوليـــة:
国际海事组织秘书长:
Secretary-General of the International Maritime Organization:
Secrétaire général de l'Organisation maritime internationale :
Генеральныи Секретарь Международной Морской Организации:
Secretario General de la Organización Marítima Internacional:

Mr. W. A. O'NEIL

الامين التنفيذى للمؤتمر:
会议执行秘书:
Executive Secretary of the Conference:
Secrétaire exécutif de la Conférence :
Исполнительный Секретарь Конференции:
Secretario Ejecutivo de la Conferencia:

Mr. K. VOSKRESENSKY

نائب الأمين التنفيذى للمؤتمر:
会议副执行秘书:
Deputy Executive Secretary of the Conference:
Secrétaire exécutif adjoint de la Conférence :
Заместитель Исполнительного Секретаря Конференции:
Secretario Ejecutivo Adjunto de la Conferencia:

Dr. J. WONHAM

نائب الأمين التنفيذى للمؤتمر:

会议副执行秘书:

Deputy Executive Secretary of the Conference:
Secrétaire exécutif adjoint de la Conférence :
Заместитель Исполнительного Секретаря Конференции:
Secretario Ejecutivo Adjunto de la Conferencia:

Mr. D. T. EDWARDS

عن الجزائر:

代表 阿尔及利亚:

For Algeria:
Pour l'Algérie :
За Алжир:
Por Argelia:

Mme Z. BENDIB

عن انتيجوا وباربودا:

代表 安提瓜和巴布达:

For Antigua and Barbuda:
Pour Antigua-et-Barbuda :
За Антигуа и Барбуда:
Por Antigua y Barbuda:

H. E. MR. JAMES A. E. THOMAS

عن الارجنتين:

代表 阿根廷:

For Argentina:
Pour l'Argentine :
За Аргентину:
Por la Argentina:

H. E. SR. M. CAMPORA
Mr. V. W. ZIBELL
Ministro MARTHA N. OLIVEROS
Mr. J. M. ROLÓN
Mr. M. A. HILDMANN

عن استراليـــا:

代表 澳大利亚:

For Australia:
Pour l'Australie :
За Австралию:
Por Australia:

MR. I. M. WILLIAMS
Mr. C. W. FILOR

عن البهامـــا:

代表 巴哈马:

For the Bahamas:
Au nom des Bahamas :
За Багамские острова:
Por las Bahamas:

Capt. N. MAUDE

عن البحريـن:

代表 巴林:

For Bahrain:
Pour Bahreïn :
За Бахрейн:
Por Bahrein:

H. E. Mr. K. E. AL SHAKAR
Mr. A. H. HASAN
Mr. M. A. HASAN

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代表 孟加拉:

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Pour le Bangladesh :
За Бангладеш:
Por Bangladesh:

Mr. S. MAJUMDER

عن باربادوس:
代表 巴巴多斯:
For Barbados:
Pour la Barbade :
За Барбадос:
Por Barbados:

عن بلجيكـــا:
代表 比利时:
For Belgium:
Pour la Belgique :
За Бельгию:
Por Bélgica:

Mr. J. MARICOU
Capt. J. VYNCKIER

عن البرازيـــل:
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Por el Brasil:

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Mrs. M. W. S. GOES
Mr. E. KOSLINSKI

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代表 柬埔寨:
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Pour le Cambodge :
За Камбоджу:
Por Camboya:

Mr. CHEA BUN NY

عن الكاميرون:

代表 喀麦隆:

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Pour le Cameroun :
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M. O. S. E. PONDY

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Pour le Canada :
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Por el Canadá:

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Mr. M. GAUTHIER
Mr. T. RING
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За Чили:
Por Chile:

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Capt. A. SIERRA

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За Кению:
Por Kenya:

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За Малайзию:
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Pour les Maldives :
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Por Maldivas:

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Pour Malte :
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For the Marshall Islands:
Au nom des Iles Marshall :
За Маршалловы Острова:
Por las Islas Marshall:

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Pour Maurice :
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代表 墨西哥:

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Pour le Mexique :
За Мексику:
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Ing. P. VELÁZQUEZ SAN MIGUEL
Lic. M. M. CARRASCO BRETON

عن موناكو:

代表 摩纳哥:

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Pour Monaco :
За Монако:
Por Mónaco:

عن المغرب:

代表 摩洛哥:

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Pour le Maroc :
За Марокко:
Por Marruecos:

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M. R. TIJANI
Dr. A. LAHLOU

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For Myanmar:
Pour le Myanmar :
За Мьянма:
Por Myanmar:

عن هولنـدا:

代表 荷兰:

For the Netherlands:
Pour les Pays-Bas :
За Нидерланды:
Por los Países Bajos:

Mr. D. TROMP

عن نيوزيلنـد•:

代表 新西兰:

For New Zealand:
Pour la Nouvelle-Zélande :
За Новую Зеландию:
Por Nueva Zelandia:

Mr. D. W. BOYES

عن نيجيريـــا:

代表 尼日利亚:

For Nigeria:
Pour le Nigéria :
За Нигерию:
Por Nigeria:

Mr. O. O. GEORGE
Dr. C. N. IFEADI
Mr. E. F. UDOEYOP
Mr. A. M. DANKANO
Mr. F. ADUN
Mr. G. O. ASAOLU

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代表 挪威:
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Pour la Norvège :
За Норвегию:
Por Noruega:

Mr. EMIL JANSEN
Mr. G. STUBBERUD

عن باكستان:
代表 巴基斯坦:
For Pakistan:
Pour le Pakistan :
За Пакистан:
Por el Pakistán:

Mr. NAIMATULLAH
Capt. S. A. MALIK

عن البيرو:
代表 秘鲁:
For Peru:
Pour le Pérou :
За Перу:
Por el Perú:

Capt. J. F. GARFIAS

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代表 菲律宾:
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Pour les Philippines :
За Филиппины:
Por Filipinas:

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Mr. E. LIBID
Mrs. E. BERENGUEL

عن بولنده:

代表 波兰:

For Poland:
Pour la Pologne :
За Польшу:
Por Polonia:

Mr. J. VONAU
Dr. P. JEDRZEJOWICZ

عن البرتغال:

代表 葡萄牙:

For Portugal:
Pour le Portugal :
За Португалию:
Por Portugal:

Admiral G. PATKOCZY
Admiral J. MARTINS CARTAXO
Eng. A. L. BASTOS
Capt. C. CAETANO DIAS
Mr. J. L. FERREIRA DE CARVALHO

عن جمهورية كوريا:

代表 大韩民国:

For the Republic of Korea:
Pour la République de Corée :
За Республику Корея:
Por la República de Corea:

Mr. KEUN BAE CHOI
Mr. KI TAEK KIM
Mr. SEONG HO SONG
Mr. LARK JUNG CHOI
Mr. EUN LEE

عن رومانيـــا:
代表 罗马尼亚:
For Romania:
Pour la Roumanie :
За Румынию:
Por Rumania:

Mr. E. SAVU
Mr. E. ZORCA

عن سانت لوسيا:
代表 圣卢西亚:
For Saint Lucia:
Pour Sainte-Lucie :
За Сент-Люсию:
Por Santa Lucía:

عن سان فنسنت والجرانادين:
代表 圣文森特和格林纳丁斯:
For Saint Vincent and the Grenadines:
Pour Saint-Vincent-et-Grenadines :
За Сент-Винсент и Гренадины:
Por San Vicente y las Granadinas:

Mr. C. E. LEWIS

عن العربية السعودية:
代表 沙特阿拉伯:
For Saudi Arabia:
Pour l'Arabie saoudite :
За Саудовскую Аравию:
Por Arabia Saudita:

Mr. K. AL-FARDAN K.

عن السنغـــال:
代表 塞内加尔:
For Senegal:
Pour le Sénégal :
За Сенегал:
Por el Senegal:

S. E. Le Général IDRISSA FALL
M. A. SOURANG

عن سيشيـــل:
代表 塞舌尔:
For Seychelles:
Pour les Seychelles :
За Сейшельские острова:
Por Seychelles:

Capt. J. P. GRANDCOURT

عن سنغافـوره:
代表 新加坡:
For Singapore:
Pour Singapour :
За Сингапур:
Por Singapur:

Mr. TAN HONG CHUAN

عن اسبانيـا:
代表 西班牙:
For Spain:
Pour l'Espagne :
За Испанию:
Por España:

H. E. Mr. F. DE LA MORENA
Mr. C. VILLARINO
Mr. E. CRUZ-ITURZAETA

عن السودان:
代表 苏丹:
For the Sudan:
Pour le Soudan :
За Судан:
Por el Sudán:

عن السويد:
代表 瑞典:
For Sweden:
Pour la Suède :
За Швецию:
Por Suecia:

Mr. U. BJURMAN

عن تايلاند:
代表 泰国:
For Thailand:
Pour la Thaïlande :
За Таиланд:
Por Tailandia:

Mr. AMPHON TIYABHORN

عن ترينيداد وتوباجو:
代表 特立尼达和多巴哥:
For Trinidad and Tobago:
Pour la Trinité-et-Tobago :
За Тринидад и Тобаго:
Por Trinidad y Tabago:

H. E. Mr. P. L. U. CROSS

عن تونس:
代表 突尼斯:
For Tunisia:
Pour la Tunisie :
За Тунис:
Por Túnez:

M. LOTFI CHEMLI
M. BECHIR TALBI

عن تركيا:
代表 土耳其:
For Turkey:
Pour la Turquie :
За Турцию:
Por Turquía:

Mr. A. OZMAN

عن أوغندا:
代表 乌干达:
For Uganda:
Pour l'Ouganda :
За Уганду:
Por Uganda:

Ms J. P. BADARU

عن جمهورية أوكرانيا السوفيتية الاشتراكية:
代表 乌克兰苏维埃社会主义共和国:
For the Ukrainian Soviet Socialist Republic:
Pour la République socialiste soviétique d'Ukraine :
За Украинскую Советскую Социалистическую Республику:
Por la República Socialista Soviética de Ucrania:

Mr. A. N. SHEVCHENKO

عن اتحاد الجمهوريات الاشتراكية السوفيتية:

代表 苏维埃社会主义共和国联盟:

For the Union of Soviet Socialist Republics:
Pour l'Union des Républiques socialistes soviétiques :
За Союз Советских Социалистических Республик:
Por la Unión de Repúblicas Socialistas Soviéticas:

Mr. O. SAVIN

عن المملكة المتحدة لبريطانيا العظمى وشمال ايرلنـــدا:

代表 大不列颠和北爱尔兰联合王国:

For the United Kingdom of Great Britain and Northern Ireland:
Pour le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord :
За Соединенное Королевство Великобритании и Северной Ирладии:
Por el Reino Unido de Gran Bretaña e Irlanda del Norte:

Capt. W. H. H. MCLEOD
Mr. J. F. WALL
Mr. B. GOLDS

عن جمهورية تانزانيا المتحـــــدة:

代表 坦桑尼亚联合共和国:

For the United Republic of Tanzania:
Pour la République-Unie de Tanzanie :
За Объединенную Республику Танзания:
Por la República Unida de Tanzanía:

Mr. A. S. MASSAWE

عن الولايات المتحدة الأمريكية:

代表 美利坚合众国:

For the United States of America:
Pour les États-Unis d'Amérique :
За Соединенные Штаты Америки:
Por los Estados Unidos de América:

Admiral J. W. KIME
Rear Admiral J. D. SIPES
Capt. W. HOLT
Ms. S. BLOOD
Mr. J. NOLAN

عن الأوروجواى:
代表 乌拉圭:
For Uruguay:
Pour l'Uruguay :
За Уругвай:
Por el Uruguay:

Capt. RICARDO MEDINA RAMELLA

عن فانواتـــو:
代表 瓦努阿图:
For Vanuatu:
Pour Vanuatu :
За Вануату:
Por Vanuatu:

Dr. J. COWLEY

عن فنزويـــلا:
代表 委内瑞拉:
For Venezuela:
Pour le Venezuela :
За Венесуэлу:
Por Venezuela:

Lic. ELENA MORA
Lic. ANALIDA ALFARO
Sr. I. GUTIÉRREZ

عن فيتنـام:
代表 越南:
For Viet Nam:
Pour le Viet Nam :
За Вьетнам:
Por Viet Nam:

عن زائـــير:

代表 扎伊尔:

For Zaire:
Pour le Zaïre :
За Заир:
Por el Zaire:

Citoyen G. TITO YISUKU
Citoyen BASAMBI A. YOMBA

ATTACHMENT

CONFERENCE RESOLUTION 1

REFERENCES TO INSTRUMENTS AND OTHER DOCUMENTS DEVELOPED BY THE INTERNATIONAL MARITIME ORGANIZATION UNDER ARTICLES OF THE INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 1990

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (the OPRC Convention),

RECOGNIZING that the measures introduced by the OPRC Convention take into account the provisions of other important conventions developed by the International Maritime Organization, in particular the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, as amended (MARPOL 73/78),

RECOGNIZING ALSO the need for the OPRC Convention to supplement and not to duplicate the important provisions adopted by, or under the auspices of, the Organization, such as those contained in MARPOL 73/78, guidelines and manuals,

NOTING that articles 3, 4, 5 and 6 of the OPRC Convention in particular refer to certain provisions of MARPOL 73/78 and other documents developed by the Organization,

1. ADOPTS the list containing references to the instruments and other documents developed by the Organization under the relevant articles of the OPRC Convention, as set out in the annex to this resolution;

2. INVITES the Marine Environment Protection Committee of the Organization to keep the list up to date;

3. REQUESTS the Secretary-General of the Organization to include these references, updated as necessary, in future editions of the publications of the OPRC Convention in the form of footnotes to the relevant articles.

ANNEX

REFERENCES IN THE OPRC CONVENTION

Article 3(1)(a)

"The provisions adopted by the Organization" refers to regulation 26 of Annex I of MARPOL 73/78.

Article 3(1)(b)

"Existing international agreements" refers to articles 5 and 7 of MARPOL 73/78.

Article 4(2)

"The requirements developed by the Organization" refers to article 8 and Protocol I of MARPOL 73/78.

"Guidelines and general principles adopted by the Organization" refers to "General principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants" adopted by the Organization by resolution A.648(16).

Article 5(4)

"The oil pollution reporting system developed by the Organization" is contained in the Manual on Oil Pollution, section II - Contingency Planning, appendix 2, developed by the Marine Environment Protection Committee of the Organization.

Article 6(1)(b)

"Guidelines developed by the Organization" are contained in the Manual on Oil Pollution, section II - Contingency Planning, developed by the Marine Environment Protection Committee of the Organization.

CONFERENCE RESOLUTION 2

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 1990 PENDING ITS ENTRY INTO FORCE

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (the OPRC Convention),

RECOGNIZING the continuing risk of a major oil pollution incident and the serious environmental consequences which may arise therefrom,

CONVINCED of the importance of co-operation among States in the exchange of information and assistance respecting oil pollution preparedness and response,

MINDFUL of the particular vulnerability of those countries which do not have ready access to information and advice on oil pollution preparedness and response,

RECOGNIZING FURTHER that it is desirable for each country at risk from oil pollution incidents to establish a national system for combating oil pollution,

DESIRING that the provisions of the OPRC Convention should become effective as soon as possible so as to facilitate international co-operation in oil pollution preparedness and response,

1. CALLS UPON all States, including those that have not participated in this Conference, to sign and to become Parties to the OPRC Convention and to implement its provisions as soon as possible;

2. URGES all States to establish, as soon as and to the extent possible, national systems for combating oil pollution;

3. URGES FURTHER all States, pending the entry into force of the OPRC Convention for them, to co-operate among themselves and with the International Maritime Organization, as appropriate, in exchanging oil pollution combating information and in facilitating prompt assistance in the event of a major oil pollution incident.

CONFERENCE RESOLUTION 3

EARLY IMPLEMENTATION OF THE PROVISIONS OF ARTICLE 12 OF THE INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 1990

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (the OPRC Convention),

NOTING the provisions of resolution A.448(XI) of the Assembly of the International Maritime Organization on regional arrangements for combating major incidents or threats of marine pollution, and further Assembly resolutions on technical assistance in the field of protection of the marine environment (A.349(IX), A.677(16)),

NOTING ALSO, in particular, that article 12 of the OPRC Convention by which the Parties designated IMO, subject to its agreement and the availability of adequate resources to sustain the activity, to carry out certain functions and activities and to meet certain objectives of the OPRC Convention,

NOTING FURTHER the importance of taking account of the experience gained within regional agreements on combating marine pollution as referred to in Assembly resolution A.674(16),

RECOGNIZING the importance of early implementation of the objectives of article 12 of the OPRC Convention,

1. INVITES the Secretary-General of the Organization, pending the entry into force of the OPRC Convention, to initiate the early implementation of functions and activities in order to meet the objectives in article 12(1)(a) and (b) of the OPRC Convention within available resources;

2. INVITES the Organization to provide a forum for discussion of experiences gained within regional conventions and agreements concerning combating oil pollution incidents;

3. REQUESTS the Secretary-General to present to the Organization, within one year of this Conference, a programme which indicates the way in which the Organization contemplates carrying out the duties mentioned in this Convention, and which would include such elements as re-allocating available resources, examining and developing alternative organizational arrangements, and determining financial implications and possible sources of support;

4. INVITES FURTHER the Organization to review periodically progress made in implementing article 12 of the OPRC Convention.

CONFERENCE RESOLUTION 4

IMPLEMENTATION OF THE PROVISIONS OF ARTICLE 6 OF THE INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 1990

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (the OPRC Convention),

RECOGNIZING the importance of the "polluter pays" principle,

NOTING that article 6 of the OPRC Convention provides that the Parties shall establish a national system comprising a contingency plan and shall set up, either individually or in co-operation with other Parties, arrangements comprising, in particular, response equipment and a training programme,

BEING AWARE that, in the event of an oil pollution incident, measures taken immediately by the State under threat are essential and are likely, in the initial phase, to be the most effective in protecting its coasts and minimizing the potential damage caused by such an incident,

EMPHASIZING that when international assistance is requested by the State under threat, the dispatch of personnel and equipment may require some time as a result of distance,

EMPHASIZING FURTHER that the effectiveness of assistance depends on measures taken to prepare for response and to train personnel to put into effect the national contingency plan of the State under threat,

BEARING IN MIND that the financial resources available to some developing countries are limited,

RECOGNIZING ALSO that measures taken to prepare for response necessitate specific financial aid, made available for that purpose, for the benefit of the developing countries,

1. INVITES Parties to give due consideration, in their bilateral and multilateral co-operation programmes, and on fair terms, to the needs of the developing countries arising from the implementation of the OPRC Convention;

2. INVITES ALSO the Secretary-General of the Organization to give his support in identifying international bodies that might provide specific sources of financing to assist the developing countries in carrying out the obligations arising from the OPRC Convention.

CONFERENCE RESOLUTION 5

ESTABLISHMENT OF OIL POLLUTION COMBATING EQUIPMENT STOCKPILES

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (the OPRC Convention),

NOTING article 6(2)(a) of the OPRC Convention which provides that each Party shall establish, within its capabilities, either individually or through bilateral or multilateral co-operation and, as appropriate, in co-operation with the oil and shipping industries and other entities, a system which includes a minimum level of pre-positioned oil spill combating equipment, and programmes for its use,

NOTING ALSO that one of the fundamental elements of the International Maritime Organization's strategy for the protection of the marine environment is to strengthen the capacity for national and regional action to combat marine pollution and to promote technical co-operation to this end,

RECOGNIZING that in the event of an oil spill or threat thereof, prompt and effective action should be taken initially at the national level to organize and co-ordinate prevention, mitigation and clean-up activities,

RECOGNIZING ALSO that one of the basic principles used for providing funds following pollution damage is the "polluter pays" principle,

RECOGNIZING FURTHER the importance of mutual co-operation and assistance in combating major oil pollution incidents which may be beyond the capability of individual countries and the need to enhance the oil spill combating equipment available in certain regions of the world particularly vulnerable to a major oil pollution incident either because of the high density of vessel traffic or particularly sensitive ecological conditions,

ACKNOWLEDGING the activities of the Organization, in co-operation with donor countries and industry, in establishing oil spill combating equipment stockpiles or centres in areas where developing countries in particular are vulnerable to or at risk from a major oil pollution incident,

INVITES the Secretary-General of the Organization, in consultation with the Executive Director of the United Nations Environment Programme, to approach the oil and shipping industries with a view to:

(a) encouraging further co-operation in order to assist developing countries to implement article 6 of the OPRC Convention, including an assessment of the need for oil spill combating equipment stockpiles on a regional or subregional basis in addition to those already established;

(b) developing a plan on the establishment of oil spill combating equipment stockpiles on a regional or subregional basis, in order to assist developing countries in implementing article 6(2)(a) of the OPRC Convention.

CONFERENCE RESOLUTION 6

PROMOTION OF TECHNICAL ASSISTANCE

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (the OPRC Convention),

NOTING that key elements in the success of any action to combat marine pollution are good administrative organization in the countries concerned in this field and at least a minimum of technical preparation,

BEING AWARE of the difficulties that may be encountered by certain developing countries in establishing such organization and preparation through their own resources,

RECOGNIZING the role played in this connection by the International Maritime Organization, by regional agreements, by bilateral co-operation and by industry programmes,

RECOGNIZING ALSO the contribution made by the Organization'a technical co-operation programme, the United Nations Development Programme, the United Nations Environment Programme and national aid agencies in this regard,

NOTING ALSO resolution A.677(16) which invites the Secretary-General of the Organization to undertake on a priority basis an evaluation of problems faced by developing countries with a view to formulating the long-term objectives of the Organization's technical assistance programme in the environmental field, and to report the outcome to the seventeenth session of the Assembly of the Organization,

NOTING FURTHER the convening of an advisory group by the Secretary-General for this purpose,

1. REQUESTS Member States of the Organization, in co-operation with the Organization when appropriate, other interested States, competent international or regional organizations and industry programmes, to strengthen action to assist developing countries especially in:

(a) the training of personnel,

(b) ensuring the availability of relevant technologies, equipment and facilities,

necessary for oil pollution preparedness and response, so as to enable them to establish at least the minimum structures and resources for combating oil pollution incidents commensurate with the perceived risks of such incidents;

2. REQUESTS ALSO Member States, in co-operation with the Organization when appropriate, other interested States, competent international or regional organizations and industry programmes, to strengthen action to assist developing countries in the initiation of joint research and development programmes;

3. URGES Member States to contribute to such actions without delay, inter alia through bilateral or multilateral co-operation;

4. REQUESTS FURTHER the Organization to re-evaluate the principles underlying co-operation and assistance in articles 7, 8 and 9 of the OPRC Convention in the light of the 1992 United Nations Conference on Environment and Development.

CONFERENCE RESOLUTION 7

DEVELOPMENT AND IMPLEMENTATION OF A TRAINING PROGRAMME FOR OIL POLLUTION PREPAREDNESS AND RESPONSE

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990,

NOTING that a key element in the International Maritime Organization's strategy for protection of the marine environment is the enhancement of the capacity for national and regional action to prevent, control, combat and mitigate marine pollution and to promote technical co-operation to this end,

BEING AWARE that the capability of a State to respond to an oil pollution incident depends on the availability of oil spill combating equipment as well as of trained oil spill response personnel,

RECOGNIZING the role of the Organization in organizing national, regional and global training courses and in developing training aids aimed at providing the necessary technical expertise, in particular for developing countries, in the field of combating incidents of marine pollution,

RECOGNIZING ALSO the role of the World Maritime University and its branches in providing high-level training facilities for personnel, in particular from developing countries,

RECOGNIZING FURTHER the support of the United Nations Development Programme, the United Nations Environment Programme and several Member States of the Organization for the training component of the Organization's technical co-operation programme,

CONSIDERING the need for an increased global effort by all those concerned with the maritime transport of oil and its environmental impact toward the development of a global training programme in oil pollution preparedness and response,

1. INVITES the Secretary-General of the Organization, in co-operation with interested Governments, relevant international and regional organizations and oil and shipping industries, to endeavour to develop a comprehensive training programme in the field of oil pollution preparedness and response;

2. INVITES ALSO the Marine Environment Protection Committee of the Organization, on the basis of proposals made by the Secretary-General, to consider and endorse, as appropriate, such training programme on oil pollution preparedness and response;

3. INVITES FURTHER Member States of the Organization to endeavour to make available the expertise necessary for the development and implementation of the training programme.

CONFERENCE RESOLUTION 8

IMPROVING SALVAGE SERVICES

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990,

CONSIDERING the need to ensure that sufficient salvage capacity is available on a world-wide basis and to appreciate and reward the salvor's preventive function as to marine pollution,

RECALLING that the 1989 International Convention on Salvage, by which incentives for salvors to prevent marine pollution by their salvage operations have been introduced, has not yet entered into force,

NOTING WITH INTEREST that the Third International Conference on the Protection of the North Sea decided on 8 March 1990 to take concerted action within the International Maritime Organization with the aim of ensuring sufficient salvage capacity on a world-wide basis,

RECOGNIZING the expertise and experience of salvors in operating the salvage service efficiently on an international basis,

RECOGNIZING FURTHER the essential role of salvors in response to casualties causing or likely to cause marine pollution,

BEARING IN MIND that there are indications that a considerable percentage of suitable salvage capacity may no longer be available for salvage purposes,

BEING AWARE of the need for sufficient salvage capacity along the main shipping routes of international traffic of oil and other harmful substances,

1. URGES States to ratify or accede to the 1989 International Convention on Salvage as soon as possible;

2. REQUESTS Member States of the Organization to review the salvage capacity available to them and to report to the Organization not later than one year after the Conference on their public and private salvage capabilities which are suitable to carry out salvage operations in order to prevent or minimize damage to the marine environment;

3. REQUESTS Member States whose coasts have been threatened or damaged by marine pollution incidents to report to the Organization on any appropriate measures they have taken to utilize salvage capacities in response to such incidents;

4. REQUESTS the Secretary-General of the Organization to consult the International Salvage Union, salvors, insurers, shipowners and the oil industry on the present and future availability of salvage capacity and to report his findings to the Marine Environment Protection Committee of the Organization.

CONFERENCE RESOLUTION 9

CO-OPERATION BETWEEN STATES AND INSURERS

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990,

BEING AWARE of the difficulties that may be encountered by a State affected by a pollution incident in obtaining useful and necessary information for pollution combating,

RECOGNIZING the potential role of insurers' advisers and technical experts in providing such information,

CONVINCED that it is desirable to establish close co-operation between the State that has suffered pollution and the insurers,

REQUESTS insurers' technical experts and advisers to co-operate with States in order to exchange technical information to allow effective response in the event of an oil pollution incident.

CONFERENCE RESOLUTION 10

EXPANSION OF THE SCOPE OF THE INTERNATIONAL CONVENTION ON OIL POLLUTION PREPAREDNESS, RESPONSE AND CO-OPERATION, 1990, TO INCLUDE HAZARDOUS AND NOXIOUS SUBSTANCES

THE CONFERENCE,

HAVING ADOPTED the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (the OPRC Convention),

NOTING article 38(a) of the Convention on the International Maritime Organization relating to the function of the Marine Environment Protection Committee of the Organization concerning the performance of such functions as are or may be conferred upon the Organization by or under international conventions,

RECOGNIZING that pollution of the sea by accidental discharge of hazardous and noxious substances into the waters may threaten the marine environment and the interests of coastal States,

RECOGNIZING ALSO the existence of international instruments dealing with the carriage of hazardous materials and Assembly resolution A.676(16) on the transboundary movement of hazardous wastes,

BEARING IN MIND ALSO that many of the existing regional conventions and agreements on co-operation in combating marine pollution incidents apply both to oil and to other harmful substances,

CONSIDERING it desirable that the scope of the OPRC Convention should be expanded to apply, either in whole or in part, to marine pollution incidents involving hazardous and noxious substances,

CONSIDERING ALSO that it is desirable that, to the extent feasible and where appropriate, the OPRC Convention be applied by Parties thereto to marine pollution incidents involving hazardous and noxious substances other than oil,

BELIEVING that the ways and means of responding to a marine pollution incident involving hazardous and noxious substances are different in certain important respects from those available for oil pollution preparedness and response,

RECOGNIZING FURTHER the ongoing work of the Organization concerning the development of an international legal regime for liability and compensation, in connection with the carriage of hazardous and noxious substances by sea and the need for early adoption of a convention on this subject,

1. INVITES the International Maritime Organization to initiate work to develop an appropriate instrument to expand the scope of the OPRC Convention to apply, in whole or in part, to pollution incidents by hazardous substances other than oil and prepare a proposal to this end;

2. URGES Parties to the OPRC Convention to apply the appropriate provisions of the Convention to the extent feasible and where appropriate to hazardous and noxious substances, pending the adoption and entry into force of an instrument to cover these substances.

Annex 107

Protocol on Environmental Protection to the Antarctic Treaty, 4 October 1991, 2941 UNTS 3

No. 5778. Multilateral

THE ANTARCTIC TREATY. WASHINGTON, 1 DECEMBER 1959 [*United Nations, Treaty Series, vol. 402, I-5778.*]

PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY (WITH SCHEDULE, ANNEXES AND PROCÈS-VERBAUX OF RECTIFICATION). MADRID, 4 OCTOBER 1991

Entry into force: 14 January 1998, in accordance with article 23

Authentic texts: English, French, Russian and Spanish

Registration with the Secretariat of the United Nations: United States of America, 1 July 2013

Nº 5778. Multilatéral

TRAITÉ SUR L'ANTARCTIQUE. WASHINGTON, 1ER DÉCEMBRE 1959 [*Nations Unies, Recueil des Traités, vol. 402, I-5778.*]

PROTOCOLE AU TRAITÉ SUR L'ANTARCTIQUE, RELATIF À LA PROTECTION DE L'ENVIRONNEMENT (AVEC APPENDICE, ANNEXES ET PROCÈS-VERBAUX DE RECTIFICATION). MADRID, 4 OCTOBRE 1991

Entrée en vigueur : 14 janvier 1998, conformément à l'article 23

Textes authentiques : anglais, français, russe et espagnol

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : États-Unis d'Amérique, 1er juillet 2013

Participant	**Ratification, Accession (a), Acceptance (A) and Approval (AA)**		
Argentina (with declaration)	28 Oct	1993	
Australia	6 Apr	1994	
Belgium	26 Apr	1996	
Brazil	15 Aug	1995	
Chile	11 Jan	1995	
China	2 Aug	1994	
Ecuador	4 Jan	1993	
Finland	1 Nov	1996	A
France	5 Feb	1993	AA
Germany	25 Nov	1994	
Greece	23 May	1995	
India	26 Apr	1996	
Italy	31 Mar	1995	
Japan	15 Dec	1997	A
Netherlands (in respect of: Kingdom in Europe) (with declaration)	14 Apr	1994	A
New Zealand	22 Dec	1994	
Norway	16 Jun	1993	
Peru	8 Mar	1993	
Poland	1 Nov	1995	
Republic of Korea	2 Jan	1996	
Russian Federation	6 Aug	1997	
South Africa	3 Aug	1995	
Spain	1 Jul	1992	
Sweden	30 Mar	1994	
United Kingdom of Great Britain and Northern Ireland (in respect of: Anguilla, Bermuda, British Antarctic Territory, British Virgin Islands, Cayman Islands, Falkland Islands (Malvinas), Guernsey, Isle of Man, Jersey, Montserrat, South Georgia and South Sandwich Islands, St. Helena and Dependencies and Turks and Caicos Islands)	25 Apr	1995	

Participant	Ratification, Accession (a), Acceptance (A) and Approval (AA)	
United States of America	17 Apr	1997
Uruguay	11 Jan	1995

Note: The texts of the declarations are published after the list of Parties.

Participant	**Ratification, Adhésion (a), Acceptation (A) et Approbation (AA)**		
Afrique du Sud	3 août	1995	
Allemagne	25 nov.	1994	
Argentine (avec déclaration)	28 oct.	1993	
Australie	6 avril	1994	
Belgique	26 avril	1996	
Brésil	15 août	1995	
Chili	11 janv.	1995	
Chine	2 août	1994	
Équateur	4 janv.	1993	
Espagne	1er juill.	1992	
États-Unis d'Amérique	17 avril	1997	
Fédération de Russie	6 août	1997	
Finlande	1er nov.	1996	A
France	5 févr.	1993	AA
Grèce	23 mai	1995	
Inde	26 avril	1996	
Italie	31 mars	1995	
Japon	15 déc.	1997	A
Norvège	16 juin	1993	
Nouvelle-Zélande	22 déc.	1994	
Pays-Bas (à l'égard de : Royaume en Europe) (avec déclaration)	14 avril	1994	A
Pérou	8 mars	1993	
Pologne	1er nov.	1995	
République de Corée	2 janv.	1996	
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord (à l'égard d'Anguilla, des Bermudes, du Territoire antarctique britannique, des Îles Vierges britanniques, des Îles Caïmanes, des Îles Falkland (Malvinas), de Guernesey, de l'Île de Man, de Jersey, de Montserrat, des Îles de Géorgie du Sud et Sandwich du Sud, de Sainte-Hélène et ses dépendances et des Îles Turques et Caïques)	25 avril	1995	

Participant	**Ratification, Adhésion (a), Acceptation (A) et Approbation (AA)**	
Suède	30 mars	1994
Uruguay	11 janv.	1995

Note : Les textes des déclarations sont reproduits après la liste des Parties.

Declaration made upon Ratification — *Déclaration faite lors de la ratification*

ARGENTINA — **ARGENTINE**

[SPANISH TEXT – TEXTE ESPAGNOL]

"La República Argentina declara que dado que el Protocolo al Tratado Antártico sobre Protección del Medio Ambiente es un Acuerdo Complementario del Tratado Antártico, y que su Artículo 4 respeta totalmente lo dispuesto por el Artículo IV inciso 1, párrafo A) de dicho Tratado, ninguna de sus estipulaciones deberá interpretarse o aplicarse como afectando sus derechos, fundados en títulos jurídicos, actos de posesión, contiguidad y continuidad geológica en la región comprendida al sur del paralelo 60, en la que ha proclamado y mantiene su soberanía".

[TRANSLATION – TRADUCTION][*]

"The Argentine Republic declares that in as much as the Protocol to the Antarctic Treaty on the Protection of the Environment is a Complementary Agreement of the Antarctic Treaty and that its Article 4 fully respects what has been stated in Article IV, Subsection 1, Paragraph A) of said Treaty, none of its stipulations should be interpreted or be applied as affecting its rights, based on legal titles, acts of possession, contiguity and geological continuity in the region South of parallel 60, in which it has proclaimed and maintained its sovereignty."

[TRANSLATION – TRADUCTION]

La République argentine déclare que dans la mesure où le Protocole au Traité sur l'Antarctique, relatif à la protection de l'environnement, constitue un accord complémentaire du Traité sur l'Antarctique et où son article 4 respecte pleinement les dispositions énoncées à l'alinéa a) du paragraphe 1 de l'article 4 dudit Traité, aucune de ses dispositions ne saurait être interprétée ou appliquée aux fins de modifier ses droits, fondés sur des titres légaux de propriété ou la contiguïté et la continuité géographiques dans la région se situant au sud du 60e parallèle, sur laquelle elle a proclamé et conserve sa souveraineté.

[*] Translation provided by the Government of the United States – Traduction fournie par le Gouvernement des États-Unis.

Declaration made upon Acceptance

NETHERLANDS (IN RESPECT OF: KINGDOM IN EUROPE)

Déclaration faite lors de l'acceptation

PAYS-BAS (À L'ÉGARD DU ROYAUME EN EUROPE)

[ENGLISH TEXT – TEXTE ANGLAIS]

The Kingdom of the Netherlands chooses both means for the settlement of disputes mentioned in Article 19, paragraph 1 of the Protocol, i.e. the International Court of Justice and the Arbitral Tribunal.

[TRANSLATION – TRADUCTION]

Le Royaume des Pays-Bas choisit les deux voies de règlement des différends mentionnées au paragraphe 1 de l'article 19 du Protocole, c'est-à-dire la Cour internationale de Justice et le Tribunal arbitral.

[ENGLISH TEXT – TEXTE ANGLAIS]

PROTOCOL ON ENVIRONMENTAL PROTECTION TO THE ANTARCTIC TREATY.

PREAMBLE

The States Parties to this Protocol to the Antarctic Treaty, hereinafter referred to as the Parties,

Convinced of the need to enhance the protection of the Antarctic environment and dependent and associated ecosystems;

Convinced of the need to strengthen the Antarctic Treaty system so as to ensure that Antarctica shall continue forever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord;

Bearing in mind the special legal and political status of Antarctica and the special responsibility of the Antarctic Treaty Consultative Parties to ensure that all activities in Antarctica are consistent with the purposes and principles of the Antarctic Treaty;

Recalling the designation of Antarctica as a Special Conservation Area and other measures adopted under the Antarctic Treaty system to protect the Antarctic environment and dependent and associated ecosystems;

Acknowledging further the unique opportunities Antarctica offers for scientific monitoring of and research on processes of global as well as regional importance;

Reaffirming the conservation principles of the Convention on the Conservation of Antarctic Marine Living Resources;

Convinced that the development of a comprehensive regime for the protection of the Antarctic environment and dependent and associated ecosystems is in the interest of mankind as a whole;

Desiring to supplement the Antarctic Treaty to this end;

Have agreed as follows:

ARTICLE 1

DEFINITIONS

For the purposes of this Protocol:

(a) "The Antarctic Treaty" means the Antarctic Treaty done at Washington on 1 December 1959;

(b) "Antarctic Treaty area" means the area to which the provisions of the Antarctic Treaty apply in accordance with Article VI of that Treaty;

(c) "Antarctic Treaty Consultative Meetings" means the meetings referred to in Article IX of the Antarctic Treaty;

(d) "Antarctic Treaty Consultative Parties" means the Contracting Parties to the Antarctic Treaty entitled to appoint representatives to participate in the meetings referred to in Article IX of that Treaty;

(e) "Antarctic Treaty system" means the Antarctic Treaty, the measures in effect under that Treaty, its associated separate international instruments in force and the measures in effect under those instruments;

(f) "Arbitral Tribunal" means the Arbitral Tribunal established in accordance with the Schedule to this Protocol, which forms an integral part thereof;

(g) "Committee" means the Committee for Environmental Protection established in accordance with Article 11.

ARTICLE 2

OBJECTIVE AND DESIGNATION

The Parties commit themselves to the comprehensive protection of the Antarctic environment and dependent and associated ecosystems and hereby designate Antarctica as a natural reserve, devoted to peace and science.

ARTICLE 3

ENVIRONMENTAL PRINCIPLES

1. The protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research, in particular research essential to understanding the global environment, shall be fundamental considerations in the planning and conduct of all activities in the Antarctic Treaty area.

2. To this end:

(a) activities in the Antarctic Treaty area shall be planned and conducted so as to limit adverse impacts on the Antarctic environment and dependent and associated ecosystems;

(b) activities in the Antarctic Treaty area shall be planned and conducted so as to avoid:

(i)adverse effects on climate or weather patterns;

(ii)significant adverse effects on air or water quality;

(iii)significant changes in the atmospheric, terrestrial (including aquatic), glacial or marine environments;

(iv)detrimental changes in the distribution, abundance or productivity of species or populations of species of fauna and flora;

(v)further jeopardy to endangered or threatened species or populations of such species; or

(vi)degradation of, or substantial risk to, areas of biological, scientific, historic, aesthetic or wilderness significance;

(c) activities in the Antarctic Treaty area shall be planned and conducted on the basis of information sufficient to allow prior assessments of, and

informed judgments about, their possible impacts on the Antarctic environment and dependent and associated ecosystems and on the value of Antarctica for the conduct of scientific research; such judgments shall take full account of:

(i)the scope of the activity, including its area, duration and intensity;

(ii)the cumulative impacts of the activity, both by itself and in combination with other activities in the Antarctic Treaty area;

(iii)whether the activity will detrimentally affect any other activity in the Antarctic Treaty area;

(iv)whether technology and procedures are available to provide for environmentally safe operations;

(v)whether there exists the capacity to monitor key environmental parameters and ecosystem components so as to identify and provide early warning of any adverse effects of the activity and to provide for such modification of operating procedures as may be necessary in the light of the results of monitoring or increased knowledge of the Antarctic environment and dependent and associated ecosystems; and

(vi)whether there exists the capacity to respond promptly and effectively to accidents, particularly those with potential environmental effects;

(d) regular and effective monitoring shall take place to allow assessment of the impacts of ongoing activities, including the verification of predicted impacts;

(e) regular and effective monitoring shall take place to facilitate early detection of the possible unforeseen effects of activities carried on both within and outside the Antarctic Treaty area on the Antarctic environment and dependent and associated ecosystems.

3. Activities shall be planned and conducted in the Antarctic Treaty area so as to accord priority to scientific research and to preserve the value of Antarctica as an area for the conduct of such research, including research essential to understanding the global environment.

4. Activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required in accordance with Article VII (5) of the Antarctic Treaty , including associated logistic support activities, shall:

(a) take place in a manner consistent with the principles in this Article; and

(b) be modified, suspended or cancelled if they result in or threaten to result in impacts upon the Antarctic environment or dependent or associated ecosystems inconsistent with those principles.

ARTICLE 4

RELATIONSHIP WITH THE OTHER COMPONENTS OF THE ANTARCTIC TREATY SYSTEM

1. This Protocol shall supplement the Antarctic Treaty and shall neither modify nor amend that Treaty.

2. Nothing in this Protocol shall derogate from the rights and obligations of the Parties to this Protocol under the other international instruments in force within the Antarctic Treaty system.

ARTICLE 5

CONSISTENCY WITH THE OTHER COMPONENTS OF THE ANTARCTIC TREATY SYSTEM

The Parties shall consult and co-operate with the Contracting Parties to the other international instruments in force within the Antarctic Treaty system and their respective institutions with a view to ensuring the achievement of the objectives and principles of this Protocol and avoiding any interference with the achievement of the objectives and principles of those instruments or any inconsistency between the implementation of those instruments and of this Protocol.

ARTICLE 6

CO-OPERATION

1. The Parties shall co-operate in the planning and conduct of activities in the Antarctic Treaty area. To this end, each Party shall endeavour to:

(a) promote co-operative programmes of scientific, technical and educational value, concerning the protection of the Antarctic environment and dependent and associated ecosystems;

(b) provide appropriate assistance to other Parties in the preparation of environmental impact assessments;

(c) provide to other Parties upon request information relevant to any potential environmental risk and assistance to minimize the effects of accidents which may damage the Antarctic environment or dependent and associated ecosystems;

(d) consult with other Parties with regard to the choice of sites for prospective stations and other facilities so as to avoid the cumulative impacts caused by their excessive concentration in any location;

(e) where appropriate, undertake joint expeditions and share the use of stations and other facilities;and

(f) carry out such steps as may be agreed upon at Antarctic Treaty Consultative Meetings.

2. Each Party undertakes, to the extent possible, to share information that may be helpful to other Parties in planning and conducting their activities in the Antarctic Treaty area, with a view to the protection of the Antarctic environment and dependent and associated ecosystems.

3. The Parties shall co-operate with those Parties which may exercise jurisdiction in areas adjacent to the Antarctic Treaty area with a view to ensuring that activities in the Antarctic Treaty area do not have adverse environmental impacts on those areas.

ARTICLE 7

PROHIBITION OF MINERAL RESOURCE ACTIVITIES

Any activity relating to mineral resources, other than scientific research, shall be prohibited.

ARTICLE 8

ENVIRONMENTAL IMPACT ASSESSMENT

1. Proposed activities referred to in paragraph 2 below shall be subject to the procedures set out in Annex I for prior assessment of the impacts of those activities on the Antarctic environment or on dependent or associated ecosystems according to whether those activities are identified as having:

(a) less than a minor or transitory impact;

(b) a minor or transitory impact; or

(c) more than a minor or transitory impact.

2. Each Party shall ensure that the assessment procedures set out in Annex I are applied in the planning processes leading to decisions about any activities undertaken in the Antarctic Treaty area pursuant to scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities.

3. The assessment procedures set out in Annex I shall apply to any change in an activity whether the change arises from an increase or decrease in the intensity of an existing activity, from the addition of an activity, the decommissioning of a facility, or otherwise.

4. Where activities are planned jointly by more than one Party, the Parties involved shall nominate one of their number to coordinate the implementation of the environmental impact assessment procedures set out in Annex I.

ARTICLE 9

ANNEXES

1. The Annexes to this Protocol shall form an integral part thereof.

2. Annexes, additional to Annexes I-IV, may be adopted and become effective in accordance with Article IX of the Antarctic Treaty.

3. Amendments and modifications to Annexes may be adopted and become effective in accordance with Article IX of the Antarctic Treaty, provided that any Annex may itself make provision for amendments and modifications to become effective on an accelerated basis.

4. Annexes and any amendments and modifications thereto which have become effective in accordance with paragraphs 2 and 3 above shall, unless an Annex itself provides otherwise in respect of the entry into effect of any amendment or modification thereto, become effective for a Contracting Party to the Antarctic Treaty which is not an Antarctic Treaty Consultative Party, or which was not an Antarctic Treaty Consultative Party at the time of the adoption, when notice of approval of that Contracting Party has been received by the Depositary.

5.Annexes shall, except to the extent that an Annex provides otherwise, be subject to the procedures for dispute settlement set out in Articles 18 to 20.

ARTICLE 10

ANTARCTIC TREATY CONSULTATIVE MEETINGS

1. Antarctic Treaty Consultative Meetings shall, drawing upon the best scientific and technical advice available:

(a) define, in accordance with the provisions of this Protocol, the general policy for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems; and

(b) adopt measures under Article IX of the Antarctic Treaty for the implementation of this Protocol.

2. Antarctic Treaty Consultative Meetings shall review the work of the Committee and shall draw fully upon its advice and recommendations in carrying out the tasks referred to in paragraph 1 above, as well as upon the advice of the Scientific Committee on Antarctic Research.

ARTICLE 11

COMMITTEE FOR ENVIRONMENTAL PROTECTION

1. There is hereby established the Committee for Environmental Protection.

2. Each Party shall be entitled to be a member of the Committee and to appoint a representative who may be accompanied by experts and advisers.

3. Observer status in the Committee shall be open to any Contracting Party to the Antarctic Treaty which is not a Party to this Protocol.

4. The Committee shall invite the President of the Scientific Committee on Antarctic Research and the Chairman of the Scientific Committee for the Conservation of Antarctic Marine Living Resources to participate as observers at its sessions. The Committee may also, with the approval of the Antarctic Treaty Consultative Meeting, invite such other relevant scientific, environmental and technical organisations which can contribute to its work to participate as observers at its sessions.

5. The Committee shall present a report on each of its sessions to the Antarctic Treaty Consultative Meeting. The report shall cover all matters considered at the session and shall reflect the views expressed. The report shall be circulated to the Parties and to observers attending the session, and shall thereupon be made publicly available.

6. The Committee shall adopt its rules of procedure which shall be subject to approval by the Antarctic Treaty Consultative Meeting.

ARTICLE 12

FUNCTIONS OF THE COMMITTEE

1. The functions of the Committee shall be to provide advice and formulate recommendations to the Parties in connection with the implementation of this Protocol, including the operation of its Annexes, for consideration at Antarctic Treaty Consultative Meetings, and to perform such other functions as may be referred to it by the Antarctic Treaty Consultative Meetings. In particular, it shall provide advice on:

(a) the effectiveness of measures taken pursuant to this Protocol;

(b) the need to update, strengthen or otherwise improve such measures;

(c) the need for additional measures, including the need for additional Annexes, where appropriate;

(d) the application and implementation of the environmental impact assessment procedures set out in Article 8 and Annex I;

(e) means of minimising or mitigating environmental impacts of activities in the Antarctic Treaty area;

(f) procedures for situations requiring urgent action, including response action in environmental emergencies;

(g) the operation and further elaboration of the Antarctic Protected Area system;

(h) inspection procedures, including formats for inspection reports and checklists for the conduct of inspections;

(i) the collection, archiving, exchange and evaluation of information related to environmental protection;

(j) the state of the Antarctic environment; and

(k) the need for scientific research, including environmental monitoring, related to the implementation of this Protocol.

2. In carrying out its functions, the Committee shall, as appropriate, consult with the Scientific Committee on Antarctic Research, the Scientific Committee for the Conservation of Antarctic Marine Living Resources and other relevant scientific, environmental and technical organizations.

ARTICLE 13

COMPLIANCE WITH THIS PROTOCOL

1. Each Party shall take appropriate measures within its competence, including the adoption of laws and regulations, administrative actions and enforcement measures, to ensure compliance with this Protocol.

2. Each Party shall exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity contrary to this Protocol.

3. Each Party shall notify all other Parties of the measures it takes pursuant to paragraphs 1 and 2 above.

4. Each Party shall draw the attention of all other Parties to any activity which in its opinion affects the implementation of the objectives and principles of this Protocol.

5. The Antarctic Treaty Consultative Meetings shall draw the attention of any State which is not a Party to this Protocol to any activity undertaken by that State, its agencies, instrumentalities, natural or juridical persons, ships, aircraft or other means of transport which affects the implementation of the objectives and principles of this Protocol.

ARTICLE 14

INSPECTION

1. In order to promote the protection of the Antarctic environment and dependent and associated ecosystems, and to ensure compliance with this Protocol, the Antarctic Treaty Consultative Parties shall arrange, individually or collectively, for inspections by observers to be made in accordance with Article VII of the Antarctic Treaty.

2. Observers are:

(a) observers designated by any Antarctic Treaty Consultative Party who shall be nationals of that Party; and

(b) any observers designated at Antarctic Treaty Consultative Meetings to carry out inspections under procedures to be established by an Antarctic Treaty Consultative Meeting.

3. Parties shall co-operate fully with observers undertaking inspections, and shall ensure that during inspections, observers are given access to all parts of stations, installations, equipment, ships and aircraft open to inspection under Article VII (3) of the Antarctic Treaty, as well as to all records maintained thereon which are called for pursuant to this Protocol.

4. Reports of inspections shall be sent to the Parties whose stations, installations, equipment, ships or aircraft are covered by the reports. After those Parties have been given the opportunity to comment, the reports and any comments thereon shall be circulated to all the Parties and to the Committee, considered at the next Antarctic Treaty Consultative Meeting, and thereafter made publicly available.

ARTICLE 15

EMERGENCY RESPONSE ACTION

1. In order to respond to environmental emergencies in the Antarctic Treaty area, each Party agrees to:

(a) provide for prompt and effective response action to such emergencies which might arise in the performance of scientific research programmes, tourism and all other governmental and non-governmental activities in the Antarctic Treaty area for which advance notice is required under Article VII (5) of the Antarctic Treaty, including associated logistic support activities; and

(b) establish contingency plans for response to incidents with potential adverse effects on the Antarctic environment or dependent and associated ecosystems.

2. To this end, the Parties shall:

(a) co-operate in the formulation and implementation of such contingency plans; and

(b) establish procedures for immediate notification of, and co-operative response to, environmental emergencies.

3. In the implementation of this Article, the Parties shall draw upon the advice of the appropriate international organisations.

ARTICLE 16

LIABILITY

Consistent with the objectives of this Protocol for the comprehensive protection of the Antarctic environment and dependent and associated ecosystems, the Parties undertake to elaborate rules and procedures relating to liability for damage arising from activities taking place in the Antarctic Treaty area and covered by this Protocol. Those rules and procedures shall be included in one or more Annexes to be adopted in accordance with Article 9 (2).

ARTICLE 17

ANNUAL REPORT BY PARTIES

1. Each Party shall report annually on the steps taken to implement this Protocol. Such reports shall include notifications made in accordance with Article 13 (3), contingency plans established in accordance with Article 15 and any other notifications and information called for pursuant to this Protocol for which there is no other provision concerning the circulation and exchange of information.

2. Reports made in accordance with paragraph 1 above shall be circulated to all Parties and to the Committee, considered at the next Antarctic Treaty Consultative Meeting, and made publicly available.

ARTICLE 18

DISPUTE SETTLEMENT

If a dispute arises concerning the interpretation or application of this Protocol, the parties to the dispute shall, at the request of any one of them, consult among themselves as soon as possible with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means to which the parties to the dispute agree.

ARTICLE 19

CHOICE OF DISPUTE SETTLEMENT PROCEDURE

1. Each Party, when signing, ratifying, accepting, approving or acceding to this Protocol, or at any time thereafter, may choose, by written declaration, one or both of the following means for the settlement of disputes concerning the interpretation or application of Articles 7, 8 and 15 and, except to the extent that an Annex provides otherwise, the provisions of any Annex and, insofar as it relates to these Articles and provisions, Article 13:

(a) the International Court of Justice;

(b) the Arbitral Tribunal.

2. A declaration made under paragraph 1 above shall not affect the operation of Article 18 and Article 20 (2).

3. A Party which has not made a declaration under paragraph 1 above or in respect of which a declaration is no longer in force shall be deemed to have accepted the competence of the Arbitral Tribunal.

4. If the parties to a dispute have accepted the same means for the settlement of a dispute, the dispute may be submitted only to that procedure, unless the parties otherwise agree.

5. If the parties to a dispute have not accepted the same means for the settlement of a dispute, or if they have both accepted both means, the dispute may be submitted only to the Arbitral Tribunal, unless the parties otherwise agree.

6. A declaration made under paragraph 1 above shall remain in force until it expires in accordance with its terms or until three months after written notice of revocation has been deposited with the Depositary.

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

8. Declarations and notices referred to in this Article shall be deposited with the Depositary who shall transmit copies thereof to all Parties.

ARTICLE 20

DISPUTE SETTLEMENT PROCEDURE

1. If the parties to a dispute concerning the interpretation or application of Articles 7, 8 or 15 or, except to the extent that an Annex provides otherwise, the provisions of any Annex or, insofar as it relates to these Articles and provisions, Article 13, have not agreed on a means for resolving it within 12 months of the request for consultation pursuant to Article 18, the dispute shall be referred, at the request of any party to the dispute, for settlement in accordance with the procedure determined by Article 19 (4) and (5).

2. The Arbitral Tribunal shall not be competent to decide or rule upon any matter within the scope of Article IV of the Antarctic Treaty. In addition, nothing in this Protocol shall be interpreted as conferring competence or jurisdiction on the International Court of Justice or any other tribunal established for the purpose of settling disputes between Parties to decide or otherwise rule upon any matter within the scope of Article IV of the Antarctic Treaty.

ARTICLE 21

SIGNATURE

This Protocol shall be open for signature at Madrid on the 4th of October 1991 and thereafter at Washington until the 3rd of October 1992 by any State which is a Contracting Party to the Antarctic Treaty.

ARTICLE 22

RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

1. This Protocol is subject to ratification, acceptance or approval by signatory States.

2. After the 3rd of October 1992 this Protocol shall be open for accession by any State which is a Contracting Party to the Antarctic Treaty.

3. Instruments of ratification, acceptance, approval or accession shall be deposited with the Government of the United States of America, hereby designated as the Depositary.

4. After the date on which this Protocol has entered into force, the Antarctic Treaty Consultative Parties shall not act upon a notification regarding the entitlement of a Contracting Party to the Antarctic Treaty to appoint representatives to participate in Antarctic Treaty Consultative Meetings in accordance with Article IX (2) of the Antarctic Treaty unless that Contracting Party has first ratified, accepted, approved or acceded to this Protocol.

ARTICLE 23

ENTRY INTO FORCE

1. This Protocol shall enter into force on the thirtieth day following the date of deposit of instruments of ratification, acceptance, approval or accession by all States which are Antarctic Treaty Consultative Parties at the date on which this Protocol is adopted.

2. For each Contracting Party to the Antarctic Treaty which, subsequent to the date of entry into force of this Protocol, deposits an instrument of ratification, acceptance, approval or accession, this Protocol shall enter into force on the thirtieth day following such deposit.

ARTICLE 24

RESERVATIONS

Reservations to this Protocol shall not be permitted.

ARTICLE 25

MODIFICATION OR AMENDMENT

1. Without prejudice to the provisions of Article 9, this Protocol may be modified or amended at any time in accordance with the procedures set forth in Article XII (1) (a) and (b) of the Antarctic Treaty.

2. If, after the expiration of 50 years from the date of entry into force of this Protocol, any of the Antarctic Treaty Consultative Parties so requests by a communication addressed to the Depositary, a conference shall be held as soon as practicable to review the operation of this Protocol.

3. A modification or amendment proposed at any Review Conference called pursuant to paragraph 2 above shall be adopted by a majority of the Parties, including 3/4 of the States which are Antarctic Treaty Consultative Parties at the time of adoption of this Protocol.

4. A modification or amendment adopted pursuant to paragraph 3 above shall enter into force upon ratification, acceptance, approval or accession by 3/4 of the Antarctic Treaty Consultative Parties, including ratification, acceptance, approval or accession by all States which are Antarctic Treaty Consultative Parties at the time of adoption of this Protocol.

5. (a) With respect to Article 7, the prohibition on Antarctic mineral resource activities contained therein shall continue unless there is in force a binding legal regime on Antarctic mineral resource activities that includes an agreed means for determining whether, and, if so, under which conditions, any such activities would be acceptable. This regime shall fully safeguard the interests of all States referred to in Article IV of the Antarctic Treaty and apply the principles thereof. Therefore, if a modification or amendment to Article 7 is proposed at a Review Conference referred to in paragraph 2 above, it shall include such a binding legal regime.

(b) If any such modification or amendment has not entered into force within 3 years of the date of its adoption, any Party may at any time thereafter notify to the Depositary of its withdrawal from this Protocol, and such withdrawal shall take effect 2 years after receipt of the notification by the Depositary.

ARTICLE 26

NOTIFICATIONS BY THE DEPOSITARY

The Depositary shall notify all Contracting Parties to the Antarctic Treaty of the following:

(a) signatures of this Protocol and the deposit of instruments of ratification, acceptance, approval or accession;

(b) the date of entry into force of this Protocol and any additional Annex thereto;

(c) the date of entry into force of any amendment or modification to this Protocol;

(d) the deposit of declarations and notices pursuant to Article 19; and

(e) any notification received pursuant to Article 25 (5) (b)

ARTICLE 27

AUTHENTIC TEXTS AND REGISTRATION WITH THE UNITED NATIONS

1. This Protocol, done in the English, French, Russian and Spanish languages, each version being equally authentic, shall be deposited in the archives of the Government of the United States of America, which shall transmit duly certified copies thereof to all Contracting Parties to the Antarctic Treaty.

2. This Protocol shall be registered by the Depositary pursuant to Article 102 of the Charter of the United Nations.

Annex 108

Convention on the protection of the Alps, 7 November 1991, 1917 UNTS 135

No. 32724

MULTILATERAL

Convention on the protection of the Alps (Alpine Convention) (with lists of administrative units, map and procès-verbal of rectification dated at Vienna on 6 April 1993). Concluded at Salzburg, Austria, on 7 November 1991

Authentic texts of the Convention: German, French, Italian and Slovene.

Authentic texts of the Procès-verbal of rectification: German and French.

Registered by Austria on 25 March 1996.

MULTILATÉRAL

Convention sur la protection des Alpes (Conveution alpine) [avec listes des unités administratives, carte et procès-verbal de rectification en date à Vienne du 6 avril 1993]. Conclue à Salzbourg (Autriche) le 7 novembre 1991

Textes authentiques de la Convention : allemand, français, italien et slovène.

Textes authentiques du Procès-verbal de rectification: allemand et français.

Enregistrée par l'Autriche le 25 mars 1996.

[TRANSLATION — TRADUCTION][1]

CONVENTION[2] ON THE PROTECTION OF THE ALPS (ALPINE CONVENTION)

CONVENTION

on the protection of the Alps (Alpine Convention)

THE FEDERAL REPUBLIC OF GERMANY,

THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE PRINCIPALITY OF LIECHTENSTEIN,

THE REPUBLIC OF AUSTRIA,

THE SWISS CONFEDERATION

and

THE EUROPEAN ECONOMIC COMMUNITY,

AWARE that the Alps are one of the largest continuous unspoilt natural areas in Europe, which, with their outstanding unique and diverse natural habitat, culture and history, constitute an economic, cultural, recreational and living environment in the heart of Europe, shared by numerous peoples and countries,

RECOGNIZING that the Alps constitute the living and economic environment for the indigenous population and are also vitally important for extra-Alpine regions, being the site of important transport routes, for example,

RECOGNIZING the fact that the Alps constitute an essential habitat and last refuge for many endangered species of plants and animals,

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[1] Obtained from the European Community — Obtenu des Communautés européennes.

[2] Came into force on 6 March 1995, i.e., three months after the date on which three States had deposited their instrument of ratification, acceptance or approval with the Republic of Austria, in accordance wit article 12 (3):

Participant	*Date of deposit of the instrument of ratification*
Austria	8 February 1994
Germany	5 December 1994
Licchtenstein	28 July 1994

Subsequently, the Convention came into force for the following participants three months after the date of deposit of their instrument of ratification with the Republic of Austria, in accordance with article 12 (4):

Participant	*Date of deposit of the instrument of ratification*
Slovenia	22 May 1995
(With effect from 22 August 1995.)	
France*	15 January 1996
(With effect from 15 April 1996.)	

* See p. 352 of this volume for the text of the declaration made upon ratification.

AWARE of the substantial differences existing between national legal systems, natural conditions, population distribution, agriculture and forestry, the state and development of the economy, the volume of traffic and the nature and intensity of tourism,

AWARE that the ever-growing pressures caused by man are increasingly threatening the Alpine region and its ecological functions, and that the damage is either irreparable or rectifiable only with great effort, at considerable cost and, as a rule, over a long period of time,

CONVINCED of the need for economic interests to be reconciled with ecological requirements,

FOLLOWING the outcome of the first Alpine Conference of Environment Ministers held in Berchtesgaden from 9 to 11 October 1989,

HAVE AGREED AS FOLLOWS:

Article 1

Scope

1. The Convention shall cover the Alpine region, as described and depicted in the Annex.[1]

2. Each Contracting Party may, when depositing its instrument of ratification, acceptance or approval or at any time thereafter, extend the application of this Convention to additional parts of its national territory by making a declaration to the depositary, the Republic of Austria, provided that this is necessary to implement the provisions of the Convention.

3. Any declaration made under paragraph 2 may, in respect of any national territory specified in such declaration, be withdrawn by a notification addressed to the depositary. 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 depositary.

Article 2

General obligations

1. The Contracting Parties shall pursue a comprehensive policy for the preservation and protection of the Alps by applying the principles of prevention, payment by the polluter (the 'polluter pays' principle) and cooperation, after careful consideration of the interests of all the Alpine States, their Alpine regions and the European Economic Community, and through the prudent and sustained use of resources. Transborder cooperation in the Alpine region shall be intensified and extended both in terms of the territory and the number of subjects covered.

[1] See insert in a pocket at the end of this volume.

2. In order to achieve the objective referred to in paragraph 1, the Contracting Parties shall take appropriate measures in particular in the following areas:

(a) *population and culture* — the objective is to respect, preserve and promote the cultural and social independence of the indigenous population and to guarantee the basis for their living standards, in particular environmentally sound settlement and economic development, and promote mutual understanding and co-operation between Alpine and extra-Alpine populations;

(b) *regional planning* — the objective is to ensure the economic and rational use of land and the sound, harmonious development of the whole region, particular emphasis being placed on natural hazards, the avoidance of under- and over-use and the conservation or rehabilitation of natural habitats by means of a thorough clarification and evaluation of land-use requirements, foresighted integral planning and coordination of the measures taken;

(c) *prevention of air pollution* — the objective is to drastically reduce the emission of pollutants and pollution problems in the Alpine region, together with inputs of harmful substances from outside the region, to a level which is not harmful to man, animals and plants;

(d) *soil conservation* — the objective is to reduce quantitative and qualitative soil damage, in particular by applying agricultural and forestry methods which do not harm the soil, through minimum interference with soil and land, control of erosion and the restriction of soil sealing;

(e) *water management* — the objective is to preserve or re-establish healthy water systems, in particular by keeping lakes and rivers free of pollution, by applying natural hydraulic engineering techniques and by using water power, which serves the interests of both the indigenous population and the environment alike;

(f) *conservation of nature and the countryside* — the objective is to protect, conserve and, where necessary, rehabilitate and natural environment and the countryside, so that ecosystems are able to function, animal and plants species, including their habitats, are preserved, nature's capacity for regeneration and sustained productivity is maintained, and the variety, uniqueness and beauty of nature and the countryside as a whole are preserved on a permanent basis;

(g) *mountain farming* — the objective is, in the public interest, to maintain the management of land traditionally cultivated by man and to preserve and promote a system of farming which suits local conditions and is environmentally compatible, taking into account the less favourable economic conditions;

(h) *mountain forests* — the objective is to preserve, reinforce and restore the role of forests, in particular their protective role, by improving the resistance of forest ecosystems mainly by applying natural forestry techniques and preventing any utilization detrimental to forests, taking into account the less favourable economic conditions in the Alpine region;

(i) *tourism and recreation* — the objective is, by restricting activities harmful to the environment, to harmonize tourism and recreational activities which ecological and social requirements, in particular by setting aside quiet areas;

(j) *transport* — the objective is to reduce the volume and dangers of inter-Alpine and trans-Alpine traffic to a level which is not harmful to humans, animals and plants and their habitats, by switching more traffic, in particular freight traffic, to the railways in particular by providing appropriate infrastructure and incentives complying which market principles, without discrimination on grounds of nationality;

(k) *energy* — the objective is to introduce methods for the production, distribution and use of energy which preserve the countryside and are environmentally compatible, and to promote energy-saving measures;

(l) *waste management* — the objective is to develop a system of waste collection, utilization and disposal which meets the special topographic, geological and climatic requirements of the Alpine region, paying particular attention to waste avoidance.

3. The Contracting Parties shall agree upon Protocols laying down details for the implementation of this Convention.

Article 3

Research and systematic monitoring

In the areas specified in Article 2, the Contracting Parties shall agree to:

(a) cooperate in the carrying out of research activities and scientific assessments;

(b) develop joint or complementary systematic monitoring programmes;

(c) harmonize research, monitoring and related data-acquisition activities.

Article 4

Legal, scientific, economic and technical cooperation

1. The Contracting Parties shall facilitate and promote the exchange of legal, scientific, economic and technical information relevant to this Convention.

2. The Contracting Parties shall inform each other of planned legal or economic measures which are expected to have particular effects on the Alpine region or parts thereof, in order to give the utmost consideration to cross-border and regional requirements.

3. The Contracting Parties shall cooperate with international governmental and non-governmental organizations, where necessary, to ensure the effective implementation of the Convention and the Protocols to which they are a Contracting Party.

4. The Contracting Parties shall ensure that the public are regularly kept informed in an appropriate manner about the results of research, monitoring and action taken.

5. The Contracting Parties' obligations under this Convention with regard to the provision of information shall be subject to compliance with national laws on confidentiality. Information designated confidential shall be treated as such.

Article 5

Conference of Contracting Parties

1. Regular meetings of the Conference of Contracting Parties shall be held to discuss the common concerns of and cooperation between the Contracting Parties.

The first meeting of the Alpine Conference shall be convened a year after the entry into force of this Convention at the latest by a Contracting Party to be determined by agreement.

2. Subsequently, ordinary meetings of the Conference shall normally be convened every two years by the Contracting Party holding the chair. The chairmanship and location shall change after each ordinary meeting of the Conference. Both shall be determined by the Alpine Conference.

3. The Contracting Party holding the chair shall propose the agenda for the meeting of the Conference. Each Contracting Party shall have the right to have other items included on the agenda.

4. The Contracting Parties shall forward to the Conference information on the measures which they have taken in implementation of the Convention and the Protocols to which they are a Contracting Party, subject to national laws on confidentiality.

5. The United Nations, its specialized agencies, the Council of Europe and all European countries may take part in the meetings of the Conference as observers. The same applies to cross-border associations of Alpine territorial authorities. In addition, relevant international non-governmental organizations may be admitted to the Conference as observers.

6. Extraordinary meetings of the Conference shall be held by consensus or if a written application has been made to the presiding Contracting Party by one third of the Contracting Parties between two ordinary meetings.

Article 6

Functions of the Conference

At its meetings, the Conference shall examine the implementation of the Convention and Protocols, together with Annexes, and, in particular, shall carry out the following functions at its meetings:

(a) it shall adopt amendments to the Convention under the procedure laid down in Article 10;

(b) it shall adopt Protocols and their Annexes and amendments thereto under the procedure laid down in Article 11;

(c) it shall adopt its Rules of Procedure;

(d) it shall make the necessary financial decisions;

(e) it shall approve the creation of Working Groups deemed necessary for the implementation of the Convention;

(f) it shall take note of assessments of scientific information;

(g) it shall decide or recommend measures to achieve the objectives laid down in Articles 3 and 4, shall determine the nature, subject and date of submission of the information to be submitted in accordance with Article 5 (4), and shall take note of this information, together with the reports submitted by the Working Groups;

(h) it shall be responsible for carrying out essential secretariat functions.

Article 7

Decision-making within the Conference

1. The Conference shall reach its decisions unanimously unless otherwise determined below. If all efforts to achieve unanimity with regard to the functions referred to in Article 6 (c), (f) and (g) have failed and the chairman specifically establishes this fact, the decision shall be reached by a three-quarters majority of the Contracting Parties present and voting at the meeting.

2. Each Contracting Party shall have a vote at the Conference. Within the areas of its competence, the European Community exercises 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 exercise theirs.

Article 8

Standing Committee

1. A Conference Standing Committee consisting of delegates of the Contracting Parties shall be set up as an executive body.

2. Signatory States which have not yet ratified the Convention shall have observer status at Standing Committee meetings. In addition, any Alpine State which has not yet signed this Convention may be given this status on demand.

3. The Standing Committee shall adopt its Rules of Procedure.

4. In addition, the Standing Committee shall decide on the procedures for any participation of representatives of governmental and/or non-governmental organizations at its meetings.

5. The Contracting Party presiding over the Conference shall appoint the chairman of the Standing Committee.

6. The Standing Committee shall carry out the following functions in particular:

(a) it shall analyse the information submitted by the Contracting Parties in accordance with Article 5 (4) and report to the Alpine Conference;

(b) it shall collect and assess documents with regard to the implementation of the Convention and Protocols, together with Annexes, and shall submit them to the Conference for examination in accordance with Article 6;

(c) it shall inform the Alpine Conference about the implementation of the Conference's decisions;

(d) it shall prepare programmes for meetings of the Conference and may propose items for the agenda as well as other measures relating to the implementation of the Convention and its Protocols;

(e) it shall appoint Working Groups to formulate Protocols and recommendations, in accordance with Article 6 (e) and coordinate their activities;

(f) it shall examine and harmonize the contents of draft Protocols from an overall point of view and propose them to the Conference;

(g) it shall propose measures and recommendations for the achievement of the objectives contained in the Convention and its Protocols to the Conference.

7. Decision-making within the Standing Committee shall take place in accordance with the provisions laid down in Article 7.

Article 9

Secretariat

The Conference may decide unanimously to set up a permanent secretariat.

Article 10

Amendments to the Convention

Any Contracting Party may submit proposals for amendments to this Convention to the Contracting Party presiding over the Conference. Such proposals shall be communicated to the Contracting Parties and signatory States by the Contracting Party presiding over the Conference at least six months before the Conference meeting at which they are to be considered. Amendments to the Convention shall come into force in accordance with Article 12 (2), (3) and (4).

Article 11

Protocols and amendments thereto

1. Draft Protocols within the meaning of Article 2 (3) shall be communicated to the Contracting Parties and signatory States by the Contracting Party presiding over the Conference at least six months before the Conference meeting at which they are to be considered.

2. The Protocols adopted by the Conference shall be signed at the Conference meetings or subsequently at the depositary. They shall be applicable to those Contracting Parties which have ratified, accepted or approved them. In order for a Protocol to come into force at least three ratifications, acceptances or approvals shall be necessary. The relevant documents shall be deposited with the depositary, the Republic of Austria.

3. Unless otherwise provided for in the Protocol, the entry into force and denunciation of a Protocol shall be governed by Articles 10, 13 and 14.

4. In the case of amendments to Protocols, paragraphs 1 to 3 shall apply *mutatis mutandis*.

Article 12

Signature and ratification

1. This Convention shall be open for signature from 7 November 1991 in the Republic of Austria as the depositary.

2. The Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the depositary.

3. The Convention shall enter into force three months after date on which three States have expressed their consent to be bound by the Convention, in accordance with the provisions of paragraph 2.

4. In the case of any signatory State which subsequently expresses its consent to be bound by the Convention in accordance with the provisions of paragraph 2, the Convention shall enter into force three months after the date of deposit of the instrument of ratification, acceptance or approval.

Article 13

Denunciation

1. Any of the Contracting Parties may at any time denounce this Convention by means of a notification addressed to the depositary.

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 notification by the depositary.

Article 14

Notifications

The depositary shall notify each of the Contracting Parties and signatory States of:

(a) any signature;

(b) the deposit of any instrument of ratification, acceptance or approval;

(c) any date of entry into force of the Convention, in accordance with Article 12;

(d) any declaration made in accordance with Article 1 (2) and (3);

(e) any notification made under Article 13 and the date on which denunciation becomes effective.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Salzburg on 7 November 1991 in the German, French, Italian and Slovene languages, each text being equally binding; the original text shall be deposited in the Austrian State archives. The depositary shall send a certified copy to each of the signatory States.

[For the Federal Republic of Germany:

PHILIPP JENNINGER

KLAUS TÖPFER

For the Republic of Austria:

RUTH FELDGRILL-ZANKEL

For the French Republic:

ANDRÉ LEWIN

For the Italian Republic:

GIORGIO RUFFOLO

For the Republic of Slovenia:

For the Principality of Liechtenstein:

HERBERT WILLE

For the Swiss Confederation:

FLAVIO COTTI

For the European Economic Community:

CARLO RIPA DI MEANA]

[TRANSLATION — TRADUCTION]

LIST OF ADMINISTRATIVE UNITS IN THE ALPINE REGION OF THE FEDERAL REPUBLIC OF GERMANY

The following district-towns and rural districts are included in the Bavarian Alpine region:

District-towns:	Kempten (Allgäu)
	Kaufbeuren
	Rosenheim
	—
Rural districts:	Lindau (Bodensee)
	Oberallgäu
	Ostallgäu
	Weilheim-Schongau
	Garmisch-Partenkirchen
	Bad Tölz-Wolfratshausen
	Miesbach
	Rosenheim
	Traunstein
	Berchtesgadener Land

LIST OF ADMINISTRATIVE UNITS IN THE ALPINE REGION OF THE FRENCH REPUBLIC

In accordance with Decree No. 85997 of 20 September 1985, the Alpine region includes, in the southern Alpine sector:

- The department of Alpes de Haute-Provence;
- The department of Hautes-Alpes;
- The cantons in the department of Alpes-Maritimes whose territories are classified in whole or in part as mountain areas, with the exception of the municipalities of Menton and Roquebrune-Cap-Martin and the departments of Var and Vaucluse; and
- The district of Barjois in the department of Var and the canton of Cadenet in the department of Vaucluse.

In accordance with Decree No. 85996 of 20 September 1985, the Alpine region includes, in the northern Alpine sector:

- The department of Savoie;
- The department of Haute-Savoie;
- The district of Grenoble in the department of Isère, the canton of Saint-Geoire-en-Valdaine and the municipalities in the cantons of Pont-de-Beauvoisin and Virieu-sur-Bourhec that are classified in whole or in part as mountain areas; and, in the department of Drôme;
- The district of Die and the cantons in the districts of Nyon and Valence, with the sections classified in whole or in part as mountain areas, with the exception of the cantons of Crest-Nord and Crest-Sud, Bourg-de-Péage and Chabeuil, in which the mountains are limited to the municipalities classified in whole or in part as mountain areas.

LIST OF ADMINISTRATIVE UNITS IN THE ALPINE REGION OF THE REPUBLIC OF SLOVENIA

List of municipalities

Dravograd
Idrija
Jesenice
Mozirje
Radlje ob Dravi
Radovljica
Ravne na Koroškem
Slovenj Gradec
Skofja Loka
Tolmin
Tržič
Ruše

List of communities in sections of municipalities

Ajdovščina	Adjovščina
	Budanje
	Col
	Črniče
	Dolga Poljana
	Gojače
	Gradišče pri Vipavi
	Kamnje - Potoče
	Lokavec
	Lozice
	Otlica - Kovk
	Podkraj
	Podnanos
	Predmeja
	Skrilje
	Štomaž
	Vipava
	Vrhpolje
	Vrtovin
	Žapuže
Kamnik	Črna pri Kamniku
	Godič
	Kamniška Bistrica
	Mekinje
	Motnik
	Nevlje
	Sela pri Kamniku
	Srednja vas pri Kamniku
	Šmartno v Tuhinju
	Spitalič
	Tuhinj

Kranj	Bela
	Golnik
	Gorice
	Grad
	Jezersko
	Kokra
	Olševek - Motemaža
	Preddvor
	Trstenik
Ljubljana - Vič Rudnik	Črni Vrh
	Polhov Gradec
Logatec	Hotedršica
	Rovte
	Tabor Logatec
	Trate
	Vrh nad Rovtami
Nova Gorica	Avče
	Banjsice
	Čepovan
	Deskle - Anhovo
	Dobrovo v Brdih
Nova Gorica	Grgar
	Grgarske Ravne
	Kal nad Kanalom
	Kambreško
	Kanal ob Soči
	Kojsko
	Levpa
	Lig
	Lokovec
	Lokve
	Medana
	Osek - Vitovlje
	Ozeljan
	Ravnica
	Ročinj
	Solkan
	Trnovo
Postojna	Bukovje
	Landol
	Planina
	Razdrto
	Studeno
	Šmihel pod Nanosom
	Veliko Ubeljsko
Slovenska Bistrica	Alfonz Šarh
	Impol
	Kebelj
	Oplotnica
	Pohorski Odred
	Preloge
	Smartno na Pohorju
	Tinje
	Zgornja Ložnica
	Zgornja Polskava

Slovenske Konjice	Gorenje pri Zrečah
	Resnik
	Skomarje
Slovenske Konjice	Stranice
	Vitanje
	Zreče
Velenje	Bele Vode
	Ravne
	Topolšica
	Zavodje
Maribor	Fram
	Hoče
	Limbus
	Pekre
	Radvanje
	Razvanje
	Reka Pohorje
	Slivnica

LIST OF ADMINISTRATIVE UNITS IN THE ALPINE REGION OF THE ITALIAN REPUBLIC

REGION	PROVINCE
LIGURIA	Imperia
PIEMONTE	Torino
	Cuneo
	Vercelli
	Novara
VALLE D'AOSTA AUTONOMOUS REGION	
LOMBARDIA	Varese
	Como
	Sondrio
	Bergamo
	Brescia
AUTONOMOUS PROVINCE OF TRENTO	
AUTONOMOUS PROVINCE OF BOLZANO	
VENETO	Verona
	Vicenzua
	Treviso
	Belluno
FRIULI-VENEZIA GIULIA AUTONOMOUS REGION	Udine
	Pordenone
	Gorizia

LIST OF ADMINISTRATIVE UNITS IN THE ALPINE REGION OF THE PRINCIPALITY OF LIECHTENSTEIN

All of the Principality of Liechtenstein

LIST OF ADMINISTRATIVE UNITS IN THE ALPINE REGION OF THE REPUBLIC OF AUSTRIA

Vorarlberg Province All municipalities
Tirol Province All municipalities
Kärnten Province All municipalities

Salzburg Province

Salzburg (Town)

Hallein District

Abtenau
Adnet
Annaberg im Lammertal
Golling an der Salzach
Hallein
Krispl
Kuchl
Oberalm
Puch bei Hallein
Rußbach am Paß Gschütt
Sankt Koloman
Scheffau am Tennengebirge
Vigaun

Salzburg-Umgebung District

Anif
Ebenau
Elsbethen
Eugendorf
Faistenau
Fuschl am See
Grödig
Großgmain
Hallwang
Henndorf am Wallersee
Hintersee
Hof bei Salzburg
Koppl
Neumarkt am Wallersee
Plainfeld
Sankt Gilgen
Strobl
Thalgau
Wals-Siezenheim

Sankt Johann im Pongau District

Altenmarkt im Pongau
Bad Hofgastein
Badgastein
Bischofshofen
Dorfgastein
Eben im Pongau
Filzmoos
Flachau
Forstau
Goldegg
Großarl
Hüttau
Hüttschlag
Kleinarl
Mühlbach am Hochkönig
Pfarrwerfen
Radstadt
Sankt Johann im Pongau
Sankt Martin am Tennengebirge
Sankt Veit im Pongau
Schwarzach im Pongau
Untertauern
Wagrain
Werfen
Werfenweng

Tamsweg District

Göriach
Lessach
Mariapfarr
Mauterndorf
Muhr
Ramingstein
Sankt Andrä im Lungau
Sankt Margarethen im Lungau
Sankt Michael im Lungau
Tamsweg
Thomatal
Tweng
Unternberg
Weißpriach
Zederhaus

Zell am See District

Bramberg am Wildkogel
Bruck an der Großglocknerstraße
Dienten am Hochkönig
Fusch an der Großglocknerstraße
Hollersbach im Pinzgau
Kaprun
Krimml
Lend
Leogang
Lofer
Maishofen
Maria Alm am Steinernen Meer
Mittersill
Neukirchen am Großvenediger
Niedernsill
Piesendorf
Rauris
Saalbach-Hinterglemm
Saalfelden am Stienernen Meer
Sankt Martin bei Lofer
Stuhlfelden

Taxenbach
Unken
Uttendorf
Viehhofen
Wald im Pinzgau
Weißbach bei Lofer
Zell am See

Oberösterreich Province

Gmunden District

Altmünster
Bad Goisern
Bad Ischl
Ebensee
Gmunden
Gosau
Grünau im Almtal
Gschwandt
Hallstatt
Kirchham
Obertraun
Pinsdorf
Sankt Konrad
Sankt Wolfgang im Salzkammergut
Traunkirchen
Scharnstein

Kirchdorf an der Krems District

Edlbach
Grünburg
Hinterstoder
Inzersdorf im Kremstal
Micheldorf in Oberösterreich
Molln
Oberschlierbach
Rosenau am Hengstpaß
Roßleithen
Sankt Pankraz
Spital am Pyhrn
Steinbach am Ziehbach
Steinbach an der Steyr
Vorderstoder
Windischgarsten

Steyr-Land District

Gaflenz
Garsten
Großraming
Laussa
Losenstein
Maria Neustift
Reichraming
Sankt Ulrich bei Steyr
Ternberg
Weyer Land
Weyer Markt

Vöcklabruck District

Attersee
Aurach am Hongar
Innerschwand
Mondsee
Nußdorf am Attersee
Oberhofen am Irrsee
Oberwang
Sankt Georgen im Attengau
Sankt Lorenz
Schörfling am Attersee
Seewalchen am Attersee
Steinbach am Attersee
Straß im Attergau
Tiefgraben
Unterach am Attersee
Weißenkichen im Attergau
Weyregg am Attersee
Zell am Moos

Niederösterreich Province

Waidhofen an der Ybbs (Town)

Amstetten District

Allhartsberg
Ertl
Hollenstein an der Ybbs
Opponitz
Sankt Georgen am Reith
Sankt Peter in der Au
Seitenstetten
Sonntagberg
Ybbsitz

Baden District

Alland
Altenmarkt an der Triesting
Bad Vöslau
Baden
Berndorf
Enzesfeld-Lindabrunn
Furth an der Triesting
Heiligenkreuz
Hernstein
Hirtenberg
Klausen-Leopoldsdorf
Pfaffstätten
Pottenstein
Sooß
Wiessenbach an der Triesting

Lilienfeld District

Annaberg
Eschenau
Hainfeld
Hohenberg

Kaumberg
Kleinzell
Lilienfeld
Mitterbach am Erlaufsee
Ramsau
Rohrbach an der Gölsen
Sankt Aegyd am Neuwalde
Sankt Veit an der Gölsen
Traisen
Türnitz

Melk District

Texingtal

Mödling District

Breitenfurt bei Wien
Gaaden
Gießhübl
Gumpoldskirchen
Hinterbrühl
Kaltenleutgeben
Laab im Walde
Mödling
Perchtoldsdorf
Wienerwald

Neunkirchen District

Altendorf
Aspang-Markt
Aspangberg-Sankt Peter
Breitenstein
Buchbach
Edlitz
Enzenreith
Feistritz am Wechsel
Gloggnitz
Grafenbach-Sankt Valentin
Grimmenstein
Grünbach am Schneeberg
Kirchberg am Wechsel
Mönichkirchen
Natschbach-Loipersbach
Otterthal
Payerbach
Pitten
Prigglitz
Puchberg am Schneeberg
Raach am Hochgebirge
Reichenau an der Rax
Sankt Corona am Wechsel
Scheiblingkirchen-Thernberg
Schottwein
Schrattenbach
Schwarzau im Gebirge
Seebenstein
Semmering
Ternitz
Thomasberg
Trattenbach
Vöstenhof
Warth
Wartmannstetten
Willendorf
Wimpassing im Schwarzatale
Würflach
Zöberg

Sankt Pölten District (Province)

Altlengbach
Asperhofen
Brand-Laaben
Eichgraben
Frankenfels
Grünau
Kasten bei Böheimkirchen
Kirchberg an der Pielach
Loich
Maria-Anzbach
Michelbach
Neulengbach
Neustift-Innermanzing
Pyhra
Rabenstein an der Pielach
Schwarzenbach an der Pielach
Stössing
Wilhelmsburg

Scheibbs District

Gaming
Göstling an der Ybbs
Gresten
Gresten-Land
Lunz am See
Puchenstuben
Randegg
Reinsberg
Sankt Anton an der Jeßnitz
Sankt Georgen an der Leys
Scheibbs
Steinakirchen am Forst
Wang

Tulln District

Königstetten
Sieghartskirchen
Tulbing
Zeiselmauer
Sankt Andrä-Wördern

Wiener Neustadt District (Province)

Bad Fischau-Brunn
Bad Schönau
Ebenfurth
Erlach
Gutenstein

Hochneukirchen-Gschaidt
Hochwolkersdorf
Hohe Wand
Hollenthon
Katzelsdorf
Kirchschlag in der Buckligen Welt
Krumbach
Lanzenkirchen
Lichtenegg
Markt Piesting
Matzendorf-Hölles
Miesenbach
Muggendorf
Pernitz
Rohr im Gebirge
Bromberg
Schwarzenbach
Waidmannsfeld
Waldegg
Walpersbach
Wiesmath
Winzendorf-Muthmannsdorf
Wöllersdorf-Steinabrückl

Wien-Umgebung District

Gablitz
Klosterneuburg
Mauerbach
Pressbaum
Purkersdorf
Tullnerbach
Wolfsgraben

Steiermark Province

Bruck an der Mur District

Aflenz Kurort
Aflenz Land
Breitenau am Hochlantsch
Bruck an der Mur
Etmißl
Frauenberg
Gußwerk
Halltal
Kapfenberg
Mariazell
Oberaich
Parschlug
Pernegg an der Mur
Sankt Ilgen
Sankt Katharein an der Laming
Sankt Lorenzen im Mürztal
Sankt Marein im Mürztal
Sankt Sebastian
Thörl
Tragöß
Turnau

Deutschlandsberg District

Aibl
Freiland bei Deutschlandsberg
Bad Gams
Garanas
Greisdorf
Gressenberg
Großradl
Kloster
Marhof
Osterwitz
Sankt Oswald ob Eibiswald
Schwanberg
Toboth
Trahütten
Wernersdorf
Wielfresen

Graz-Umgebung District

Attendorf
Deutschfeistritz
Eisbach
Frohnleiten
Gratkorn
Gratwein
Großstübing
Gschnaidt
Hitzendorf
Judendorf-Straßengel
Peggau
Röthelstein
Rohrbach-Steinberg
Rothleiten
Sankt Bartholomä
Sankt Oswald bei Plankenwarth
Sankt Radegund bei Graz
Schrems bei Frohnleiten
Semriach
Stattegg
Stiwoll
Thal
Tulwitz
Tyrnau
Übelbach
Weinitzen

Hartberg District

Dechantskirchen
Friedberg
Grafendorf bei Hartberg
Greinbach
Kleinschlag
Mönichwald
Pinggau
Pöllau
Pöllauberg
Puchegg
Rabenwald

Riegersberg
Rohrbach an der Lafnitz
Saifen-Boden
Sankt Jakob im Walde
Sankt Lorenzen am Wechsel
Schachen bei Vorau
Schäffern
Schlag bei Thalberg
Schönegg bei Pöllau
Sonnhofen
Stambach
Stubenberg
Vorau
Vornholz
Waldbach
Wenigzell

Judenburg District

Amering
Bretstein
Eppenstein
Fohnsdorf
Hogentauern
Judenburg
Sankt Wolfgang-Kienberg
Sankt Anna am Lavantegg
Maria Buch-Feistritz
Obdach
Oberkurzheim
Oberweg
Oberzeiring
Pöls
Pusterwald
Reifling
Reisstraße
Sankt Georgen ob Judenburg
Sankt Johann am Tauern
Sankt Oswald-Möderbrugg
Sankt Peter ob Judenburg
Unzmarkt-Frauenburg
Weißkirchen in Steiermark
Zeltweg

Knittelfeld District

Apfelberg
Feistritz bei Knittelfeld
Flatschach
Gaal
Großlobming
Kleinlobming
Knittelfeld
Kobenz
Rachau
Sankt Lorenzen bei Knittelfeld
Sankt Marein bei Knittelfeld
Sankt Margarethen bei Knittelfeld
Seckau
Spielberg bei Knittelfeld

Leibnitz District

Oberhaag
Schloßberg

Leoben District

Eisenerz
Gai
Hafning bei Trofaiach
Hieflau
Kalwang
Kammern im Liesingtal
Kraubath an der Mur
Leoben
Mautern in der Steiermark
Niklasdorf
Proleb
Radmer
Sankt Michael in Obersteiermark
Sankt Peter-Freienstein
Sankt Stefan ob Leoben
Traboch
Trofaiach
Vordernberg
Wald am Schoberpaß

Liezen District

Admont
Aich
Aigen im Ennstal
Altaussee
Altenmarkt bei Sankt Gallen
Ardning
Bad Aussee
Donnersbach
Donnersbachwald
Gaishorn am See
Gams bei Hieflau
Gössenberg
Gröbming
Großsölk
Grundlsee
Hall
Haus
Irdning
Johnsbach
Kleinsölk
Landl
Lassing
Liezen
Michaelerberg
Mitterberg
Bad Mitterndorf
Niederöblarn
Öblarn
Oppenberg
Palfau
Pichl-Preunegg
Pichl-Kainisch

Pruggern
Pürgg-Trautenfels
Ramsau am Dachstein
Rohrmoos-Untertal
Rottenmann
Sankt Gallen
Sankt Martin am Grimming
Sankt Nikolai im Sölktal
Schladming
Salzthal
Stainach
Tauplitz
Treglwang
Trieben
Weißenbach an der Enns
Weißenbach bei Liezen
Weng bei Admont
Wildalpen
Wörschach

Mürzzuschlag District

Allerheiligen im Mürztal
Altenberg an der Rax
Ganz
Kapellen
Kindberg
Krieglach
Langenwang
Mitterdorf im Mürztal
Mürzhofen
Mürzsteg
Mürzzuschlag
Neuberg an der Mürz
Spital am Semmering
Stanz im Mürztal
Veitsch
Wartberg im Mürztal

Murau District

Dürnstein in der Steiermark
Falkendorf
Frojach-Katsch
Krakaudorf
Krakauhintermühlen
Krakauschatten
Kulm am Zirbitz
Laßnitz bei Murau
Mariahof
Mühlen
Murau
Neumarkt in Steiermark
Niederwölz
Oberwölz-Stadt
Oberwölz-Umgebung
Perchau am Sattel
Predlitz-Turrach
Ranten
Rinegg
Sankt Blasen
Sankt Georgen ob Murau
Sankt Lambrecht
Sankt Lorenzen bei Scheifling
Sankt Marein bei Neumarkt
Sankt Peter am Kammersberg
Sankt Ruprecht ob Murau
Scheifling
Schöder
Schönberg-Lachtal
Stadl an der Mur
Stolzalpe
Teufenbach
Triebendorf
Winklern bei Oberwölz
Zeutschach

Voitsberg District

Bärnbach
Edelschrott
Gallmannsegg
Geistthal
Gößnitz
Graden
Hirschegg
Kainach bei Voitsberg
Köflach
Kohlschwarz
Krottendorf-Gaisfeld
Ligist
Maria Lankowitz
Modriach
Pack
Piberegg
Rosental an der Kainach
Salla
Sankt Johann-Köppling
Sankt Martin am Wöllmißberg
Södingberg
Stallhofen
Voitsberg

Weiz District

Anger
Arzberg
Baierdorf bei Anger
Birkfeld
Feistritz bei Anger
Fischbach
Fladnitz an der Teichalm
Floing
Gasen
Gschaid bei Birkfeld
Gutenberg an der Raabklamm
Haslau bei Birkfeld
Hohenau an der Raab
Koglhof
Mortantsch
Naas

Naintsch
Neudorf bei Passail
Passail
Puch bei Weiz
Ratten
Sankt Kathrein am Hauenstein
Sankt Kathrein am Offenegg
Stenzengreith
Strallegg
Thannhausen
Waisenegg

Burgenland Province

Mattersburg District

Forchtenstein
Marz
Mattersburg
Sieggraben Wiesen

Oberpullendorf District

Kobersdorf
Lockenhaus
Markt Sankt Martin
Pilgersdorf

Oberwart District

Bernstein
Mariasdorf
Markt Neuhodis
Stadtschlaining
Unterkohlstätten
Weiden bei Rechnitz
Wiesfleck

LIST OF ADMINISTRATIVE UNITS IN THE ALPINE REGION OF THE SWISS CONFEDERATION

Canton		Boundary
APPENZELL Rh.-Ext. APPENZELL A.-Rh.	All of the canton	Appenzell A.-Rh.
APPENZELL Rh.-Int. APPENZELL I.-Rh.	All of the canton	Appenzell I.-Rh.
BERNE/BERN	Administrative districts	Frutigen Interlaken Niedersimmental Oberhasli Obersimmental Saanen Schwarzenburg: only the municipalities of Guggisberg, Rüschegg Signau: only the municipalities of Schangnau, Röthenbach Thun
FRIBOURG/FREIBURG	Districts	La Gruyère Sense: only the municipality of Plaffeien
GLARIS/GLARUS	All of the canton	Glaris
GRISONS/GRAUBÜNDEN	All of the canton	Grisons
LUCERNE/LUZERN	District	Lucerne Entlebuch
UNTERWALD-LE-BAS/ UNTERWALDEN NID DEM WALD	All of the canton	Unterwald-le-bas
UNTERWALD-LE-HAUT/ UNTERWALDEN OB DEM WALD	All of the canton	Unterwald-le-haut
URI/URI	All of the canton	Uri
SAINT-GALL/ ST. GALLEN	Districts	Unterrheintal Oberrheintal Werdenberg Sargans Gaster Obertoggenburg

SCHWYZ/SCHWYZ	All of the canton	
TESSIN/TESSIN	All of the canton	
VAUD/WAADT	Districts	Aigle Pays-d'Enhaut Vevey: only the municipalities of Montreux, Veytaux
VALAIS/WALLIS	All of the canton	Valais

Annex 109

Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 17 March 1992, 1936 UNTS 269

No. 33207

MULTILATERAL

Convention on the Protection and Use of Transboundary Watercourses and International Lakes (with annexes). Done at Helsinki on 17 March 1992

Authentic texts: English, French and Russian.

Registered ex officio *on 6 October 1996.*

MULTILATÉRAL

Convention sur la protection et l'utilisation des cours d'eau transfrontières et des lacs internationaux (avec annexes). Conclue à Helsinki le 17 mars 1992

Textes authentiques : anglais, français et russe.

Enregistrée d'office le 6 octobre 1996.

CONVENTION[1] ON THE PROTECTION AND USE OF TRANSBOUNDARY WATERCOURSES AND INTERNATIONAL LAKES

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,

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[1] Came into force on 6 October 1996, in accordance with article 26:

Participant	*Date of deposit of the instrument of ratification acceptance* (A), *approval* (AA) *or accession* (a)	
Albania	5 January	1994
Croatia	8 July	1996 *a*
Estonia	16 June	1995
European Community	14 September	1995 *AA*
Finland	21 February	1996 *A*
Germany	30 January	1995
(Confirming the reservation made upon signature.)*		
Hungary	2 September	1994 *AA*
Italy	23 May	1996
Luxembourg	7 June	1994
Netherlands	14 March	1995 *A*
(For the Kingdom in Europe.)		
(Confirming the statement made upon signature.)*		
Norway	1 April	1993 *AA*
Portugal	9 December	1994
Republic of Moldova	4 January	1994 *a*
Romania	31 May	1995
Russian Federation	2 November	1993 *A*
Sweden	5 August	1993
Switzerland	23 May	1995

In addition, and prior to the entry into force of the Convention, the following States deposit an instrument of ratification:

Austria	25 July	1996
(With effect from 23 October 1996. With a declaration.)**		
Greece	6 September	1996
(With effect from 5 December 1996.)		

* See p. 355 of this volume for the reservation and statement made upon signature.

** See p. 356 of this volume for the declaration made upon ratification.

Recalling the pertinent provisions and principles of the Declaration of the Stockholm Conference on the Human Environment,[1] the Final Act of the Conference on Security and Cooperation in Europe (CSCE),[2] the Concluding Documents of the Madrid[3] and Vienna Meetings[4] 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;

[1] United Nations, *Official Records of the General Assembly, Forty-eighth Session*, (A/CONF.48/14/Rev.1).
[2] *International Legal Materials*, vol. XIV (1975), p. 1292 (American Society of International Law).
[3] *Ibid.*, vol. XXII (1983), p. 1395 (American Society of International Law).
[4] *Ibid.*, vol. XXVIII (1989), p. 527 (American Society of International Law).

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.

Article 3

PREVENTION, CONTROL AND REDUCTION

1. 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.

2. 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.

3. 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.

Article 12

COMMON RESEARCH AND DEVELOPMENT

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

EXCHANGE OF INFORMATION BETWEEN RIPARIAN PARTIES

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.

Article 16

PUBLIC INFORMATION

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

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 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 Depositary. Any such

withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depositary.

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.

[*For the signatures, see p. 329 of this volume.*]

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

1. 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.

2. 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.

3. 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.

ANNEX IV

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.

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

Annex 110

Convention on the Transboundary Effects of Industrial Accidents, 17 March 1992, 2105 UNTS 457

No. 36605

Multilateral

Convention on the Transboundary Effects of Industrial Accidents (with annexes). Helsinki, 17 March 1992

Entry into force: *19 April 2000, in accordance with article 30 (1) (see following page)*

Authentic texts: *English, French and Russian*

Registration with the Secretariat of the United Nations: *ex officio, 19 April 2000*

Multilatéral

Convention snr les effets transfrontières des accidents industriels (avec annexes). Helsinki, 17 mars 1992

Entrée en vignenr : *19 avril 2000, conformément au paragraphe 1 de l'article 30 (voir la page suivante)*

Textes authentiques : *anglais, français et russe*

Enregistrement auprès du Secrétariat des Nations Unies : *d'office, 19 avril 2000*

Participant	Ratification, Accession (a), Acceptance (A) and Approval (AA)			
Albania	5	Jan	1994	
Armenia	21	Feb	1997	a
Austria with declaration[1]	4	Aug	1999	
Bulgaria	12	May	1995	
Croatia	20	Jan	2000	a
European Community with declaration and reservations[1]	24	Apr	1998	AA
Finland	13	Sep	1999	A
Germany	9	Sep	1998	
Greece	24	Feb	1998	
Hungary with declaration[1]	2	Jun	1994	AA
Luxembourg	8	Aug	1994	
Norway	1	Apr	1993	AA
Republic of Moldova	4	Jan	1994	a
Russian Federation	1	Feb	1994	A
Spain	16	May	1997	
Sweden	22	Sep	1999	
Switzerland	21	May	1999	

1. For the text of the declarations and reservations made upon ratification, accession (a), acceptance (A) and approval (AA), see p. 575 of this volume.

Participant	**Ratification, Adhésion (a), Acceptation (A) et Approhation (AA)**			
Albanie	5	janv	1994	
Allemagne	9	sept	1998	
Arménie	21	févr	1997	a
Autriche avec déclaration[1]	4	août	1999	
Bulgarie	12	mai	1995	
Communauté européenne avec déclaration et réserves[1]	24	avr	1998	AA
Croatie	20	janv	2000	a
Espagne	16	mai	1997	
Finlande	13	sept	1999	A
Fédération de Russie	1	févr	1994	A
Grèce	24	févr	1998	
Hongrie avec déclaration[1]	2	juin	1994	AA
Luxembourg	8	août	1994	
Norvège	1	avr	1993	AA
République de Moldova	4	janv	1994	a
Suisse	21	mai	1999	
Suède	22	sept	1999	

1. Pour le texte des déclarations et réserves faites lors de la ratification, de l'adhésion (a), de l'acceptation (A) ou de l'approbation (AA), voir, p. 575 du présent volume.

[ENGLISH TEXT — TEXTE ANGLAIS]

CONVENTION ON THE TRANSBOUNDARY EFFECTS OF INDUSTRIAL ACCIDENTS

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:

Article 1. Definitions

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 ac-

tivities 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.

Article 6. Prevention

1. 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.

2. 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 sys-

tems, 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 (I) 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, and 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.

Article 13. Responsibility and Liability

The 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

1. Eaeh 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.

Article 27. 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

1. 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 an the ninetieth day after the date of the receipt of the notification by the Depositary.

2. 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.

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.

[For the signatures, see p. 574 of this volume.]

ANNEX I

HAZARDOUS SUBSTANCES FOR THE PURPOSES OF DEFINING HAZARDOUS ACTIVITIES

The quantities set out below relate to each activity or group of activities. Where a range of quantities is given in Part I, the threshold quantities are the maximum quantities given in each range. Five years after the entry into force of this Convention, the lowest quantity given in each range shall become the threshold quantity, unless amended.

Where a substance or preparation named in Part II also falls within a category in Part I, the threshold quantity set out in Part II shall be used.

For the identification of hazardous activities, Parties shall take into consideration the foreseeable possibility of aggravation of the hazards involved and the quantities of the hazardous substances and their proximity, whether under the charge of one or more operators.

PART I. Categories of substances and preparations not specifically named in Part II

	Category	Threshold Quantity (Tonnes)
1.	Flammable gases 1[a] including LPG	200
2.	Highly flammable liquids 1[b]	50,000
3.	Very toxic 1[c]	20
4.	Toxic 1[d]	500-200
5.	Oxidizing 1[e]	500-200
6.	Explosive 1[f]	200-50
7.	Flammable liquids 1[g] (handled under special conditions of pressure and temperature)	200
8.	Dangerous for the environment 1[h]	200

PART II. Named substances

	Substance	Threshold Quantity (Tonnes)
1.	Ammonia	500
2 a	Ammonium nitrate 2/	2,500
b	Ammonium nitrate in the form of fertilizers 3/	10,000
3.	Acrylonitrile	200
4.	Chlorine	25
5.	Ethylene oxide	50
6.	Hydrogen cyanide	20
7.	Hydrogen fluoride	50
8.	Hydrogen sulphide	50
9.	Sulphur dioxide	250
10.	Sulphur trioxide	75
11.	Lead alkyls	50
12.	Phosgene	0.75
13.	Methyl isocyanate	0.15

NOTES

1. Indicative criteria. In the absence of other appropriate criteria, Parties may use the following criteria when classifying substances or preparations for the purposes of Part I of this Annex.

(a) FLAMMABLE GASES: substances which in the gaseous state at normal pressure and mixed with air become flammable and the boiling point of which at normal pressure is 20°C or below;

(b) HIGHLY FLAMMABLE LIQUIDS: substances which have a flash point lower than 21°C and the boiling point of which at normal pressure is above 20°C;

(c) VERY TOXIC: substances with properties corresponding to those in table 1 or table 2 below, and which, owing to their physical and chemical properties, are capable of creating industrial accident hazards.

TABLE 1

LD_{50}(oral)(1) mg/kg body weight	LD_{50}(dermal)(2) mg/kg body weight	LC_{50}(3) mg/l (inhalation)
$LD_{50} \leq 25$	$LD_{50} \leq 50$	$LC_{50} \leq 0.5$

(1) LD_{50} oral in rats
(2) LD_{50} dermal in rats or rabbits
(3) LC_{50} by inhalation (four hours) in rats

TABLE 2

Discriminating dose mg/kg body weight	< 5

where the acute oral toxicity in animals of the substance has been determined using the fixed-dose procedure.

(d) TOXIC: substances with properties corresponding to those in table 3 or 4 and having physical and chemical properties capable of creating industrial accident hazards.

TABLE 3

LD_{50}(oral)(1) mg/kg body weight	LD_{50}(dermal)(2) mg/kg body weight	LC_{50}(3) mg/l(inhalation)
$25 < LD_{50} \leq 200$	$50 < LD_{50} \leq 400$	$0.5 < LC_{50} \leq 2$

(1) LD_{50} oral in rats
(2) LD_{50} dermal in rats or rabbits
(3) LC_{50} by inhalation (four hours) in rats

TABLE 4

Discriminating dose mg/kg body weight	= 5

where the acute oral toxicity in animals of the substance has been determined using the fixed-dose procedure.

(e) OXIDIZING: substances which give rise to highly exothermic reaction when in contact with other substances, particularly flammable substances.

(f) EXPLOSIVE: substances which may explode under the effect of flame or which are more sensitive to shocks or friction than dinitrobenzene.

(g) FLAMMABLE LIQUIDS: substances which have a flash point lower than 55°C and which remain liquid under pressure, where particular processing conditions, such as high pressure and high temperature, may create industrial accident hazards.

(h) DANGEROUS FOR THE ENVIRONMENT: substances showing the values for acute toxicity to the aquatic environment corresponding to table 5.

TABLE 5

LC_{50}(1)	EC_{50}(2)	IC_{50}(3)
mg/l	mg/l	mg/l
$LC_{50} \leq 10$	$EC_{50} \leq 10$	$IC_{50} \leq 10$

(1) LC_{50} fish (96 hours)
(2) EC_{50} daphnia (48 hours)
(3) IC_{50} algae (72 hours)

where the substance is not readily degradable, or the log Pow > 3.0 (unless the experimentally determined BCF < 100).

(i) LD - lethal dose
(j) LC - lethal concentration
(k) EC - effective concentration
(l) IC - inhibiting concentration
(m) Pow - partition coefficient octanol/water
(n) BCF - bioconcentration factor

2. This applies to ammonium nitrate and mixtures of ammonium nitrate where the nitrogen content derived from the ammonium nitrate is > 28% by weight, and to aqueous solutions of ammonium nitrate where the concentration of ammonium nitrate is > 90% by weight.

3. This applies to straight ammonium nitrate fertilizers and to compound fertilizers where the nitrogen content derived from the ammonium nitrate is > 28% by weight (a compound fertilizer contains ammonium nitrate together with phosphate and/or potash).

4. Mixtures and preparations containing such substances shall be treated in the same way as the pure substance unless they no longer exhibit equivalent properties and are not capable of producing transboundary affects.

ANNEX II

INQUIRY COMMISSION PROCEDURE PURSUANT TO ARTICLES 4 AND 5

1. The requesting Party or Parties shall notify the secretariat that it or they is (are) submitting question(s) to an inquiry commission established in accordance with the provisions of this Annex. The notification shall state the subject-matter of the inquiry. The secretariat shall immediately inform all Parties to the Convention of this submission.

2. 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 a 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 case in any other capacity.

3. 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.

4. 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. If it fails to do so within that 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.

5. The inquiry commission shall adopt its own rules of procedure.

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

7. The parties to the inquiry procedure shall facilitate the work of the inquiry commission and in particular shall, using all means at their disposal:

(a) Provide the inquiry commission with all relevant documents, facilities and information;

(b) Enable the inquiry commission, where necessary, to call witnesses or experts and receive their evidence.

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

9. 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.

10. 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 equally by the parties to the inquiry procedure. The inquiry commission shall keep a record of all its expenses and shall furnish a final statement thereof to the parties.

11. Any Party which has 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.

12. The decisions of the inquiry commission on matters of the 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.

13. 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.

14. 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.

ANNEX III

PROCEDURES PURSUANT TO ARTICLE 4

1. A Party of origin may request consultations with another Party, in accordance with paragraphs 2 to 5 of this Annex, in order to determine whether that Party is an affected Party.

2. For a proposed or existing hazardous activity, the Party of origin shall, for the purposes of ensuring adequate and effective consultations, provide for the notification at appropriate levels of any Party that it considers may be an affected Party as early as possible and no later than when informing its own public about that proposed or existing activity. For existing hazardous activities such notification shall be provided no later than two years after the entry into force of this Convention for a Party of origin.

3. The notification shall contain, inter alia:

(a) Information on the hazardous activity, including any available information or report, such as information produced in accordance with Article 6, on its possible transboundary effects in the event of an industrial accident;

(b) An indication of a reasonable time within which a response under paragraph 4 of this Annex is required, taking into account the nature of the activity;

and may include the information set out in paragraph 6 of this Annex.

4. The notified Parties shall respond to the Party of origin within the time specified in the notification, acknowledging receipt of the notification and indicating whether they intend to enter into consultation.

5. If a notified Party indicates that it does not intend to enter into consultation, or if it does not respond within the time specified in the notification, the provisions set down in the following paragraphs of this Annex shall not apply. In such circumstances, the right of a Party of origin to determine whether to carry out an assessment and analysis on the basis of its national law and practice is not prejudiced.

6. Upon receipt of a response from a notified Party indicating its desire to enter into consultation, the Party of origin shall, if it has not already done so, provide to the notified Party:

(a) Relevant information regarding the time schedule for analysis, including an indication of the time schedule for the transmittal of comments;

(b) Relevant information on the hazardous activity and its transboundary effects in the event of an industrial accident;

(c) The opportunity to participate in evaluations of the information or any report demonstrating possible transboundary effects.

7. An affected Party shall, at the request of the Party of origin, provide the latter with reasonably obtainable information relating to the area under the jurisdiction of the affected Party capable of being affected, where such information is necessary for the preparation of

the assessment and analysis and measures. The information shall be furnished promptly and, as appropriate, through a joint body where one exists.

8. The Party of origin shall furnish the affected Party directly, as appropriate, or, where one exists, through a joint body with the analysis and evaluation documentation as described in Annex V, paragraphs 1 and 2.

9. The Parties concerned shall inform the public in areas reasonably capable of being affected by the hazardous activity and shall arrange for the distribution of the analysis and evaluation documentation to it and to authorities in the relevant areas. The Parties shall ensure them an opportunity for making comments on, or objections to, the hazardous activity and shall arrange for their views to be submitted to the competent authority of the Party of origin, either directly to that authority or, where appropriate, through the Party of origin, within a reasonable time.

10. The Party of origin shall, after completion of the analysis and evaluation documentation, enter without undue delay into consultations with the affected Party concerning, inter alia, the transboundary effects of the hazardous activity in the event of an industrial accident, and measures to reduce or eliminate its effects. The consultations may relate to:

(a) Possible alternatives to the hazardous activity, including the no-action alternative, and possible measures to mitigate transboundary effects at the expense of the Party of origin;

(b) Other forms of possible mutual assistance for reducing any transboundary effects;

(c) Any other appropriate matters.

The Partics concerned shall, on the commencement of such consultations, agree 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.

11. The Parties concerned shall ensure that due account is taken of the analysis and evaluation, as well as of the comments received pursuant to paragraph 9 of this Annex and of the outcome of the consultations referred to in paragraph 10 of this Annex.

12. The Party of origin shall notify the affected Parties of any decision on the activity, along with the reasons and considerations on which it was based.

13. If, after additional and relevant information concerning the transboundary effects of a hazardous activity and which was not available at the time consultations were held with respect to that activity, becomes available to a Party concerned, that Party shall immediately inform the other Party or Parties concerned. If one of the Parties concerned so requests, renewed consultations shall be held.

ANNEX IV

PREVENTIVE MEASURES PURSUANT TO ARTICLE 6

The following measures may be carried out, depending on national laws and practices, by Parties, competent authorities, operators, or by joint efforts:

1. The setting of general or specific safety objectives;

2. The adoption of legislative provisions or guidelines concerning safety measures and safety standards;

3. The identification of those hazardous activities which require special preventive measures, which may include a licensing or authorization system;

4. The evaluation of risk analyses or of safety studies for hazardous activities and an action plan for the implementation of necessary measures;

5. The provision to the competent authorities of the information needed to assess risks;

6. The application of the most appropriate technology in order to prevent industrial accidents and protect human beings and the environment;

7. The undertaking, in order to prevent industrial accidents, of the appropriate education and training of all persons engaged in hazardous activities on-site under both normal and abnormal conditions;

8. The establishment of internal managerial structures and practices designed to implement and maintain safety regulations effectively;

9. The monitoring and auditing of hazardous activities and the carrying out of inspections.

ANNEX V

ANALYSIS AND EVALUATION

1. The analysis and evaluation of the hazardous activity should be performed with a scope and to a depth which vary depending on the purpose for which they are carried out.

2. The following table illustrates, for the purposes of the related Articles, matters which should be considered in the analysis and evaluation, for the purposes listed:

Purpose of analysis	Matters to be considered:
Emergency planning under Article 8	(1) The quantities and properties of hazardous substances on the site; (2) Brief descriptive scenarios of a representative sample of industrial accidents possibly arising from the hazardous activity, including an indication of the likelihood of each; (3) For each scenario: (a) The approximate quantity of a release; (b) The extent and severity of the resulting consequences both for people and for the non-human environment in favourable and unfavourable conditions, including the extent of resulting hazard zones; (c) The time-scale within which the industrial accident could develop from the initiating event; (d) Any action which could be taken to minimize the likelihood of escalation. (4) The size and distribution of the population in the vicinity, including any large concentrations of people potentially in the hazard zone; (5) The age, mobility and susceptibility of that population.
Decision-making on siting under Article 7	In addition to items (1) to (5) above: (6) The severity of the harm inflicted on people and the environment, depending on the nature and circumstances of the release; (7) The distance from the location of the hazardous activity at which harmful effects on people and the environment may reasonably occur in the event of an industrial accident;

	(8) The same information not only for the present situation but also for planned or reasonably foreseeable future developments.
Information to the public under Article 9	In addition to items (1) to (4) above: (9) The people who may be affected by an industrial accident.
Preventive measures under Article 6	In addition to items (4) to (9) above, more detailed versions of the descriptions and assessments set out in items (1) to (3) will be needed for preventive measures. In addition to those descriptions and assessments, the following matters should also be covered: (10) The conditions and quantities in which hazardous materials are handled; (11) A list of the scenarios for the types of industrial accidents with serious effects, to include examples covering the full range of incident size and the possibility of effects from adjacent activities; (12) For each scenario, a description of the events which could initiate an industrial accident and the steps whereby it could escalate; (13) An assessment, at least in general terms, of the likelihood of each step occurring, taking into account the arrangements in (14); (14) A description of the preventive measures in terms of both equipment and procedures designed to minimize the likelihood of each step occurring; (15) An assessment of the effects that deviations from normal operating conditions could have, and the consequent arrangements for safe shut-down of the hazardous activity or any part thereof in an emergency, and of the need for staff training to ensure that potentially serious deviations are recognized at an early stage and appropriate action taken; (16) An assessment of the extent to which modifications, repair work and maintenance work on the hazardous activity could place the control measures at risk, and the consequent arrangements to ensure that control is maintained.

ANNEX VI

DECISION-MAKING ON SITING PURSUANT TO ARTICLE 7

The following illustrates the matters which should be considered pursuant to Article 7:

1. The results of risk analysis and evaluation, including an evaluation pursuant to Annex V of the physical characteristics of the area in which the hazardous activity is being planned;

2. The results of consultations and public participation processes;

3. An analysis of the increase or decrease of the risk caused by any development in the territory of the affected Party in relation to an existing hazardous activity in the territory of the Party of origin;

4. The evaluation of the environmental risks, including any transboundary effects;

5. An evaluation of the new hazardous activities which could be a source of risk;

6. A consideration of the siting of new, and significant modifications to existing hazardous activities at a safe distance from existing centres of population, as well as the establishment of a safety area around hazardous activities; within such areas, developments which would increase the populations at risk, or otherwise increase the severity of the risk, should be closely examined.

ANNEX VII

EMERGENCY PREPAREDNESS MEASURES PURSUANT TO ARTICLE 8

1. All contingency plans, both on- and off-site, should be coordinated to provide a comprehensive and effective response to industrial accidents.

2. The contingency plans should include the actions necessary to localize emergencies and to prevent or minimize their transboundary effects. They also include arrangements for warning people and, where appropriate, arrangements for their evacuation, other protective or rescue actions and health services.

3. Contingency plans should give on-site personnel, people who might be affected off site and rescue forces, details of technical and organizational procedures which are appropriate for response in the event of an industrial accident capable of having transboundary effects and to prevent and minimize effects on people and the environment, both on and off site.

4. Examples of matters which could be covered by on-site contingency plans include:

(a) Organizational roles and responsibilities on site for dealing with an emergency;

(b) A description of the action which should be taken in the event of an industrial accident, or an imminent threat thereof, in order to control the condition or event, or details of where such a description can be found;

(c) A description of the equipment and resources available;

(d) Arrangements for providing early warning of industrial accidents to the public authority responsible for the off-site emergency response, including the type of information which should be included in an initial warning and the arrangements for providing more detailed information as it becomes available;

(e) Arrangements for training personnel in the duties they will be expected to perform.

5. Examples of matters which could be covered by off-site contingency plans include:

(a) Organizational roles and responsibilities off-site for dealing with an emergency, including how integration with on-site plans is to be achieved;

(b) Methods and procedures to be followed by emergency and medical personnel;

(c) Methods for rapidly determining the affected area;

(d) Arrangements for ensuring that prompt industrial accident notification is made to affected or potentially affected Parties and that that liaison is maintained subsequently;

(e) Identification of resources necessary to implement the plan and the arrangements for coordination;

(f) Arrangements for providing information to the public including, where appropriate, the arrangements for reinforcing and repeating the information provided to the public pursuant to article 9;

(g) Arrangements for training and exercises.

6. Contingency plans could include the measures for treatment; collection; clean-up; storage; removal and safe disposal of hazardous substances and contaminated material; and restoration.

ANNEX VIII

INFORMATION TO THE PUBLIC PURSUANT TO ARTICLE 9

1. The name of the company, address of the hazardous activity and identification by position held of the person giving the information;

2. An explanation in simple terms of the hazardous activity, including the risks;

3. The common names or the generic names or the general danger classification of the substances and preparations which are involved in the hazardous activity, with an indication of their principal dangerous characteristics;

4. General information resulting from an environmental impact assessment, if available and relevant;

5. The general information relating to the nature of an industrial accident that could possibly occur in the hazardous activity, including its potential effects on the population and the environment;

6. Adequate information on how the affected population will be warned and kept informed in the event of an industrial accident;

7. Adequate information on the actions the affected population should take and on the behaviour they should adopt in the event of an industrial accident;

8. Adequate information on arrangements made regarding the hazardous activity, including liaison with the emergency services, to deal with industrial accidents, to reduce the severity of the industrial accidents and to mitigate their effects;

9. General information on the emergency services' off-site contingency plan, drawn up to cope with any off-site effects, including the transboundary effects of an industrial accident;

10. General information on special requirements and conditions to which the hazardous activity is subject according to the relevant national regulations and/or administrative provisions, including licensing or authorization systems;

11. Details of where further relevant information can be obtained.

ANNEX IX

INDUSTRIAL ACCIDENT NOTIFICATION SYSTEMS PURSUANT TO ARTICLE 10

1. The industrial accident notification systems shall enable the speediest possible transmission of data and forecasts according to previously determined codes using compatible data-transmission and data-treatment systems for emergency warning and response, and for measures to minimize and contain the consequences of transboundary effects, taking account of different needs at different levels.

2. The industrial accident notification shall include the following:

(a) The type and magnitude of the industrial accident, the hazardous substances involved (if known), and the severity of its possible effects;

(b) The time of occurrence and exact location of the accident;

(c) Such other available information as necessary for an efficient response to the industrial accident.

3. The industrial accident notification shall be supplemented at appropriate intervals, or whenever required, by further relevant information on the development of the situation concerning transboundary effects.

4. Regular tests and reviews of the effectiveness of the industrial accident notification systems shall be undertaken, including the regular training of the personnel involved. Where appropriate, such tests, reviews and training shall be performed jointly.

ANNEX X

MUTUAL ASSISTANCE PURSUANT TO ARTICLE 12

1. The overall direction, control, coordination and supervision of the assistance is the responsibility of the requesting Party. The personnel involved in the assisting operation shall act in accordance with the relevant laws of the requesting Party. The appropriate authorities of the requesting Party shall cooperate with the authority designated by the assisting Party, pursuant to Article 17, as being in charge of the immediate operational supervision of the personnel and the equipment provided by the assisting Party.

2. The requesting Party shall, to the extent of its capabilities, provide local facilities and services for the proper and effective administration of the assistance, and shall ensure the protection of personnel, equipment and materials brought into its territory by, or on behalf of, the assisting Party for such a purpose.

3. Unless otherwise agreed by the Parties concerned, assistance shall be provided at the expense of the requesting Party. The assisting Party may at any time waive wholly or partly the reimbursement of costs.

4. The requesting Party shall use its best efforts to afford to the assisting Party and persons acting on its behalf the privileges, immunities or facilities necessary for the expeditious performance of their assistance functions. The requesting Party shall not be required to apply this provision to its own nationals or permanent residents or to afford them the privileges and immunities referred to above.

5. A Party shall, at the request of the requesting or assisting Party, endeavour to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance to and from the requesting Party.

6. The requesting Party shall facilitate the entry into, stay in and departure from its national territory of duly notified personnel and of equipment and property involved in the assistance.

7. With regard to acts resulting directly from the assistance provided, the requesting Party shall, in respect of the death of or injury to persons, damage to or loss of property, or damage to the environment caused within its territory in the course of the provision of the assistance requested, hold harmless and indemnify the assisting Party or persons acting on its behalf and compensate them for death or injury suffered by them and for loss of or damage to equipment or other property involved in the assistance. The requesting Party shall be responsible for dealing with claims brought by third parties against the assisting Party or persons acting on its behalf.

8. The Parties concerned shall cooperate closely in order to facilitate the settlement of legal proceedings and claims which could result from assistance operations.

9. Any Party may request assistance relating to the medical treatment or the temporary relocation in the territory of another Party of persons involved in an accident.

10. The affected or requesting Party may at any time, after appropriate consultations and by notification, request the termination of assistance received or provided under this

Convention. Once such a request has been made, the Parties concerned shall consult one another with a view to making arrangements for the proper termination of the assistance.

ANNEX XI

EXCHANGE OF INFORMATION PURSUANT TO ARTICLE 15

Information shall include the following elements, which can also be the subject of multilateral and bilateral cooperation:

(a) Legislative and administrative measures, policies, objectives and priorities for prevention, preparedness and response, scientific activities and technical measures to reduce the risk of industrial accidents from hazardous activities, including the mitigation of transboundary effects;

(b) Measures and contingency plans at the appropriate level affecting other Parties;

(c) Programmes for monitoring, planning, research and development, including their implementation and surveillance;

(d) Measures taken regarding prevention of, preparedness for and response to industrial accidents;

(e) Experience with industrial accidents and cooperation in response to industrial accidents with transboundary effects;

(f) The development and application of the best available technologies for improved environmental protection and safety;

(g) Emergency preparedness and response;

(h) Methods used for the prediction of risks, including criteria for the monitoring and assessment of transboundary effects.

ANNEX XII

TASKS FOR MUTUAL ASSISTANCE PURSUANT TO ARTICLE 18, PARAGRAPH 4

1. Information and data collection and dissemination

(a) Establishment and operation of an industrial accident notification system that can provide information on industrial accidents and on experts, in order to involve the experts as rapidly as possible in providing assistance;

(b) Establishment and operation of a data bank for the reception, processing and distribution of necessary information on industrial accidents, including their effects, and also on measures applied and their effectiveness;

(c) Elaboration and maintenance of a list of hazardous substances, including their relevant characteristics, and of information on how to deal with those in the event of an industrial accident;

(d) Establishment and maintenance of a register of experts to provide consultative and other kinds of assistance regarding preventive, preparedness and response measures, including restoration measures;

(e) Maintenance of a list of hazardous activities;

(f) Production and maintenance of a list of hazardous substances covered by the provisions of Annex I, Part I.

2. Research, training and methodologies

(a) Development and provision of models based on experience from industrial accidents, and scenarios for preventive, preparedness and response measures;

(b) Promotion of education and training, organization of international symposia and promotion of cooperation in research and development.

3. Technical assistance

(a) Fulfillment of advisory functions aimed at strengthening the ability to apply preventive, preparedness and response measures;

(b) Undertaking, at the request of a Party, of inspections of its hazardous activities and the provision of assistance in organizing its national inspections according to the requirements of this Convention.

4. Assistance in the case of an emergency

Provision, at the request of a Party, of assistance by, inter alia, sending experts to the site of an industrial accident to provide consultative and other kinds of assistance in response to the industrial accident.

ANNEX XIII

ARBITRATION

1. The claimant Party or Parties shall notify the secretariat that the Parties have agreed to submit the dispute to arbitration pursuant to Article 21, 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 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 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 in accordance with the provisions of this Convention.

6. Any arbitral tribunal constituted under the provisions set out herein 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 shall, using all means at their disposal:

(a) Provide the tribunal with all relevant documents, facilities and information;

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

10. The parties to the dispute 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 equally by the parties to the dispute. The tribunal shall keep a record of all its expenses and shall furnish a final statement thereof to the parties to the dispute.

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

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

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

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

Annex 111

Convention on the protection of the Black Sea against pollution, 21 April 1992, 1764 UNTS 3

No. 30674

MULTILATERAL

Convention on the protection of the Black Sea against pollution (with annexes and protocols). Concluded at Bucharest on 21 April 1992

Authentic text: English.

Registered by Romania on 10 February 1994.

MULTILATÉRAL

Convention pour la protection de la mer Noire contre la pollution (avec annexes et protocoles). Conclue à Bucarest le 21 avril 1992

Texte authentique : anglais.

Enregistrée par la Roumanie le 10 février 1994.

CONVENTION[1] ON THE PROTECTION OF THE BLACK SEA AGAINST POLLUTION

The Contracting Parties,

Determined to act with a view to achieve progress in the protection of the marine environment of the Black Sea and in the conservation of its living resources,

Conscious of the importance of the economic, social and health values of the marine environment of the Black Sea,

Convinced that the natural resources and amenities of the Black Sea can be preserved primarily through joint efforts of the Black Sea countries,

Taking into account the generally accepted rules and regulations of international law,

Having in mind the principles, customs and rules of general international law regulating the protection and preservation of the marine environment and the conservation of the living resources thereof,

Taking into account the relevant provisions of the Convention on Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1972[2] as amended;[3] the International Convention on Prevention of Pollution from Ships of 1973 as modified by the Protocol of 1978 relating thereto[4] as amended;[5] the Convention on Control of Transboundary Movement of Hazardous Wastes and Their Disposal of 1989[6] and the International Convention on Oil Pollution Preparedness, Response and Cooperation of 1990,[7]

Recognizing the significance of the principles adopted by the Conference on Security and Cooperation in Europe,[8]

[1] Came into force on 15 January 1994, i.e., 60 days after the date of deposit of the fourth instrument of ratification, acceptance or approval with the Government of Romania, in accordance with article XXI:

Participant	*Date of deposit of the instrument of ratification*
Bulgaria	23 February 1993
Georgia	1 September 1993
Romania	10 November 1992
Russian Federation	16 November 1993

[2] United Nations, *Treaty Series*, vol. 1046, p. 120.

[3] *Ibid.*, vol. 1140, p. 377; vol. 1263, p. 469; and vol. 1582, No. A-15749.

[4] *Ibid.*, vol. 1340, p. 61.

[5] *Ibid.*, vol. 1421, No. A-22484; vol. 1460, No. A-22484; vol. 1545, No. A-22484; vol. 1593, No. A-22484; vol. 1606, No. A-22484; vol. 1673, No. A-22484; vol. 1727, No. A-22484, and vol. 1733, No. A-22484.

[6] *Ibid.*, vol. 1673, No. I-28911.

[7] Registered with the Secretariat of the United Nations on 13 May 1995 under No. I-32194.

[8] *International Legal Materials*, vol. XIV (1975), p. 1292 (American Society of International Law).

Taking into account their interest in the conservation, exploitation and development of the bio-productive potential of the Black Sea,

Bearing in mind that the Black Sea coast is a major international resort area where Black Sea Countries have made large investments in public health and tourism,

Taking into account the special hydrological and ecological characteristics of the Black Sea and the hypersensitivity of its flora and fauna to changes in the temperature and composition of the sea water,

Noting that pollution of the marine environment of Black Sea also emanates from land-based sources in other countries of Europe, mainly through rivers,

Reaffirming their readiness to cooperate in the preservation of the marine environment of the Black Sea and the protection of its living resources against pollution,

Noting the necessity of scientific, technical and technological cooperation for the attainment of the purposes of the Convention,

Noting that existing international agreements do not cover all aspects of pollution of the marine environment of the Black Sea emanating from third countries,

Realizing the need for close cooperation with competent international organizations based on a concerted regional approach for the protection and enhancement of the marine environment of the Black Sea,

Have agreed as follows:

Article I
Area of application

1. This Convention shall apply to the Black Sea proper with the southern limit constituted for the purposes of this Convention by the line joining Capes Kelagra and Dalyan.

2. For the purposes of this Convention the reference to the Black Sea shall include the territorial sea and exclusive economic zone of each Contracting Party in the Black Sea. However, any Protocol to this Convention may provide otherwise for the purposes of that Protocol.

Article II
Definitions

For the purposes of this Convention:

1. "Pollution of the marine environment" means the introduction by man, directly or indirectly, of substances or

energy into the marine environment, including estuaries, which results or is likely to result in such deleterious effects as harm to living resources and marine life, hazard to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.

2. a) "Vessel" means seaborne craft of any type. This expression includes hydrofoil boats, aircushion vehicles, submersibles, floating craft whether self-propelled or not and platforms and other man-made structures at sea.

b) "Aircraft" means airborne craft of any type.

3. a) "Dumping" means:

i) any deliberate disposal of wastes or other matter from vessels or aircraft;

ii) any deliberate disposal of vessels or aircraft;

b) "Dumping" does not include:

i) the disposal of wastes or other matter incidental to or derived from the normal operations of vessels or aircraft and their equipment, other than wastes or other matter transported by or to vessels or aircraft operating for purpose of disposal of such matter or derived from the treatment of such wastes or other matter on such vessels or aircraft;

ii) placement of matter for a purpose other than the mere disposal thereof, provided that such placement is not contrary to the aims of this Convention.

4. "Harmful substance" means any hazardous, noxious or other substance, the introduction of which into the marine environment would result in pollution or adversely affect the biological processes due to its toxicity and/or persistence and/or bioaccumulation characteristics.

Article III
General provisions

The Contracting Parties take part in this Convention on the basis of full equality in rights and duties, respect for national sovereignty and independence, non-interference in their internal affairs, mutual benefit and other relevant principles and norms of international law.

Article IV
Sovereign immunity

This Convention does not apply to any warship, naval auxiliary or other vessels or aircraft owned or operated by a State and used, for the time being, only on government noncommercial service.

However, each Contracting Party shall ensure, by the adoption of appropriate measures not impairing operations of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is practicable, with this Convention.

Article V
General undertakings

1. Each Contracting Party shall ensure the application of the Convention in those areas of the Black Sea where it exercises its sovereignty as well as its sovereign rights and jurisdiction without prejudice to the rights and obligations of the Contracting Parties arising from the rules of international law.

Each Contracting Party, in order to achieve the purposes of this Convention, shall bear in mind the adverse effect of pollution within its internal waters on the marine environment of the Black Sea.

2. The Contracting Parties shall take individually or jointly, as appropriate, all necessary measures consistent with international law and in accordance with the provisions of this Convention to prevent, reduce and control pollution thereof in order to protect and preserve the marine environment of the Black Sea.

3. The Contracting Parties will cooperate in the elaboration of additional Protocols and Annexes other than those attached to this Convention, as necessary for its implementation.

4. The Contracting Parties, when entering bilateral or multilateral agreements for the protection and preservation of the marine environment of the Black Sea, shall endeavour to ensure that such agreements are consistent with this Convention Copies of such agreements shall be transmitted to the other Contracting Parties through the Commission as defined in Article XVII of this Convention.

5. The Contracting Parties will cooperate in promoting, within international organizations found to be competent by them, the elaboration of measures contributing to the protection and preservation of the marine environment of the Black Sea.

Article VI
Pollution by hazardous substances and matter

Each Contracting Party shall prevent pollution of the marine environment of the Black Sea from any source by substances or matter specified in the Annex to this Convention.

Article VII
Pollution from land-based sources

The Contracting Parties shall prevent, reduce and control pollution of the marine environment of the Black Sea from land-based sources, in accordance with the Protocol on the Protection of the Black Sea Marine Environment Against Pollution from Land-Based Sources[1] which shall form in integral part of this Convention.

Article VIII
Pollution from vessels

The Contracting Parties shall take individually or, when necessary, jointly, all appropriate measures to prevent, reduce and control pollution of the marine environment of the Black Sea from vessels in accordance with generally accepted international rules and standards.

Article IX
Cooperation in combating pollution in emergency situations

The Contracting Parties shall cooperate in order to prevent, reduce and combat pollution of the marine environment of the Black Sea resulting from emergency situations in accordance with the Protocol on Cooperation in Combatting Pollution of the Black Sea by Oil and Other Harmful Substances in Emergency Situations[2] which shall form an integral part of this Convention.

Article X
Pollution by dumping

1. The Contracting Parties shall take all appropriate measures and cooperate in preventing, reducing and controlling pollution caused by dumping in accordance with the Protocol on the Protection of the Black Sea Marine Environment Against Pollution by Dumping[3] which shall form an integral part of this Convention.

2. The Contracting Parties shall not permit, within areas under their respective jurisdiction, dumping by natural or juridical persons of non-Black Sea States.

Article XI
Pollution from activities on the continental shelf

1. Each Contracting Party shall, as soon as possible, adopt laws and regulations and take measures to prevent, reduce and control pollution of the marine environment of the Black Sea caused by or connected with activities on its continental shelf, including

[1] See p. 18 of this volume.
[2] See p. 24 of this volume.
[3] See p. 27 of this volume.

the exploration and exploitation of the natural resources of the continental shelf.

The Contracting Parties shall inform each other through the Commission of the laws, regulations and measures adopted by them in this respect.

2. The Contracting Parties shall cooperate in this field, as appropriate, and endeavour to harmonize the measures referred to in paragraph 1 of this Article.

Article XII
Pollution from or through the atmosphere

The Contracting Parties shall adopt laws and regulations and take individual or agreed measures to prevent, reduce and control pollution of the marine environment of the Black Sea from or through the atmosphere, applicable to the airspace above their territories and to vessels flying their flag or vessels and aircraft registered in their territory.

Article XIII
Protection of the marine living resources

The Contracting Parties, when taking measures in accordance with this Convention for the prevention, reduction and control of the pollution of the marine environment of the Black Sea, shall pay particular attention to avoiding harm to marine life and living resources, in particular by changing their habitats and creating hindrance to fishing and other legimitate uses of the Black Sea, and in this respect shall give due regard to the recommendations of competent international organizations.

Article XIV
Pollution by hazardous wastes in transboundary movement

The Contracting Parties shall take all measures consistent with international law and cooperate in preventing pollution of the marine environment of the Black Sea due to hazardous wastes in transboundary movement, as well as in combatting illegal traffic thereof, in accordance with the Protocol to be adopted by them.

Article XV
Scientific and technical cooperation and monitoring

1. The Contracting Parties shall cooperate in conducting scientific research aimed at protecting and preserving the marine environment of the Black Sea and shall undertake, where appropriate, joint programmes of scientific research, and exchange relevant scientific data and information.

2. The Contracting Parties shall cooperate in conducting studies aimed at developing ways and means for the assessment of

the nature and extent of pollution and of its effect on the ecological system in the water column and sediments, detecting polluted areas, examining and assessing risks and finding remedies, and in particular, they shall develop alternative methods of treatment, disposal, elimination or utilization of harmful substances.

3. The Contracting Parties shall cooperate through the Commission in establishing appropriate scientific criteria for the formulation and elaboration of rules, standars, and recommended practices and procedures for the prevention, reduction and control of pollution of the marine environment of the Black Sea.

4. The Contracting Parties shall, inter alia, establish through the Commission and, where appropriate, in cooperation with international organizations they consider to be competent, complementary or joint monitoring programmes covering all sources of pollution and shall establish a pollution monitoring system for the Black Sea including, as appropriate, programmes at bilateral or multilateral level for observing, measuring, evaluating and analyzing the risks or effects of pollution of the marine environment of the Black Sea.

5. When the Contracting Parties have reasonable grounds for believing that activities under their jurisdiction or control may cause substantial pollution or significant and harmful changes to the marine environment of the Black Sea, they shall, before commencing such activities, assess their potential effects on the basis of all relevant information and monitoring data and shall communicate the results of such assessments to the Commission.

6. The Contracting Parties shall co-operate as appropriate, in the development, acquisition and introduction of clean and low-waste technology, inter alia, by adopting measures to facilitate the exchange of such techology.

7. Each Contracting Party shall designate the competent national authority responsible for scientific activities and monitoring.

Article XVI
Responsibility and liability

1. The Contracting Parties are responsible for the fulfillment of their international obligations concerning the protection and the preservation of the marine environment of the Black Sea.

2. Each Contracting Party shall adopt rules and regulations on the liability for damage caused by natural or juridical persons to the marine environment of the Black Sea in areas where it exercises, in accordance with international law, its sovereignty, sovereign rights or jurisdiction.

3. The Contracting Parties shall ensure that recourse is available in accordance with their legal systems for prompt and adequate compensation or other relief for damage caused by pollution of the marine environment of the Black Sea by natural or juridical persons under their jurisdiction.

4. The Contracting Parties shall cooperate in developing and harmonizing their laws, regulations and procedures relating to liability, assessment of and compensation for damage caused by pollution of the marine environment of the Black Sea, in order to ensure the highest degree of deterrence and protection for the Black Sea as a whole.

Article XVII
The Commission

1. In order to achieve the purposes of this Convention, the Contracting Parties shall establish a Commission on the Protection of the Black Sea Against Pollution, hereinafter referred to as "the Commission".

2. Each Contracting Party shall be represented in the Commission by one Representative who may be accompanied by Alternate Representatives, Advisers and Experts.

3. The Chairmanship of the Commission shall be assumed by each Contracting Party, in turn, in the alphabetical order of the English language. The first Chairman of the Commission shall be the Representative of the Republic of Bulgaria.

The Chairman shall serve for one year, and during his term he cannot act in the capacity of Representative of his country. Should the Chairmanship fall vacant, the Contracting Party chairing the Commission shall appoint a successor to remain in office until the term of its Chairmanship expires.

4. The Commission shall meet at least once a year. The Chairman shall convene extraordinary meetings upon the request of any Contracting Party.

5. Decisions and recommendations of the Commission shall be adopted unanimously by the Black Sea States.

6. The Commission shall be assisted in its activities by a permanent Secretariat. The Commission shall nominate the Executive Director and other officials of the Secretariat. The Executive Director shall appoint the technical staff in accordance with the rules to be established by the Commission. The Secretariat shall be composed of nationals of all Black Sea States.

The Commission and the Secretariat shall have their headquarters in Istanbul. The location of the headquarters may be changed by the Contracting Parties by consensus.

7. The Commission shall adopt its Rules of Procedure for carrying out its functions, decide upon the organization of its activities and establish subsidiary bodies in accordance with the provisions of this Convention.

8. Representatives, Alternate Representatives, Advisers and Experts of the Contracting Parties shall enjoy in the territory of the respective Contracting Party diplomatic privileges and immunities in accordance with international law.

9. The privileges and immunities of the officials of the Secretariat shall be determined by agreement among the Contracting Parties.

10. The Commission shall have such legal capacity as may be necessary for the exercise of its functions.

11. The Commission shall conclude a Headquarters Agreement with the host Contracting Party.

Article XVIII
Functions of the Commission

The Commission shall:

1. Promote the implementation of this Convention and inform the Contracting Parties of its work.

2. Make recommendations on measures necessary for achieving the aims of this Convention.

3. Consider questions relating to the implementation of this Convention and recommend such amendments to the Convention and to the Protocols as may be required, including amendments to Annexes of this Convention and the Protocols.

4. Elaborate criteria pertaining to the prevention, reduction and control of pollution of the marine environment of the Black Sea and to the elimination of the effects of pollution, as well as recommendations on measures to this effect.

5. Promote the adoption by the Contracting Parties of additional measures needed to protect the marine environment of the Black Sea, and to that end receive, process and disseminate to the Contracting Parties relevant scientific, technical and statistical information and promote scientific and technical research.

6. Cooperate with competent international organizations, especially with a view to developing appropriate programmes or obtaining assistance in order to achieve the purposes of this Convention.

7. Consider any questions raised by the Contracting Parties.

8. Perform other functions as foreseen in other provisions of this Convention or assigned unanimously to the Commission by the Contracting Parties.

Article XIX
Meetings of the Contracting Parties

1. The Contracting Parties shall meet in conference upon recommendation by the Commission. They shall also meet in Conference within ten days at the request of one Contracting Party under extraordinary circumstances.

2. The primary function of the meetings of the Contracting Parties shall be the review of the implementation of this Convention and of the Protocols upon the report of the Commission.

3. A non-Black Sea State which accedes to this Convention may attend the meetings of the Contracting Parties in an advisory capacity.

Article XX
Adoption of amendments to the Convention and/or to the Protocols

1. Any Contracting Party may propose amendments to the articles of this Convention.

2. Any Contracting Party to this Convention may propose amendments to any Protocol.

3. Any such proposed amendment shall be transmitted to the depositary and communicated by it through diplomatic channels to all the Contracting Parties and to the Commission.

4. Amendments to this Convention and to any Protocol shall be adopted by consensus at a Diplomatic Conference of the Contracting Parties to be convened within 90 days after the circulation of the proposed amendment by the depositary.

5. The amendments shall enter into force 30 days after the depositary has received notifications of acceptance of these amendments from all Contracting Parties.

Article XXI
Annexes and amendments to Annexes

1. Annexes to this Convention or to any Protocol shall form an integral part of the Convention or such Protocol, as the case may be.

2. Any Contracting Party may propose amendments to the Annexes to this Convention or to the Annexes of any Protocol through its Representative in the Commission. Such amendments shall be adopted by the Commission on the basis of consensus. The depositary, duly informed by the Chairman of the Commission of its decision, shall without delay communicate the amendments so adopted to all the Contracting Parties. Such amendments shall enter into force 30 days after the depositary has received notifications of acceptance from all Contracting Parties.

3. The provisions of paragraph 2 of this Article shall apply to the adoption and entry into force of a new Annex to this Convention or to any Protocol.

Article XXII
Notification of entry into force of amendments

The depositary shall inform, through diplomatic channels, the Contracting Parties of the date on wich amendments adopted under Articles XX and XXI enter into force.

Article XXIII
Financial rules

The Contracting Parties shall decide upon all financial matters on the basis of unanimity, taking into account the recommendations of the Commission.

Article XXIV
Relation to other international instruments

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 shelf in accordance with international law, and the exercise by ships and aircraft of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

Article XXV
Settlement of disputes

In case of a dispute between Contracting Parties concerning the interpretation and implementation of this Convention, they shall seek a settlement of the dispute through negotiations or any other peaceful means of their own choice.

Article XXVI
Adoption of additional Protocols

1. At the request of a Contracting Party or upon a recommendation by the Commission, a Diplomatic Conference of the Contracting Parties may be convened with the consent of all Contracting Parties in order to adopt additional Protocols.

2. Signature, ratification, acceptance, approval, accession to, entry into force, and denounciation of additional Protocols shall be done in accordance with procedures contained, respectively, in Articles XXVIII, XXIX, and XXX of this Convention.

Article XXVII
Reservations

No reservations may be made to this Convention.

Article XXVIII
Signature, ratification, acceptance, approval and accession

1. This Convention shall be open for signature by the Black Sea States.

2. This Convention shall be subject to ratification, acceptance or approval by the States which have signed it.

3. This Convention shall be open for accession by any non-Black Sea State interested in achieving the aims of this Convention and contributing substantially to the protection and preservation of the marine environment of the Black Sea provided the said State has been invited by all Contracting Parties. Procedures with regard to the invitation for accession will be dealt with by the depositary.

4. The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary. The depositary of this Convention shall be the Government of Romania.

Article XXIX
Entry into force

This Convention shall enter into force 60 days after the date of deposit with the depositary of the fourth instrument of ratification, acceptance or approval.

For a State acceding to this Convention in accordance with Article XXVIII, the Convention shall enter into force 60 days after the deposit of its instrument of accession.

Article XXX
Denounciation

After the expiry of five years from the date of entry into force of this Convention, any Contracting Party may, by written notification addressed to the depositary, denounce this Convention. The denounciation shall take effect on the thirty-first day of December of the year wich follows the year in which the depositary was notified of the denounciation.

Done in English, on the twenty first day of the month of April of one thousand nine hundred and ninety two, in Bucharest.

For the Republic of Bulgaria:

[VALENTIN VASILEV][1]

For the Republic of Georgia:

[DAVID NAKANI]

For Romania:

[MARCIAN BLEAHU]

For the Russian Federation:

[F. S. SHELOV-KOVEDIAEV]

For the Republic of Turkey:

[DOGANCAR AKYUREK]

For Ukraine:

[YURI SCHERBAK]

[1] Names of signatories appearing between brackets were not legible and have been supplied by the Government of Romania — Les noms des signataires donnés entre crochets étaient illisibles et ont été fournis par le Gouvernement roumain.

ANNEX

1. Organotin compounds.
2. Organohalogen compounds e.g. DDT, DDE, DDD, PCB's.
3. Persistent organophosphorus compounds.
4. Mercury and mercury compounds.
5. Cadmium and cadmium compounds.
6. Persistent substances with proven toxic, carcinogenic, teratogenic or mutagenic properties.
7. Used lubricating oils.
8. Persistent synthetic materials which may float, sink or remain in suspension.
9. Radioactive substances and wastes, including used radioactive fuel.
10. Lead and lead compounds.

PROTOCOL ON PROTECTION OF THE BLACK SEA MARINE ENVIRONMENT AGAINST POLLUTION FROM LAND BASED SOURCES

Article 1

In accordance with Article VII of the Convention, the Contracting Parties shall take all necessary measures to prevent, reduce and control pollution of the marine environment of the Black Sea caused by discharges from land-based sources on their territories such as rivers, canals, coastal establishments, other artificial structures, outfalls or run-off, or emanating from any other land-based source, including through the atmosphere.

Article 2

For the purposes of this Protocol, the fresh water limit means the landward part of the line drawn between the endpoints on the right and the left banks of a water course where it reaches the Black Sea.

Article 3

This protocol shall apply to the Black Sea as defined in Article I of the Convention and to the waters landward of the baselines from which the breadth of the territorial sea is measured and in the case of fresh-water courses, up to the fresh-water limit.

Article 4

The Contracting Parties undertake to prevent and eliminate pollution of the marine environment of the Black Sea from land-based sources by substances and matter listed in Annex I to this Protocol.

The Contracting Parties undertake to reduce and, whenever possible, to eliminate pollution of the marine environment of the Black Sea from land-based sources by substances and matter listed in Annex II to this Protocol.

As to water courses that are tributaries to the Black Sea, the Contracting Parties will endeavour to cooperate, as appropriate, with other States in order to achieve the purposes set forth in this Article.

Article 5

Pursuant to the provisions of Article XV of the Convention, each Contracting Party shall carry out, at the earliest possible date, monitoring activities in order to assess the levels of pollution, its sources and ecological effects along its coast, in particular with regard to the substances and matter listed in Annexes I and II to this Protocol. Additional research will be

conducted upstream of river sections in order to investigate fresh/salt water interactions.

Article 6

In conformity with Article XV of the Convention, the Contracting Parties shall cooperate in elaborating common guidelines, standards or criteria dealing with special characteristics of marine outfalls and in undertaking research on specific requirements for effluents necessitating separate treatment and concerning the quantities of discharged substances and matter listed in Annexes I and II, their concentration in effluents, and methods of discharging them.

The common emission standards and timetable for the implementation of the programme and measures aimed at preventing, reducing or eliminating, as appropriate, pollution from land-based sources shall be fixed by the Contracting Parties and periodically reviewed for substances and matter listed in Annexes I and II to this Protocol.

The Commission shall define pollution prevention criteria as well as recommend appropriate measures to reduce, control and eliminate pollution of the marine environment of the Black Sea from land-based sources.

The Contracting Parties shall take into consideration the following:

a) The discharge of water from municipal sewage systems should be made in such a way as to reduce the pollution of the marine environment of the Black Sea.

b) The pollution load of industrial wastes should be reduced in order to comply with the accepted concentrations of substances and matter listed in Annexes I and II to this Protocol.

c) The discharge of cooling water from nuclear power plants or other industrial enterprises using large amounts of water should be made in such a way as to prevent pollution of the marine environment of the Black Sea.

d) The pollution load from agricultural and forest areas affecting the water quality of the marine environment of the Black Sea should be reduced in order to comply with the accepted concentrations of substances and matter listed in Annexes I and II to this Protocol.

Article 7

The Contracting Parties shall inform one another through the Commission of measures taken, results achieved or difficulties encountered in the application of this Protocol. Procedures for the collection and transmission of such information shall be determined by the Commission.

ANNEX I

HAZARDOUS SUBSTANCES AND MATTER

The following substances or groups of substances or matter are not listed in order of priority. They have been selected mainly on the basis of their toxicity, persistence and bioaccumulation characteristics.

This Annex does not apply to discharges which contain substances and matter listed below that are below the concentration limits defined jointly by the Contracting Parties, not exceeding environmental background concentrations.

1. Organotin compounds.
2. Organohalogen compounds, e.g. DDT, DDE, DDD, PCB's.
3. Persistent organophosphorus compounds.
4. Mercury and mercury compounds.
5. Cadmium and cadmium compounds.
6. Persistent substances with proven toxic carcinogenic, teratogenic or mutagenic properties.
7. Used lubricating oils.
8. Persistent synthetic materials which may float, sink or remain in suspension.
9. Radioactive substances and wastes, including used radioactive fuel.
10. Lead and lead compounds.

ANNEX II

NOXIOUS SUBSTANCES AND MATTER

The following substances and matter have been selected mainly on the basis of criteria used in Annex I, while taking into account the fact that they are less harmful or more readily rendered harmless by natural processes.

The control and strict limitation of the discharges of substances and matter referred to in this Annex shall be implemented in accordance with Annex III to this Protocol.

1. Biocides and their derivatives not covered in Annex I.
2. Cyanides, flourides, and elemental phosphorus.
3. Pathogenic micro-organisms.
4. Nonbiodegradable detergents and their surface-active substances.
5. Alkaline or acid compounds.
6. Thermal discharges.
7. Substances which, although of a non-toxic nature, may become harmful to the marine biota owing to the quantities in which they are discharged e.g. inorganic phosphorous, nitrogen, organic matter and other nutrient compounds. Also substances which have an adverse effect on the oxygen content in the marine environment.
8. The following elements and their compounds:

Zinc	Selenium	Tin	Vanadium
Copper	Arsenic	Barium	Cobalt
Nickel	Antimony	Beryllium	Thallium
Chromium	Molybdenum	Boron	Tellurium
	Titanium	Uranium	Silver

9. Crude oil and hydrocarbons of any origin.

ANNEX III

The discharges of substances and matter listed in Annex II to this Protocol shall be subject to restrictions based on the following:

1. Maximum permissible concentrations of the substances and matter immediate before the outlet;

2. Maximum permissible quantity (load, inflow) of the substances and matter per annual cycle or shorter time limit;

3. In case of differences between 1 and 2 above, the stricter restriction should apply.

When issuing a permit for the discharge of wastes containing substances and matter referred to in Annexes I and II to this Protocol, the national authorities will take particular account, as the case may be, of the following factors:

A. CHARACTERISTICS AND COMPOSITION OF THE WASTE

1. Type and size of waste source (e.g. industrial process).
2. Type of waste (origin, average composition).
3. Form of waste (solid, liquid, sludge, slurry).
4. Total amount (volume discharged. e.g. per year).
5. Discharge pattern (continious, intermittent, seasonally variable, etc.).
6. Concentrations with respect to major constituents, substances listed in Annex I, substances listed in Annex II, and other harmful substances as appropriate.
7. Physical, chemical and biological properties of the waste.

B. CHARACTERISTICS OF WASTE CONSTITUENTS WITH RESPECT TO THEIR HARMFULNESS

1. Persistence (physical, chemical, biological) in the marine environment.
2. Toxicity and other harmful effects.
3. Accumulation in biological materials and sediments.
4. Biochemical transformation producing harmful compounds.
5. Adverse effects on the oxygen contents and balance.
6. Susceptibility to physical, chemical and biochemical changes and interaction in the marine environment with other seawater constituents which may produce harmful biological or other effects on any of the uses listed in section E below.

C. CHARACTERISTICS OF DISCHARGE SITE AND RECEIVING MARINE ENVIRONMENT

1. Hydrographic, meteorological, geological and topographic characteristics of the coastal area.
2. Location and type of discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery and fishing areas, shellfish grounds) and other discharges.
3. initial dilution achieved at the point of discharge into the receiving marine environment.
4. Dispersal characteristics such as the effect of currents, tides and winds on horizontal transport and vertical mixing.
5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area.
6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. AVAILABILITY OF WASTE TECHNOLOGIES

The methods of waste reduction and discharge for industrial effluents as well as household sewage should be selected taking into account the availability and feasibility of:

a) Alternative treatment processes;
b) Recycling, re-use, or elimination methods;
c) On-land disposal alternatives; and
d) Appropriate clean and low-waste technologies.

E. POTENTIAL IMPAIRMENT OF MARINE ECOSYSTEMS AND SEA-WATER USES

1. Effects on human life through pollution impact on:

a) Edible marine organisms;
b) Bathing waters;
c) Aesthetics.

Discharges of wastes containing substances and matter listed in Annexes I and II shall be subject to a system of self-monitoring and control by the competent national authorities.

2. Effects on marine ecosystems, in particular living resources, endangered species, and critical habitats.

3. Effects on other legitimate uses of the sea.

PROTOCOL ON COOPERATION IN COMBATING POLLUTION OF THE BLACK SEA MARINE ENVIRONMENT BY OIL AND OTHER HARMFUL SUBSTANCES IN EMERGENCY SITUATIONS

Article 1

In accordance with Article IX of the Convention, the Contracting Parties shall take necessary measures and cooperate in cases of grave and imminent danger to the marine environment of the Black Sea or to the coast of one or more of the Parties due to the presence of massive quantities of oil or other harmful substances resulting from accidental causes or from accumulation of small discharges which are polluting or constituting a threat of pollution.

Article 2

The Contracting Parties shall endeavour to maintain and promote, either individually or through bilateral or multilateral cooperation, contingency plans for combating pollution of the sea by oil and other harmful substances. These shall include, in particular, equipment, vessels, aircraft and manpower prepared for operations in emergency situations.

Article 3

Each Contracting Party shall take necessary measures for detecting violations and, within areas under its jurisdiction for enforcing the provisions of this Protocol. Furthermore, the Contracting Parties shall ensure compliance with the provisions of this Protocol by vessels flying their flag.

The Contracting Parties shall promote exchange of information on subjects related to the implementation of this Protocol, including transmission of reports and urgent information which relate to Article 1 thereof.

Article 4

Any Contracting Party which becomes aware of cases where the marine environment of the Black Sea is in imminent danger of being damaged or has been significantly damaged by pollution, it shall immediately notify the other Contracting Parties it deems likely to be affected by such damage as well as the Commission.

Article 5

Each Contracting Party shall indicate to the other Contracting Parties and the Commission, the competent national authorities responsible for controlling and combatting of pollution by oil and other harmful substances. Each Contracting Party shall also designate a focal point to transmit and receive reports of

incidents which have resulted or may result in a discharge of oil or other harmful substances, in accordance with the provisions of relevant international instruments.

Article 6

1. Each Contracting Party shall issue instructions to the masters of vessels flying its flag and to the pilots of aircraft registered in its territory requiring them to report in accordance with the Annex to this Protocol and by the most rapid and reliable channels, to the Party or Parties that might potentially be affected and to the Commission:

a) The presence, characteristics and extent of spillages of oil or other harmful substances observed at sea which are likely to present a threat to the marine environment of the Black Sea or to the coast of one or more Contracting Parties;

b) All emergency situations causing or likely to cause pollution by oil or other harmful substances.

2. The information collected in accordance with paragraph 1 shall be communicated to the other Parties which are likely to be affected by pollution:

a) by the Contracting Party which has received the information;

b) by the Commission.

ANNEX

CONTENTS OF THE REPORT TO BE MADE PURSUANT TO ARTICLE 6

1. Each report shall contain in general:

a) The identification of the source of pollution;

b) The geographic position, time and date of occurence of the incident or of the observation;

c) Land and sea conditions prevailing in the area;

d) Relevant details with respect to the condition of the vessel polluting the sea.

2. Each report shall contain, whenever possible, in particular:

a) A clear indication or description of the harmful substances involved, including the correct technical names of such substances;

b) A statement of estimate of the quantities, concentrations and likely conditions of harmful substances discharged or likely to be discharged into the sea;

c) A description of packaging and identifying marks;

d) Name of the consignor, consignee, or manufacturer.

3. Each report shall clearly indicate, whenever possible, whether the harmful substances discharged or likely to be discharged are oil or noxious liquid, solid, or gaseous substances and whether such substances were or are 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 relevant information requested by a recipient of the report or deemed appropriate by the person sending the report.

5. Any of the persons referred to in Article 6 paragraph 1 of this Protocol shall:

a) Supplement the initial report, as far as possible and necessary, with information concerning further developments;

b) Comply as fully as possible with requests from affected Contracting Parties for additional information.

PROTOCOL ON THE PROTECTION OF THE BLACK SEA MARINE ENVIRONMENT AGAINST POLLUTION BY DUMPING

Article 1

In accordance with Article X of the Convention, the Contracting Parties shall take individually or jointly all appropriate measures for the implementation of this Protocol.

Article 2

Dumping in the Black Sea of wastes or other matter containing substances listed in Annex 1 to this Protocol is prohibited.

The preceding provision does not apply to dredged spoils provided that they contain trace contaminants listed in Annex 1 below the limits of concentration to be defined by the Commission within a 3 year period from the entry into force of the Convention.

Article 3

Dumping in the Black Sea of wastes or other matter containing noxious substances listed in Annex II to this Protocol requires, in each case, a prior special permit from the competent national authorities.

Article 4

Dumping in the Black Sea of all other wastes or matter requires a prior general permit from the competent national authorities.

Article 5

The permits referred to in articles 3 and 4 above shall be issued after a careful consideration of all the factors set forth in Annex III to this protocol by the competent national authorities of the relevant coastal State. The Commission shall receive records of such permits.

Article 6

The provisions of Articles 2, 3 and 4 shall not apply when the safety of human life or of vessel or aircraft at sea is threatened by complete destruction or total loss or in any other case when there is a danger to human life and when dumping appears to be the only way of averting such danger, and if there is every probability that the damage resulting from such dumping will be less than would otherwise occur. Such dumping shall be carried out so as to minimize the likelihood of damage to human or marine life. The Commission shall promptly be informed.

Article 7

1. Each Contracting Party shall designate one or more competent authorities to:

a) issue the permits provided for in Articles 3 and 4;

b) keep records of the nature and quantities of the wastes or other matter permitted to be dumped and of the location, date and method of dumping.

2. The competent authorities of each Contracting Party shall issue the permits provided for in Article 3 and 4 in respect of the wastes or other matter intended for dumping:

a) loaded within its territory;

b) loaded by a vessel flying its flag or an aircraft registered in its territory when the loading occurs within the territory of another State.

Article 8

1. Each Contracting Party shall take the measures required to implement this Protocol in respect of:

a) vessels flying its flag or aircraft registered in its territory;

b) vessels and aircraft loading in its territory wastes or other matter which are to be dumped;

c) platforms and other man-made structures at sea situated within its territorial sea and exclusive economic zone;

d) dumping within its territorial sea and exclusive economic zone.

Article 9

The Contracting Parties shall cooperate in exchanging information relevant to Articles 5, 6, 7 and 8. Each Contracting Party shall inform the other Contracting Parties which may potentially be affected, in case of suspicions that dumping in contravention of the provisions of this Protocol has occurred or is about to occur.

ANNEX I

HAZARDOUS SUBSTANCES AND MATTER

1. Organohalogen compounds e.g. DDT, DDE, DDD, PCB's.
2. Mercury and mercury compounds.
3. Cadmium and cadmium compounds.
4. Organotin compounds.
5. Persistent synthetic matter which may float, sink or remain in suspension.
6. Used lubricating oils.
7. Lead and lead compounds.
8. Radioactive substances and wastes, including used radioactive fuel.
9. Crude oil and hydrocarbons of any origin.

ANNEX II

NOXIOUS SUBSTANCES

The following substances, compounds or matter have been selected mainly on the basis of criteria used in Annex I, while taking into account the fact that they are less harmful or more readily rendered harmless by natural processes.

The control and strict limitation of the dumping of the substances referred to in this Annex shall be implemented in accordance with Annex III of this Protocol.

1. Biocides and their derivatives not covered in Annex I.
2. Cyanides, fluorides, and elemental phosphorus.
3. Pathogenic micro-organisms.
4. Nonbiodegradable detergents and their surface-active substances.
5. Alkaline or acid compounds.
6. Substances which, though of a non-toxic nature, may become harmful to the marine biota owing to the quantities in which they are discharged e.g. inorganic phosphorus, nitrogen, organic matter and other nutrient compounds. Also substances which have an adverse effect on the oxygen content of the marine environment.
7. The following elements and their compounds:

Zinc	Selenium	Tin	Vanadium
Copper	Arsenic	Barium	Cobalt
Nickel	Antimony	Beryllium	Thallium
Chromium	Molybdenum	Boron	Tellurium
	Titanium	Uranium	Silver

8. Sewage Sludge

ANNEX III

In issuing permits for dumping at sea, the following factors shall be considered:

A. CHARACTERISTICS AND COMPOSITION OF THE MATTER

1. Amount of matter to be dumped (e.g. per year).
2. Average composition of the matter to be dumped.
3. Properties: physical (e.g. solubility, density), chemical and biochemical (e.g. oxygen demand, nutrients), biological (e.g. presence of bacteria, etc.).

The data should include sufficient information on the annual mean levels and seasonal variations of the mentioned properties.

4. Long-term toxicity.
5. Persistence: physical, chemical, biological.
6. Accumulation and transformation in the marine environment.
7. Susceptibility to physical, chemical and biochemical changes and interaction with other dissolved matter.
8. Probability of inducing effects which would reduce the marketability of resources (e.g. fish, shellfish).

B. CHARACTERISTICS OF DUMPING SITE AND DISPOSAL METHOD

1. Location (e.g. co-ordinates of the dumping area, depth and distance from the coast) and its relation to areas of special interest (e.g. amenity areas, spawning, nursery and fishing grounds).
2. Methods and technologies of packaging and disposal of matter.
3. Dispersal characteristics.
4. Hydrological characteristics and seasonal variations in these characteristics (e.g. temperature, pH, salinity, stratification, turbidity, dissolved oxygen, biochemical oxygen demand, chemical oxygen demand, nutrients, productivity).
5. Bottom characteristics (e.g. topography, geochemical, geological and biological productivity).
6. Cases and effects of other dumping.

C. GENERAL CONSIDERATIONS

1. Possible effects on amenities (e.g. floating or stranded matter, water turbidity, objectionable odour, discoloration, and foaming).
2. Possible effects on marine life, fish stocks, mari-cultures areas, traditional fishing grounds, seaweed harvesting and cultivation sites.
3. Possible effects on other uses of the sea (e.g. impairment of water quality for industrial use, underwater corrosion of

structures, interference with vessel operations or fishing due to floating matter or through deposit of wastes or objects on the sea bed, and difficulties in protecting areas of special interest for scientific research or protection of nature).

4. Practical availability of alternative land disposal methods.

Annex 112

United Nations Framework Convention on Climate Change, 9 May 1992, 1771 UNTS 107

No. 30822

MULTILATERAL

United Nations Framework Convention on Climate Change (with annexes). Concluded at New York on 9 May 1992

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish.
Registered ex officio *on 21 March 1994.*

MULTILATÉRAL

Convention-cadre des Nations Unies sur les changements climatiqnes (avec annexes). Conclue à New York le 9 mai 1992

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.
Enregistrée d'office le 21 mars 1994.

UNITED NATIONS FRAMEWORK CONVENTION[1] ON CLIMATE CHANGE

The Parties to this Convention,

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

[1] Came into force on 21 March 1994, i.e., the ninetieth day after the date of deposit with the Secretary-General of the United Nations of the fiftieth instrument of ratification, acceptance, approval or accession, in accordance with article 23 (1):

Participant	*Date of deposit of the instrument of ratification, accession* (a), *acceptance* (A) *or approval* (AA)	
Algeria	9 June	1993
Antigua and Barbuda	2 February	1993
Armenia	14 May	1993 *A*
Australia	30 December	1992
Burkina Faso	2 September	1993
Canada	4 December	1992
China	5 January	1993
Cook Islands	20 April	1993
Czech Republic	7 October	1993 *AA*
Denmark	21 December	1993
Dominica	21 June	1993 *a*
Ecuador	23 February	1993
European Community*	21 December	1993 *AA*
Fiji	25 February	1993
Germany	9 December	1993
Guinea	7 May	1993
Iceland	16 June	1993
India	1 November	1993
Japan	28 May	1993 *A*
Jordan	12 November	1993
Maldives	9 November	1992
Marshall Islands	8 October	1992
Mauritius	4 September	1992
Mexico	11 March	1993
Micronesia (Federated States of)	18 November	1993
Monaco*	20 November	1992
Mongolia	30 September	1993
Nauru	11 November	1993
Netherlands	20 December	1993 *A*
(For the Kingdom in Europe.)		
New Zealand	16 September	1993
Norway	9 July	1993
Papua New Guinea	16 March	1993
Peru	7 June	1993
Portugal	21 December	1993
Republic of Korea	14 December	1993
Saint Kitts and Nevis	7 January	1993
Saint Lucia	14 June	1993
Seychelles	22 September	1992
Spain	21 December	1993
Sri Lanka	23 November	1993
Sudan	19 November	1993
Sweden	23 June	1993
Switzerland	10 December	1993
Tunisia	15 July	1993
Tuvalu	26 October	1993
Uganda	8 September	1993
United Kingdom of Great Britain and Northern Ireland	8 December	1993
(In respect of Great Britain and Northern Ireland, the Bailiwick of Jersey and the Isle of Man.)		
United States of America	15 October	1992
Uzbekistan	20 June	1993 *a*
Vanuatu	25 March	1993
Zambia	28 May	1993
Zimbabwe	3 November	1992

In addition, and prior to the entry into force of the Convention, the following States also deposited instruments of ratification, in accordance with article 23 (2):

Participant	*Date of deposit of the instrument of ratification*	
Argentina	11 March	1994
(With effect from 9 June 1994.)		
Austria	28 February	1994
(With effect from 29 May 1994.)		
Botswana	27 January	1994
(With effect from 27 April 1994.)		
Brazil	28 February	1994
(With effect from 29 May 1994.)		
Cuba*	5 January	1994
(With effect from 5 April 1994.)		
Hungary*	24 February	1994
(With effect from 25 May 1994.)		
Malta	17 March	1994
(With effect from 15 June 1994.)		
Mauritania	20 January	1994
(With effect from 20 April 1994.)		
Paraguay	24 February	1994
(With effect from 25 May 1994.)		

* See p. 319 of this volume for the texts of the declarations made upon ratification and approval.

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

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

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

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

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

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972,[1]

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

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

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

Recalling the provisions of General Assembly resolution 44/228 of 22 December 1989 on the United Nations Conference on Environment and

[1] United Nations, *Official Records of the General Assembly, Forty-eighth Session* (A/CONF.48/14/Rev.1).

Development,[1] and resolutions 43/53 of 6 December 1988,[2] 44/207 of 22 December 1989,[3] 45/212 of 21 December 1990[4] and 46/169 of 19 December 1991 on protection of globel climate for present and future generations of mankind,[5]

Recalling also the provisions of General Assembly resolution 44/206 of 22 December 1989 on the possible adverse effects of sealevel rise on islands and coastal areas, particularly low-lying coastal areas[6] and the pertinent provisions of General Assembly resolution 44/172 of 19 December 1989 on the implementation of the Plan of Action to Combat Desertification,[7]

Recalling further the Vienna Convention for the Protection of the Ozone Layer, 1985,[8] and the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987,[9] as adjusted and amended on 29 June 1990,[10]

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

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

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

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

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

Recognizing further that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas

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[1] United Nations, *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 49* (A/44/49), p. 151.
[2] *Ibid., Forty-third Session, Supplement No. 49* (A/43/49), p. 133.
[3] *Ibid., Forty-fourth Session, Supplement No. 49* (A/44/49), p. 130.
[4] *Ibid., Forty-fifth Session, Supplement No. 49* (A/45/49), p. 147.
[5] *Ibid., Forty-sixth Session, Supplement No. 49* (A/46/49), p. 130.
[6] *Ibid., Forty-fourth Session, Supplement No. 49* (A/44/49), p. 129.
[7] *Ibid.*, p. 120.
[8] *Ibid., Treaty Series*, vol. 1513, No. I-26164.
[9] *Ibid.*, vol. 1522, No. I-26369.
[10] *Ibid.*, vol. 1684, No. A-26369.

liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change,

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

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

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

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

Have agreed as follows:

ARTICLE 1

DEFINITIONS*

For the purposes of this Convention:

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

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

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

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

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* Titles of articles are included solely to assist the reader.

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

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

7. "Reservoir" means a component or components of the climate system where a greenhouse gas or a precursor of a greenhouse gas is stored.

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

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

ARTICLE 2

OBJECTIVE

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

ARTICLE 3

PRINCIPLES

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

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

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

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

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

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

ARTICLE 4

COMMITMENTS

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

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

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

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

including the energy, transport, industry, agriculture, forestry and waste management sectors;

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

(e) Cooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods;

(f) Take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change;

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

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

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

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

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

(a) Each of these Parties shall adopt national 1/ policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with

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1/ This includes policies and measures adopted by regional economic integration organizations.

the objective of the Convention, recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such modification, and taking into acoount the differences in these Parties' starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective. These Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the achievement of the objective of the Convention and, in particular, that of this subparagraph;

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

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

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

(e) Each of these Parties shall:

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

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

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

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

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

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

5. The developed country Parties and other developed Parties included in annex II shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly developing country Parties, to enable them to implement the provisions of the Convention. In this process, the developed country Parties shall support the development and enhancement of endogenous capacities and technologies of developing country Parties. Other Parties and organizations in a position to do so may also assist in facilitating the transfer of such technologies.

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

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

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

(a) Small island countries;

(b) Countries with low-lying coastal areas;

(c) Countries with arid and semi-arid areas, forested areas and areas liable to forest decay;

(d) Countries with areas prone to natural disasters;

(e) Countries with areas liable to drought and desertification;

(f) Countries with areas of high urban atmospheric pollution;

(g) Countries with areas with fragile ecosystems, including mountainous ecosystems;

(h) Countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products; and

(i) Land-locked and transit countries.

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

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

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

ARTICLE 5

RESEARCH AND SYSTEMATIC OBSERVATION

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

(a) Support and further develop, as appropriate, international and intergovernmental programmes and networks or organizations aimed at defining, conducting, assessing and financing research, data collection and systematic observation, taking into account the need to minimize duplication of effort;

(b) Support international and intergovernmental efforts to strengthen systematic observation and national scientific and technical research capacities and capabilities, particularly in developing countries, and to promote access to, and the exchange of, data and analyses thereof obtained from areas beyond national jurisdiction; and

(c) Take into account the particular concerns and needs of developing countries and cooperate in improving their endogenous capacities and capabilities to participate in the efforts referred to in subparagraphs (a) and (b) above.

ARTICLE 6

EDUCATION, TRAINING AND PUBLIC AWARENESS

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

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

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

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

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

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

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

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

(ii) the development and implementation of education and training programmes, including the strengthening of national institutions and the exchange or secondment of personnel to

train experts in this field, in particular for developing countries.

ARTICLE 7

CONFERENCE OF THE PARTIES

1. A Conference of the Parties is hereby established.

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) Exercise such other functions as are required for the achievement of the objective of the Convention as well as all other functions assigned to it under the Convention.

3. The Conference of the Parties shall, at its first session, adopt its own rules of procedure as well as those of the subsidiary bodies established by the Convention, which shall include decision-making procedures for matters not already covered by decision-making procedures stipulated in the Convention. Such procedures may include specified majorities required for the adoption of particular decisions.

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

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

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

ARTICLE 8

SECRETARIAT

1. A secretariat is hereby established.

2. The functions of the secretariat shall be:

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

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

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

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

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

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

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

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

ARTICLE 9

SUBSIDIARY BODY FOR SCIENTIFIC AND TECHNOLOGICAL ADVICE

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

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

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

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

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

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

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

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

ARTICLE 10

SUBSIDIARY BODY FOR IMPLEMENTATION

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

2. Under the guidance of the Conference of the Parties, this body shall:

(a) Consider the information communicated in accordance with Article 12, paragraph 1, to assess the overall aggregated effect of the steps taken by the Parties in the light of the latest scientific assessments concerning climate change;

(b) Consider the information communicated in accordance with Article 12, paragraph 2, in order to assist the Conference of the Parties in carrying out the reviews required by Article 4, paragraph 2 (d); and

(c) Assist the Conference of the Parties, as appropriate, in the preparation and implementation of its decisions.

ARTICLE 11

FINANCIAL MECHANISM

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

Convention. Its operation shall be entrusted to one or more existing international entities.

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

3. The Conference of the Parties and the entity or entities entrusted with the operation of the financial mechanism shall agree upon arrangements to give effect to the above paragraphs, which shall include the following:

(a) Modalities to ensure that the funded projects to address climate change are in conformity with the policies, programme priorities and eligibility criteria established by the Conference of the Parties;

(b) Modalities by which a particular funding decision may be reconsidered in light of these policies, programme priorities and eligibility criteria;

(c) Provision by the entity or entities of regular reports to the Conference of the Parties on its funding operations, which is consistent with the requirement for accountability set out in paragraph 1 above; and

(d) Determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention and the conditions under which that amount shall be periodically reviewed.

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

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

ARTICLE 12

COMMUNICATION OF INFORMATION RELATED TO IMPLEMENTATION

1. In accordance with Article 4, paragraph 1, each Party shall communicate to the Conference of the Parties, through the secretariat, the following elements of information:

(a) A national inventory of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, to the extent its capacities permit, using comparable methodologies to be promoted and agreed upon by the Conference of the Parties;

(b) A general description of steps taken or envisaged by the Party to implement the Convention; and

(c) Any other information that the Party considers relevant to the achievement of the objective of the Convention and suitable for inclusion in its communication, including, if feasible, material relevant for calculations of global emission trends.

2. Each developed country Party and each other Party included in annex I shall incorporate in its communication the following elements of information:

(a) A detailed description of the policies and measures that it has adopted to implement its commitment under Article 4, paragraphs 2 (a) and 2 (b); and

(b) A specific estimate of the effects that the policies and measures referred to in subparagraph (a) immediately above will have on anthropogenic emissions by its sources and removals by its sinks of greenhouse gases during the period referred to in Article 4, paragraph 2 (a).

3. In addition, each developed country Party and each other developed Party included in annex II shall incorporate details of measures taken in accordance with Article 4, paragraphs 3, 4 and 5.

4. Developing country Parties may, on a voluntary basis, propose projects for financing, including specific technologies, materials, equipment, techniques or practices that would be needed to implement such projects, along with, if possible, an estimate of all incremental costs, of the reductions of emissions and increments of removals of greenhouse gases, as well as an estimate of the consequent benefits.

5. Each developed country Party and each other Party included in annex I shall make its initial communication within six months of the entry into force of the Convention for that Party. Each Party not so listed shall make its initial communication within three years of the entry into force of the Convention for that Party, or of the availability of financial resources in accordance with Article 4, paragraph 3. Parties that are least developed countries may make their initial communication at their discretion. The frequency of subsequent communications by all Parties shall be determined by the Conference of the Parties, taking into acoount the differentiated timetable set by this paragraph.

6. Information communicated by Parties under this Article shall be transmitted by the secretariat as soon as possible to the Conference of the Parties and to any subsidiary bodies concerned. If necessary, the procedures for the communication of information may be further considered by the Conference of the Parties.

7. From its first session, the Conference of the Parties shall arrange for the provision to developing country Parties of technical and financial support, on request, in compiling and communicating information under this Article, as well as in identifying the technical and financial

needs associated with proposed projects and response measures under Article 4. Such support may be provided by other Parties, by competent international organizations and by the secretariat, as appropriate.

8. Any group of Parties may, subject to guidelines adcpted by the Conference of the Parties, and to prior notification to the Conference of the Parties, make a joint communication in fulfilment of their obligations under this Article, provided that such a communication includes information on the fulfilment by each of these Parties of its individual obligations under the Convention.

9. Information received by the secretariat that is designated by a Party as confidential, in accordance with criteria to be established by the Conference of the Parties, shall be aggregated by the secretariat to protect its confidentiality before being made available to any of the bodies involved in the communication and review of information.

10. Subject to paragraph 9 above, and without prejudice to the ability of any Party to make public its communication at any time, the secretariat shall make communications by Parties under this Article publicly available at the time they are submitted to the Conference of the Parties.

ARTICLE 13

RESOLUTION OF QUESTIONS REGARDING IMPLEMENTATION

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

ARTICLE 14

SETTLEMENT OF DISPUTES

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

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

(a) Submission of the dispute to the International Court of Justice, and/or

(b) Arbitration in accordance with procedures to be adopted by the Conference of the Parties as soon as practicable, in an annex on arbitration.

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

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

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

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

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

7. Additional procedures relating to conciliation shall be adopted by the Conference of the Parties, as soon as practicable, in an annex on conciliation.

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

ARTICLE 15

AMENDMENTS TO THE CONVENTION

1. Any Party may propose amendments to the Convention.

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

3. The Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. If all efforts at

consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.

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

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

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

ARTICLE 16

ADOPTION AND AMENDMENT OF ANNEXES TO THE CONVENTION

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

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

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

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

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

ARTICLE 17

PROTOCOLS

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

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

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

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

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

ARTICLE 18

RIGHT TO VOTE

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

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

ARTICLE 19

DEPOSITARY

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

ARTICLE 20

SIGNATURE

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

ARTICLE 21

INTERIM ARRANGEMENTS

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

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

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

ARTICLE 22

RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

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

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

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

ARTICLE 23

ENTRY INTO FORCE

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

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

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

ARTICLE 24

RESERVATIONS

No reservations may be made to the Convention.

ARTICLE 25

WITHDRAWAL

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

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

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

ARTICLE 26

AUTHENTIC TEXTS

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

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

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

[*For the signatures, see p. 269 of this volume.*]

ANNEX I

Australia
Austria
Belarus a/
Belgium
Bulgaria a/
Canada
Czechoslovakia a/
Denmark
European [Economic][1] Community
Estonia a/
Finland
France
Germany
Greece
Hungary a/
Iceland
Ireland
Italy
Japan
Latvia a/
Lithuania a/
Luxembourg
Netherlands
New Zealand
Norway
Poland a/
Portugal
Romania a/
Russian Federation a/
Spain
Sweden
Switzerland
Turkey
Ukraine a/
United Kingdom of Great Britain and Northern Ireland
United States of America

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

[1] Text between brackets reflects corrections effected by procès-verbal of 22 June 1993.

ANNEX II

Australia
Austria
Belgium
Canada
Denmark
European [Economic][1] Community
Finland
France
Germany
Greece
Iceland
Ireland
Italy
Japan
Luxembourg
Netherlands
New Zealand
Norway
Portugal
Spain
Sweden
Switzerland
Turkey
United Kingdom of Great Britain and Northern Ireland
United States of America

[1] Text between brackets reflects corrections effected by procès-verbal of 22 June 1993.

Annex 113

Convention on Biological Diversity, 5 June 1992, 1760 UNTS 79

No. 30619

MULTILATERAL

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

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

MULTILATÉRAL

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

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.
Enregistrée d'office le 29 décembre 1993.

CONVENTION[1] ON BIOLOGICAL DIVERSITY

Preamble

The Contracting Parties,

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

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

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

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

[1] Came into force on 29 December 1993, i.e., the ninetieth day after the date of deposit with the Secretary-General of the United Nations of the thirtieth instrument of ratification, acceptance, approval or accession, in accordance with article 36 (1):

Participant	*Date of deposit of the instrument of ratification, accession* (a) *or acceptance* (A)
Antigua and Barbuda	9 March 1993
Armenia	14 May 1993 *A*
Australia	18 June 1993
Bahamas	2 September 1993
Belarus	8 September 1993
Burkina Faso	2 September 1993
Canada	4 December 1992
China	5 January 1993
Cook Islands	20 April 1993
Ecuador	23 February 1993
Fiji	25 February 1993
Guinea	7 May 1993
Japan	28 May 1993 *A*
Maldives	9 November 1992
Marshall Islands	8 October 1992
Mauritius	4 September 1992
Mexico	11 March 1993
Monaco	20 November 1992
Mongolia	30 September 1993
New Zealand	16 September 1993
Norway	9 July 1993
Papua New Guinea*	16 March 1993
Peru	7 June 1993
Saint Kitts and Nevis	7 January 1993
Saint Lucia	28 July 1993 *a*
Seychelles	22 September 1992
Tunisia	15 July 1993
Uganda	8 September 1993
Vanuatu	25 March 1993
Zambia	28 May 1993

(Continued on page 144)

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.

(Footnote 1 continued from page 143)

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

Participant	*Date of deposit of the instrument of ratification or approval* (AA)
Philippines	8 October 1993
(With effect from 6 January 1994.)	
Uruguay	5 November 1993
(With effect from 3 February 1994.)	
Nauru	11 November 1993
(With effect from 9 February 1994.)	
Jordan	12 November 1993
(With effect from 10 February 1994.)	
Nepal	23 November 1993
(With effect from 21 February 1994.)	
Czech Republic	3 December 1993 *AA*
(With effect from 3 March 1994.)	
Barbados	10 December 1993
(With effect from 10 March 1994.)	
Sweden	16 December 1993
(With effect from 16 March 1994.)	
Denmark	21 December 1993
(With effect from 21 March 1994.)	
European Community*	21 December 1993 *AA*
(With effect from 21 March 1994.)	
Germany	21 December 1993
(With effect from 21 March 1994.)	
Portugal	21 December 1993
(With effect from 21 March 1994.)	
Spain	21 December 1993
(With effect from 21 March 1994.)	

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

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 non-governmental 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 non-living environment interacting as a functional unit.

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

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

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

"*Habitat*" means the place or type of site where an organism or population naturally occurs.

"*In-situ conditions*" means conditions where genetic resources exist within ecosystems and natural habitats, and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

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

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

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

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

"*Technology*" includes biotechnology.

Article 3. Principle

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

Article 4. Jurisdictional Scope

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

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

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

Article 5. Cooperation

Each Contracting Party shall, as far as possible and as appropriate, cooperate with other Contracting Parties, directly or, where appropriate, through competent international organizations, in respect of areas beyond

national jurisdiction and on other matters of mutual interest, for the conservation and sustainable use of biological diversity.

Article 6. General Measures for Conservation and Sustainable Use

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

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

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

Article 7. Identification and Monitoring

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

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

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

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

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

Article 8. In-situ Conservation

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

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

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

(c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;

(d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;

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

(f) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, *inter alia*, through the development and implementation of plans or other management strategies;

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

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

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

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

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

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

(m) Cooperate in providing financial and other support for *in-situ* conservation outlined in subparagraphs (a) to (l) 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 micro-organisms, preferably in the country of origin of genetic resources:

(c) Adopt measures for the recovery and rehabilitation of threatened species and for their reintroduction into their natural habitats under appropriate conditions:

(d) Regulate and manage collection of biological resources from natural habitats for *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. 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 fulfil 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 advise on the ways and means of promoting development and/or transferring such technologies;

(d) Provide advice on scientific programmes and international cooperation in research and development related to conservation and sustainable use of biological diversity; and

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

3. The functions, terms of reference, organization and operation of this body may be further elaborated by the Conference of the Parties.

Article 26. Reports

Each Contracting Party shall, at intervals to be determined by the Conference of the Parties, present to the Conference 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 paragrapn 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.

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.

[*For the signatures, see p. 254 of this volume.*]

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 1

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.

Annex 114

Convention for the Protection of the Marine Environment of the North-East Atlantic, 22 September 1992, 2354 UNTS 67

No. 42279

Multilateral

Convention for the protection of the marine environment of the North-East Atlantic (with annexes, appendices and final declaration). Paris, 22 September 1992

Entry into force: *25 March 1998, in accordance with article 29 (see following page)*

Authentic texts: *English and French*

Registration with the Secretariat of the United Nations: *France, 3 January 2006*

Multilatéral

Convention pour la protection du milieu marin de l'Atlantique du Nord-Est (avec annexes, appendices et déclaration finale). Paris, 22 septembre 1992

Entrée en vigueur : *25 mars 1998, conformément à l'article 29 (voir la page suivante)*

Textes authentiques : *anglais et français*

Enregistrement auprès du Secrétariat des Nations Unies : *France, 3 janvier 2006*

Participant	**Ratification, Acceptance (A) and Approval (AA)**			
Belgium	1	Dec	1996	
Denmark	20	Dec	1995	
European Community	5	Nov	1997	AA
Finland	25	Jul	1996	
France	4	Feb	1998	
Germany	2	Dec	1994	
Iceland	3	Jun	1997	
Ireland	11	Aug	1997	
Luxembourg	24	Sep	1997	
Netherlands	7	Jan	1994	A
Norway	8	Sep	1995	
Portugal	23	Feb	1998	
Spain	2	Feb	1994	
Sweden	30	May	1994	
Switzerland	11	May	1994	
United Kingdom of Great Britain and Northern Ireland	15	Jul	1997	

Participant	**Ratification, Acceptation (A) et Approbation (AA)**			
Allemagne	2	déc	1994	
Belgique	1	déc	1996	
Communauté européenne	5	nov	1997	AA
Danemark	20	déc	1995	
Espagne	2	févr	1994	
Finlande	25	juil	1996	

Participant	**Ratification, Acceptation (A) et Approbation (AA)**			
France	4	févr	1998	
Irlande	11	août	1997	
Islande	3	juin	1997	
Luxembourg	24	sept	1997	
Norvège	8	sept	1995	
Pays-Bas	7	janv	1994	A
Portugal	23	févr	1998	
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord	15	juil	1997	
Suisse	11	mai	1994	
Suède	30	mai	1994	

[ENGLISH TEXT — TEXTE ANGLAIS]

CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT OF THE NORTH-EAST ATLANTIC

The Contracting Parties,

Recognising that the marine environment and the fauna and flora which it supports are of vital importance to all nations;

Recognising the inherent worth of the marine environment of the North-East Atlantic and the necessity for providing coordinated protection for it;

Recognising that concerted action at national, regional and global levels is essential to prevent and eliminate marine pollution and to achieve sustainable management of the maritime area, that is, the management of human activities in such a manner that the marine ecosystem will continue to sustain the legitimate uses of the sea and will continue to meet the needs of present and future generations;

Mindful that the ecological equilibrium and the legitimate uses of the sea are threatened by pollution;

Considering the recommendations of the United Nations Conference on the Human Environment, held in Stockholm in June 1972;

Considering also the results of the United Nations Conference on the Environment and Development held in Rio de Janeiro in June 1992;

Recalling the relevant provisions of customary international law reflected in Part XII of the United Nations Law of the Sea Convention and, in particular, Article 197 on global and regional cooperation for the protection and preservation of the marine environment;

Considering that the common interests of States concerned with the same marine area should induce them to cooperate at regional or sub-regional levels;

Recalling the positive results obtained within the context of the Convention for the prevention of marine pollution by dumping from ships and aircraft signed in Oslo on 15th February 1972, as amended by the protocols of 2nd March 1983 and 5th December 1989, and the Convention for the prevention of marine pollution from land-based sources signed in Paris on 4th June 1974, as amended by the protocol of 26th March 1986;

Convinced that further international action to prevent and eliminate pollution of the sea should be taken without delay, as part of progressive and coherent measures to protect the marine environment;

Recognising that it may be desirable to adopt, on the regional level, more stringent measures with respect to the prevention and elimination of pollution of the marine environment or with respect to the protection of the marine environment against the adverse effects of human activities than are provided for in international conventions or agreements with a global scope;

Recognising that questions relating to the management of fisheries are appropriately regulated under international and regional agreements dealing specifically with such questions;

Considering that the present Oslo and Paris Conventions do not adequately control some of the many sources of pollution, and that it is therefore justifiable to replace them with the present Convention, which addresses all sources of pollution of the marine environment and the adverse effects of human activities upon it, takes into account the precautionary principle and strengthens regional cooperation;

Have agreed as follows:

Article 1. Definitions

For the purposes of the Convention:

(a) "Maritime area" means the internal waters and the territorial seas of the Contracting Parties, the sea beyond and adjacent to the territorial sea under the jurisdiction of the coastal state to the extent recognised by international law, and the high seas, including the bed of all those waters and its sub-soil, situated within the following limits:

(i) those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding:

(1) the Baltic Sea and the Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to Kullen,

(2) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36 north latitude and the meridian of 5° 36' west longitude;

(ii) that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.

(b) "Internal waters" means the waters on the landward side of the baselines from which the breadth of the territorial sea is measured, extending in the case of watercourses up to the freshwater limit.

(c) "Freshwater limit" means the place in a watercourse where, at low tide and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of seawater.

(d) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the maritime area which results, or is likely to result, in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

(e) "Land-based sources" means point and diffuse sources on land from which substances or energy reach the maritime area by water, through the air, or directly from the coast. It includes sources associated with any deliberate disposal under the sea-bed made accessible from land by tunnel, pipeline or other means and sources associated with man-made structures placed, in the maritime area under the jurisdiction of a Contracting Party, other than for the purpose of offshore activities.

(f) "Dumping" means

(i) any deliberate disposal in the maritime area of wastes or other matter

(1) from vessels or aircraft;

(2) from offshore installations;

(ii) any deliberate disposal in the maritime area of

(1) vessels or aircraft;

(2) offshore installations and offshore pipelines.

(g) "Dumping" does not include:

(i) the disposal in accordance with the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, or other applicable international law, of wastes or other matter incidental to, or derived from, the normal operations of vessels or aircraft or offshore installations other than wastes or other matter transported by or to vessels or aircraft or offshore installations for the purpose of disposal of such wastes or other matter or derived from the treatment of such wastes or other matter on such vessels or aircraft or offshore installations;

(ii) placement of matter for a purpose other than the mere disposal thereof, provided that, if the placement is for a purpose other than that for which the matter was originally designed or constructed, it is in accordance with the relevant provisions of the Convention; and

(iii) for the purposes of Annex III, the leaving wholly or partly in place of a disused offshore installation or disused offshore pipeline, provided that any such operation takes place in accordance with any relevant provision of the Convention and with other relevant international law.

(h) "Incineration" means any deliberate combustion of wastes or other matter in the maritime area for the purpose of their thermal destruction.

(i) "Incineration" does not include the thermal destruction of wastes or other matter in accordance with applicable international law incidental to, or derived from the normal operation of vessels or aircraft, or offshore installations other than the thermal destruction of wastes or other matter on vessels or aircraft or offshore installations operating for the purpose of such thermal destruction.

(j) "Offshore activities" means activities carried out in the maritime area for the purposes of the exploration, appraisal or exploitation of liquid and gaseous hydrocarbons.

(k) "Offshore sources" means offshore installations and offshore pipelines from which substances or energy reach the maritime area.

(1) "Offshore installation" means any man-made structure, plant or vessel or parts thereof, whether floating or fixed to the seabed, placed within the maritime area for the purpose of offshore activities.

(m) "Offshore pipeline" means any pipeline which has been placed in the maritime area for the purpose of offshore activities.

(n) "Vessels or aircraft" means waterborne or airborne craft of any type whatsoever, their parts and other fittings. This expression includes air-cushion craft, floating craft whether self-propelled or not, and other man-made structures in the maritime area and their equipment, but excludes offshore installations and offshore pipelines.

(o) "Wastes or other matter" does not include:

(i) human remains;

(ii) offshore installations;

(iii) offshore pipelines;

(iv) unprocessed fish and fish offal discarded from fishing vessels.

(p) "Convention" means, unless the text otherwise indicates, the Convention for the Protection of the Marine Environment of the North-East Atlantic, its Annexes and Appendices.

(q) "Oslo Convention" means the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft signed in Oslo on 15th February 1972, as amended by the protocols of 2nd March 1983 and 5th December 1989.

(r) "Paris Convention" means the Convention for the Prevention of Marine Pollution from Land-based Sources, signed in Paris on 4th June 1974, as amended by the protocol of 26th March 1986.

(s) "Regional economic integration organisation" means an organisation constituted by sovereign States of a given region which has competence in respect of matters governed by the Convention and has been duly authorised, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the Convention.

Article 2. General Obligations

1. (a) The Contracting Parties shall, in accordance with the provisions of the Convention, take all possible steps to prevent and eliminate pollution and shall take the necessary measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected.

(b) To this end Contracting Parties shall, individually and jointly, adopt programmes and measures and shall harmonise their policies and strategies.

2. The Contracting Parties shall apply:

(a) the precautionary principle, by virtue of which preventive measures are to be taken when there are reasonable grounds for concern that substances or energy introduced, directly or indirectly, into the marine environment may bring about hazards to human health, harm living resources and marine ecosystems, damage amenities or interfere with other legitimate uses of the sea, even when there is no conclusive evidence of a causal relationship between the inputs and the effects;

(b) the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter.

3. (a) In implementing the Convention, Contracting Parties shall adopt programmes and measures which contain, where appropriate, time-limits for their completion and which take full account of the use of the latest technological developments and practices designed to prevent and eliminate pollution fully.

(b) To this end they shall:

(i) taking into account the criteria set forth in Appendix 1, define with respect to programmes and measures the application of, inter alia,

- best available techniques,

- best environmental practice including, where appropriate, clean technology;

(ii) in carrying out such programmes and measures, ensure the application of best available techniques and best environmental practice as so defined, including, where appropriate, clean technology.

4. The Contracting Parties shall apply the measures they adopt in such a way as to prevent an increase in pollution of the sea outside the maritime area or in other parts of the environment.

5. No provision of the Convention shall be interpreted as preventing the Contracting Parties from taking, individually or jointly, more stringent measures with respect to the prevention and elimination of pollution of the maritime area or with respect to the protection of the maritime area against the adverse effects of human activities.

Article 3. Pollution from Land-based Sources

The Contracting Parties shall take, individually and jointly, all possible steps to prevent and eliminate pollution from land-based sources in accordance with the provisions of the Convention, in particular as provided for in Annex I.

Article 4. Pollution by Dumping or Incineration

The Contracting Parties shall take, individually and jointly, all possible steps to prevent and eliminate pollution by dumping or incineration of wastes or other matter in accordance with the provisions of the Convention, in particular as provided for in Annex II.

Article 5. Pollution from Offshore Sources

The Contracting Parties shall take, individually and jointly, all possible steps to prevent and eliminate pollution from offshore sources in accordance with the provisions of the Convention, in particular as provided for in Annex III.

Article 6. Assessment of the Quality of the Marine Environment

The Contracting Parties shall, in accordance with the provisions of the Convention, in particular as provided for in Annex IV:

(a) undertake and publish at regular intervals joint assessments of the quality status of the marine environment and of its development, for the maritime area or for regions or sub-regions thereof;

(b) include in such assessments both an evaluation of the effectiveness of the measures taken and planned for the protection of the marine environment and the identification of priorities for action.

Article 7. Pollution from Other Sources

The Contracting Parties shall cooperate with a view to adopting Annexes, in addition to the Annexes mentioned in Articles 3, 4, 5 and 6 above, prescribing measures, procedures and standards to protect the maritime area against pollution from other sources, to the extent that such pollution is not already the subject of effective measures agreed by other international organisations or prescribed by other international conventions.

Article 8. Scientific and Technical Research

1. To further the aims of the Convention, the Contracting Parties shall establish complementary or joint programmes of scientific or technical research and, in accordance with a standard procedure, to transmit to the Commission:

(a) the results of such complementary, joint or other relevant research;

(b) details of other relevant programmes of scientific and technical research.

2. In so doing, the Contracting Parties shall have regard to the work carried out, in these fields, by the appropriate international organisations and agencies.

Article 9. Access to Information

1. The Contracting Parties shall ensure that their competent authorities are required to make available the information described in paragraph 2 of this Article to any natural or legal person, in response to any reasonable request, without that person's having to prove an interest, without unreasonable charges, as soon as possible and at the latest within two months.

2. The information referred to in paragraph 1 of this Article is any available information in written, visual, aural or data-base form on the state of the maritime area, on activities or measures adversely affecting or likely to affect it and on activities or measures introduced in accordance with the Convention.

3. The provisions of this Article shall not affect the right of Contracting Parties, in accordance with their national legal systems and applicable international regulations, to provide for a request for such information to be refused where it affects:

(a) the confidentiality of the proceedings of public authorities, international relations and national defence;

(b) public security;

(c) matters which are, or have been, sub judice, or under enquiry (including disciplinary enquiries), or which are the subject of preliminary investigation proceedings;

(d) commercial and industrial confidentiality, including intellectual property;

(e) the confidentiality of personal data and/or files;

(f) material supplied by a third party without that party being under a legal obligation to do so;

(g) material, the disclosure of which would make it more likely that the environment to which such material related would be damaged.

4. The reasons for a refusal to provide the information requested must be given.

Article 10. Commission

1. A Commission, made up of representatives of each of the Contracting Parties, is hereby established. The Commission shall meet at regular intervals and at any time when, due to special circumstances, it is so decided in accordance with the Rules of Procedure.

2. It shall be the duty of the Commission:

(a) to supervise the implementation of the Convention;

(b) generally to review the condition of the maritime area, the effectiveness of the measures being adopted, the priorities and the need for any additional or different measures;

(c) to draw up, in accordance with the General Obligations of the Convention, programmes and measures for the prevention and elimination of pollution and for the control of activities which may, directly or indirectly, adversely affect the maritime area; such programmes and measure may, when appropriate, include economic instruments;

(d) to establish at regular intervals its programme of work;

(e) to set up such subsidiary bodies as it considers necessary and to define their terms of reference;

(f) to consider and, where appropriate, adopt proposals for the amendment of the Convention in accordance with Articles 15, 16, 17, 18, 19 and 27;

(g) to discharge the functions conferred by Articles 21 and 23 and such other functions as may be appropriate under the terms of the Convention.

3. To these ends the Commission may, inter alia, adopt decisions and recommendations in accordance with Article 13.

4. The Commission shall draw up its Rules of Procedure which shall be adopted by unanimous vote of the Contracting Parties.

5. The Commission shall draw up its Financial Regulations which shall be adopted by unanimous vote of the Contracting Parties.

Article 11. Observers

1. The Commission may, by unanimous vote of the Contracting Parties, decide to admit as an observer:

(a) any State which is not a Contracting Party to the Convention;

(b) any international governmental or any non-governmental organisation the activities of which are related to the Convention.

2. Such observers may participate in meetings of the Commission but without the right to vote and may present to the Commission any information or reports relevant to the objectives of the Convention.

3. The conditions for the admission and the participation of observers shall be set in the Rules of Procedure of the Commission.

Article 12. Secretariat

1. A permanent Secretariat is hereby established.

2. The Commission shall appoint an Executive Secretary and determine the duties of that post and the terms and conditions upon which it is to be held.

3. The Executive Secretary shall perform the functions that are necessary for the administration of the Convention and for the work of the Commission as well as the other tasks entrusted to the Executive Secretary by the Commission in accordance with its Rules of Procedure and its Financial Regulations.

Article 13. Decisions and Recommendations

1. Decisions and recommendations shall be adopted by unanimous vote of the Contracting Parties. Should unanimity not be attainable, and unless otherwise provided in the Convention, the Commission may nonetheless adopt decisions or recommendations by a three-quarters majority vote of the Contracting Parties.

2. A decision shall be binding on the expiry of a period of two hundred days after its adoption for those Contracting Parties that voted for it and have not within that period notified the Executive Secretary in writing that they are unable to accept the decision, provided that at the expiry of that period three-quarters of the Contracting Parties have either voted for the decision and not withdrawn their acceptance or notified the Executive Secretary in writing that they are able to accept the decision. Such a decision shall become binding on any other Contracting Party which has notified the Executive Secretary in writing that it is able to accept the decision from the moment of that notification or after the expiry of a period of two hundred days after the adoption of the decision, whichever is later.

3. A notification under paragraph 2 of this Article to the Executive Secretary may indicate that a Contracting Party is unable to accept a decision insofar as it relates to one or more of its dependent or autonomous territories to which the Convention applies.

4. All decisions adopted by the Commission shall, where appropriate, contain provisions specifying the timetable by which the decision shall be implemented.

5. Recommendations shall have no binding force.

6. Decisions concerning any Annex or Appendix shall be taken only by the Contracting Parties bound by the Annex or Appendix concerned.

Article 14. Status of Annexes and Appendices

1. The Annexes and Appendices form an integral part of the Convention.

2. The Appendices shall be of a scientific, technical or administrative nature.

Article 15. Amendment of the Convention

1. Without prejudice to the provisions of paragraph 2 of Article 27 and to specific provisions applicable to the adoption or amendment of Annexes or Appendices, an amendment to the Convention shall be governed by the present Article.

2. Any Contracting Party may propose an amendment to the Convention. The text of the proposed amendment shall be communicated to the Contracting Parties by the Executive Secretary of the Commission at least six months before the meeting of the Commission at which it is proposed for adoption. The Executive Secretary shall also communicate the proposed amendment to the signatories to the Convention for information.

3. The Commission shall adopt the amendment by unanimous vote of the Contracting Parties.

4. The adopted amendment shall be submitted by the Depositary Government to the Contracting Parties for ratification, acceptance or approval. Ratification, acceptance or approval of the amendment shall be notified to the Depositary Government in writing.

5. The amendment shall enter into force for those Contracting Parties which have ratified, accepted or approved it on the thirtieth day after receipt by the Depositary Government of notification of its ratification, acceptance or approval by at least seven Contracting Parties. Thereafter the amendment shall enter into force for any other Contracting Party on the thirtieth day after that Contracting Party has deposited its instrument of ratification, acceptance or approval of the amendment.

Article 16. Adoption of Annexes

The provisions of Article 15 relating to the amendment of the Convention shall also apply to the proposal, adoption and entry into force of an Annex to the Convention, except that the Commission shall adopt any Annex referred to in Article 7 by a three-quarters majority vote of the Contracting Parties.

Article 17. Amendment of Annexes

1. The provisions of Article 15 relating to the amendment of the Convention shall also apply to an amendment to an Annex to the Convention, except that the Commission shall adopt amendments to any Annex referred to in Articles 3, 4, 5, 6 or 7 by a three-quarters majority vote of the Contracting Parties bound by that Annex.

2. If the amendment of an Annex is related to an amendment to the Convention, the amendment of the Annex shall be governed by the same provisions as apply to the amendment to the Convention.

Article 18. Adoption of Appendices

1. If a proposed Appendix is related to an amendment to the Convention or an Annex, proposed for adoption in accordance with Article 15 or Article 17, the proposal, adoption

and entry into force of that Appendix shall be governed by the same provisions as apply to the proposal, adoption and entry into force of that amendment.

2. If a proposed Appendix is related to an Annex to the Convention, proposed for adoption in accordance with Article 16, the proposal, adoption and entry into force of that Appendix shall be governed by the same provisions as apply to the proposal, adoption and entry into force of that Annex.

Article 19. Amendment of Appendices

1. Any Contracting Party bound by an Appendix may propose an amendment to that Appendix. The text of the proposed amendment shall be communicated to all Contracting Parties to the Convention by the Executive Secretary of the Commission as provided for in paragraph 2 of Article 15.

2. The Commission shall adopt the amendment to an Appendix by a three-quarters majority vote of the Contracting Parties bound by that Appendix.

3. An amendment to an Appendix shall enter into force on the expiry of a period of two hundred days after its adoption for those Contracting Parties which are bound by that Appendix and have not within that period notified the Depositary Government in writing that they are unable to accept that amendment, provided that at the expiry of that period three-quarters of the Contracting Parties bound by that Appendix have either voted for the amendment and not withdrawn their acceptance or have notified the Depositary Government in writing that they are able to accept the amendment.

4. A notification under paragraph 3 of this Article to the Depositary Government may indicate that a Contracting Party is unable to accept the amendment insofar as it relates to one or more of its dependent or autonomous territories to which the Convention applies.

5. An amendment to an Appendix shall become binding on any other Contracting Party bound by the Appendix which has notified the Depositary Government in writing that it is able to accept the amendment from the moment of that notification or after the expiry of a period of two hundred days after the adoption of the amendment, whichever is later.

6. The Depositary Government shall without delay notify all Contracting Parties of any such notification received.

7. If the amendment of an Appendix is related to an amendment to the Convention or an Annex, the amendment of the Appendix shall be governed by the same provisions as apply to the amendment to the Convention or that Annex.

Article 20. Right to Vote

1. Each Contracting Party shall have one vote in the Commission.

2. Notwithstanding the provisions of paragraph 1 of this Article, the European Economic Community and other regional economic integration organisations, within the areas of their competence, are entitled to a number of votes equal to the number of their Member States which are Contracting Parties to the Convention. Those organisations shall not exercise their right to vote in cases where their Member States exercise theirs and conversely.

Article 21. Transboundary Pollution

1. When pollution originating from a Contracting Party is likely to prejudice the interests of one or more of the other Contracting Parties to the Convention, the Contracting Parties concerned shall enter into consultation, at the request of any one of them, with a view to negotiating a cooperation agreement.

2. At the request of any Contracting Party concerned, the Commission shall consider the question and may make recommendations with a view to reaching a satisfactory solution.

3. An agreement referred to in paragraph 1 of this Article may, inter alia, define the areas to which it shall apply, the quality objectives to be achieved and the methods for achieving these objectives, including methods for the application of appropriate standards and the scientific and technical information to be collected.

4. The Contracting Parties signatory to such an agreement shall, through the medium of the Commission, inform the other Contracting Parties of its purport and of the progress made in putting it into effect.

Article 22. Reporting to the Commission

The Contracting Parties shall report to the Commission at regular intervals on:

(a) the legal, regulatory, or other measures taken by them for the implementation of the provisions of the Convention and of decisions and recommendations adopted thereunder, including in particular measures taken to prevent and punish conduct in contravention of those provisions;

(b) the effectiveness of the measures referred to in subparagraph (a) of this Article;

(c) problems encountered in the implementation of the provisions referred to in subparagraph (a) of this Article.

Article 23. Compliance

The Commission shall:

(a) on the basis of the periodical reports referred to in Article 22 and any other report submitted by the Contracting Parties, assess their compliance with the Convention and the decisions and recommendations adopted thereunder;

(b) when appropriate, decide upon and call for steps to bring about full compliance with the Convention, and decisions adopted thereunder, and promote the implementation of recommendations, including measures to assist a Contracting Party to carry out its obligations.

Article 24. Regionalisation

The Commission may decide that any decision or recommendation adopted by it shall apply to all, or a specified part, of the maritime area and may provide for different timeta-

bles to be applied, having regard to the differences between ecological and economic conditions in the various regions and sub-regions covered by the Convention.

Article 25. Signature

The Convention shall be open for signature at Paris from 22nd September 1992 to 30th June 1993 by:

(a) the Contracting Parties to the Oslo Convention or the Paris Convention;

(b) any other coastal State bordering the maritime area;

(c) any State located upstream on watercourses reaching the maritime area;

(d) any regional economic integration organisation having as a member at least one State to which any of the subparagraphs (a) to (c) of this Article applies.

Article 26. Ratification, Acceptance or Approval

The Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the French Republic.

Article 27. Accessions

1. After 30th June 1993, the Convention shall be open for accession by the States and regional economic integration organisations referred to in Article 25.

2. The Contracting Parties may unanimously invite States or regional economic integration organisations not referred to in Article 25 to accede to the Convention. In the case of such an accession, the definition of the maritime area shall, if necessary, be amended by a decision of the Commission adopted by unanimous vote of the Contracting Parties. Any such amendment shall enter into force after unanimous approval of all the Contracting Parties on the thirtieth day after the receipt of the last notification by the Depositary Government.

3. Any such accession shall relate to the Convention including any Annex and any Appendix that have been adopted at the date of such accession, except when the instrument of accession contains an express declaration of non-acceptance of one or several Annexes other than Annexes I, II, III and IV.

4. The instruments of accession shall be deposited with the Government of the French Republic.

Article 28. Reservations

No reservation to the Convention may be made.

Article 29. Entry into Force

1. The Convention shall enter into force on the thirtieth day following the date on which all Contracting Parties to the Oslo Convention and all Contracting Parties to the Paris Convention have deposited their instrument of ratification, acceptance, approval or accession.

2. For any State or regional economic integration organisation not referred to in paragraph 1 of this Article, the Convention shall enter into force in accordance with paragraph 1 of this Article, or on the thirtieth day following the date of the deposit of the instrument of ratification, acceptance, approval or accession by that State or regional economic integration organisations, whichever is later.

Article 30. Withdrawal

1. At any time after the expiry of two years from the date of entry into force of the Convention for a Contracting Party, that Contracting Party may withdraw from the Convention by notification in writing to the Depositary Government.

2. Except as may be otherwise provided in an Annex other than Annexes I to IV to the Convention, any Contracting Party may at any time after the expiry of two years from the date of entry into force of such Annex for that Contracting Party withdraw from such Annex by notification in writing to the Depositary Government.

3. Any withdrawal referred to in paragraphs 1 and 2 of this Article shall take effect one year after the date on which the notification of that withdrawal is received by the Depositary Government.

Article 31. Replacement of the Oslo and Paris Conventions

1. Upon its entry into force, the Convention shall replace the Oslo and Paris Conventions as between the Contracting Parties.

2. Notwithstanding paragraph 1 of this Article, decisions, recommendations and all other agreements adopted under the Oslo Convention or the Paris Convention shall continue to be applicable, unaltered in their legal nature, to the extent that they are compatible with, or not explicitly terminated by, the Convention, any decisions or, in the case of existing recommendations, any recommendations adopted thereunder.

Article 32. Settlement of Disputes

1. Any disputes between Contracting Parties relating to the interpretation or application of the Convention, which cannot be settled otherwise by the Contracting Parties concerned, for instance by means of inquiry or conciliation within the Commission, shall, at the request of any of those Contracting Parties, be submitted to arbitration under the conditions laid down in this Article.

2. Unless the parties to the dispute decide otherwise, the procedure of the arbitration referred to in paragraph 1 of this Article shall be in accordance with paragraphs 3 to 10 of this Article.

3. (a) At the request addressed by one Contracting Party to another Contracting Party in accordance with paragraph 1 of this Article, an arbitral tribunal shall be constituted. The request for arbitration shall state the subject matter of the application including in particular the Articles of the Convention, the interpretation or application of which is in dispute.

(b) The applicant party shall inform the Commission that it has requested the setting up of an arbitral tribunal, stating the name of the other party to the dispute and the Articles of the Convention the interpretation or application of which, in its opinion, is in dispute. The Commission shall forward the information thus received to all Contracting Parties to the Convention.

4. The arbitral tribunal shall consist of three members: each of the parties to the dispute shall appoint an arbitrator; 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.

5. (a) If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the President of the International Court of Justice shall, at the request of either party, designate him within a further two months' period.

(b) 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 President of the International Court of Justice 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 President of the International Court of Justice who shall make this appointment within a further two months' period.

6. (a) The arbitral tribunal shall decide according to the rules of international law and, in particular, those of the Convention.

(b) Any arbitral tribunal constituted under the provisions of this Article shall draw up its own rules of procedure.

(c) In the event of a dispute as to whether the arbitral tribunal has jurisdiction, the matter shall be decided by the decision of the arbitral tribunal.

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

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

(c) If two or more arbitral tribunals constituted under the provisions of this Article are seized of requests with identical or similar subjects, they may inform themselves of the procedures for establishing the facts and take them into account as far as possible.

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

(e) The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

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.

9. 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.

10. (a) 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.

(b) 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 arbitral tribunal constituted for this purpose in the same manner as the first.

Article 33. Duties of the Depositary Government

The Depositary Government shall inform the Contracting Parties and the signatories to the Convention:

(a) of the deposit of instruments of ratification, acceptance, approval or accession, of declarations of non-acceptance and of notifications of withdrawal in accordance with Articles 26, 27 and 30;

(b) of the date on which the Convention comes into force in accordance with Article 29;

(c) of the receipt of notifications of acceptance, of the deposit of instruments of ratification, acceptance, approval or accession and of the entry into force of amendments to the Convention and of the adoption and amendment of Annexes or Appendices, in accordance with Articles 15, 16, 17, 18 and 19.

Article 34. Original Text

The original of the Convention, of which the French and English texts shall be equally authentic, shall be deposited with the Government of the French Republic which shall send certified copies thereof to the Contracting Parties and the signatories to the Convention and shall deposit a certified copy with the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

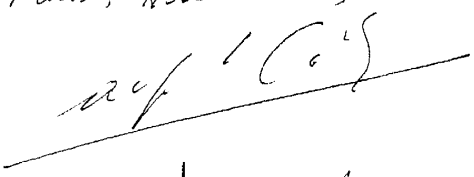
In witness whereof, the undersigned, being duly authorised by their respective Governments, have signed this Convention.

Done at Paris, on the twenty-second day of September 1992.

For the Governments of:

the Kingdom of Belgium

Paris, November 3, 1992



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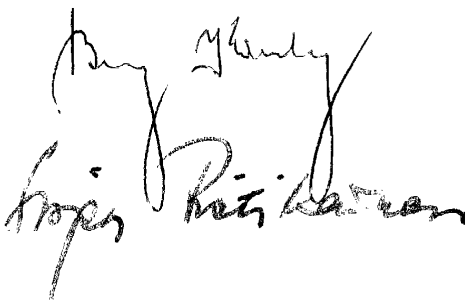

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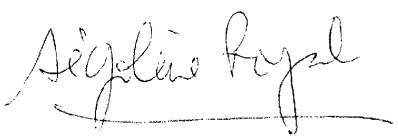

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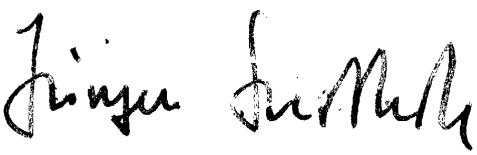
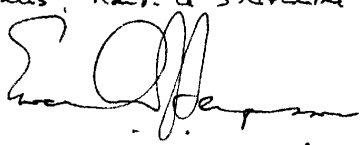


the Federal Republic of Germany

the United Kingdom of Great Britain and Northern Ireland

Paris, le 3 novembre 1992



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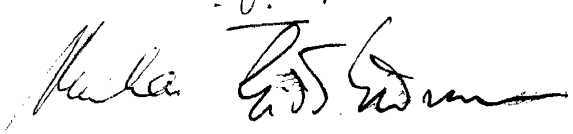

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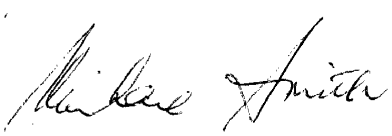

the Kingdom of the Netherlands

the Kingdom of Norway

the Portuguese Republic

the Kingdom of Spain

the Kingdom of Sweden

the Swiss Confederation

the Grand Duchy of Luxembourg

and for the Commission of the European Communities

ANNEX I ON THE PREVENTION AND ELIMINATION OF POLLUTION FROM LAND-BASED SOURCES

Article 1

1. When adopting programmes and measures for the purpose of this Annex, the Contracting Parties shall require, either individually or jointly, the use of

- best available techniques for point sources

- best environmental practice for point and diffuse sources including, where appropriate, clean technology.

2. When setting priorities and in assessing the nature and extent of the programmes and measures and their time scales, the Contracting Parties shall use the criteria given in Appendix 2.

3. The Contracting Parties shall take preventive measures to minimise the risk of pollution caused by accidents.

4. When adopting programmes and measures in relation to radioactive substances, including waste, the Contracting Parties shall also take account of:

(a) the recommendations of the other appropriate international organisations and agencies;

(b) the monitoring procedures recommended by these international organisations and agencies.

Article 2

1. Point source discharges to the maritime area, and releases into water or air which reach and may affect the maritime area, shall be strictly subject to authorisation or regulation by the competent authorities of the Contracting Parties. Such authorisation or regulation shall, in particular, implement relevant decisions of the Commission which bind the relevant Contracting Party.

2. The Contracting Parties shall provide for a system of regular monitoring and inspection by their competent authorities to assess compliance with authorisations and regulations of releases into water or air.

Article 3

For the purposes of this Annex, it shall, inter alia, be the duty of the Commission to draw up:

(a) plans for the reduction and phasing out of substances that are toxic, persistent and liable to bioaccumulate arising from land-based sources;

(b) when appropriate, programmes and measures for the reduction of inputs of nutrients from urban, municipal, industrial, agricultural and other sources.

ANNEX II ON THE PREVENTION AND ELIMINATION OF POLLUTION BY DUMPING OR INCINERATION

Article 1

This Annex shall not apply to any deliberate disposal in the maritime area of:

(a) wastes or other matter from offshore installations;

(b) offshore installations and offshore pipelines.

Article 2

Incineration is prohibited.

Article 3

1. The dumping of all wastes or other matter is prohibited, except for those wastes or other matter listed in paragraphs 2 and 3 of this Article.

2. The list referred to in paragraph 1 of this Article is as follows:

(a) dredged material;

(b) inert materials of natural origin, that is solid, chemically unprocessed geological material the chemical constituents of which are unlikely to be released into the marine environment;

(c) sewage sludge until 31st December 1998;

(d) fish waste from industrial fish processing operations;

(e) vessels or aircraft until, at the latest, 31st December 2004.

3. (a) The dumping of low and intermediate level radioactive substances, including wastes, is prohibited.

(b) As an exception to subparagraph 3(a) of this Article, those Contracting Parties, the United Kingdom and France, who wish to retain the option of an exception to subparagraph 3(a) in any case not before the expiry of a period of 15 years from 1st January 1993, shall report to the meeting of the Commission at Ministerial level in 1997 on the steps taken to explore alternative land-based options.

(c) Unless, at or before the expiry of this period of 15 years, the Commission decides by a unanimous vote not to continue the exception provided in subparagraph 3(b), it shall take a decision pursuant to Article 13 of the Convention on the prolongation for a period of 10 years after 1st January 2008 of the prohibition, after which another meeting of the Commission at Ministerial level shall be held. Those Contracting Parties mentioned in subparagraph 3(b) of this Article still wishing to retain the option mentioned in subparagraph 3(b) shall report to the Commission meetings to be held at Ministerial level at two yearly intervals from 1999 onwards about the progress in establishing alternative land-based options and on the results of scientific studies which show that any potential dumping operations

would not result in hazards to human health, harm to living resources or marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

Article 4

1. The Contracting Parties shall ensure that:

(a) no wastes or other matter listed in paragraph 2 of Article 3 of this Annex shall be dumped without authorisation by their competent authorities, or regulation;

(b) such authorisation or regulation is in accordance with the relevant applicable criteria, guidelines and procedures adopted by the Commission in accordance with Article 6 of this Annex;

(c) with the aim of avoiding situations in which the same dumping operation is authorised or regulated by more than one Contracting Party, their competent authorities shall, as appropriate, consult before granting an authorisation or applying regulation.

2. Any authorisation or regulation under paragraph 1 of this Article shall not permit the dumping of vessels or aircraft containing substances which result or are likely to result in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

3. Each Contracting Party shall keep, and report to the Commission, records of the nature and the quantities of wastes or other matter dumped in accordance with paragraph 1 of this Article, and of the dates, places and methods of dumping.

Article 5

No placement of matter in the maritime area for a purpose other than that for which it was originally designed or constructed shall take place without authorisation or regulation by the competent authority of the relevant Contracting Party. Such authorisation or regulation shall be in accordance with the relevant applicable criteria, guidelines and procedures adopted by the Commission in accordance with Article 6 of this Annex. This provision shall not be taken to permit the dumping of wastes or other matter otherwise prohibited under this Annex.

Article 6

For the purposes of this Annex, it shall, inter alia, be the duty of the Commission to draw up and adopt criteria, guidelines and procedures relating to the dumping of wastes or other matter listed in paragraph 2 of Article 3, and to the placement of matter referred to in Article 5, of this Annex, with a view to preventing and eliminating pollution.

Article 7

The provisions of this Annex concerning dumping shall not apply in case of force majeure, due to stress of weather or any other cause, when the safety of human life or of a vessel or aircraft is threatened. Such dumping shall be so conducted as to minimise the

likelihood of damage to human or marine life and shall immediately be reported to the Commission, together with full details of the circumstances and of the nature and quantities of the wastes or other matter dumped.

Article 8

The Contracting Parties shall take appropriate measures, both individually and within relevant international organisations, to prevent and eliminate pollution resulting from the abandonment of vessels or aircraft in the maritime area caused by accidents. In the absence of relevant guidance from such international organisations, the measures taken by individual Contracting Parties should be based on such guidelines as the Commission may adopt.

Article 9

In an emergency, if a Contracting Party considers that wastes or other matter the dumping of which is prohibited under this Annex cannot be disposed of on land without unacceptable danger or damage, it shall forthwith consult other Contracting Parties with a view to finding the most satisfactory methods of storage or the most satisfactory means of destruction or disposal under the prevailing circumstances. The Contracting Party shall inform the Commission of the steps adopted following this consultation. The Contracting Parties pledge themselves to assist one another in such situations.

Article 10

1. Each Contracting Party shall ensure compliance with the provisions of this Annex:

(a) by vessels or aircraft registered in its territory;

(b) by vessels or aircraft loading in its territory the wastes or other matter which are to be dumped or incinerated;

(c) by vessels or aircraft believed to be engaged in dumping or incineration within its internal waters or within its territorial sea or within that part of the sea beyond and adjacent to the territorial sea under the jurisdiction of the coastal state to the extent recognised by international law.

2. Each Contracting Party shall issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the maritime area which give rise to suspicions that dumping in contravention of the provisions of the present Annex has occurred or is about to occur. Any Contracting Party whose authorities receive such a report shall, if it considers it appropriate, accordingly inform any other Contracting Party concerned.

3. Nothing in this Annex shall abridge the sovereign immunity to which certain vessels are entitled under international law.

ANNEX III ON THE PREVENTION AND ELIMINATION OF POLLUTION FROM OFFSHORE SOURCES

Article 1

This Annex shall not apply to any deliberate disposal in the maritime area of:

(a) wastes or other matter from vessels or aircraft;

(b) vessels or aircraft.

Article 2

1. When adopting programmes and measures for the purpose of this Annex, the Contracting Parties shall require, either individually or jointly, the use of:

(a) best available techniques

(b) best environmental practice

including, where appropriate, clean technology.

2. When setting priorities and in assessing the nature and extent of the programmes and measures and their time scales, the Contracting Parties shall use the criteria given in Appendix 2.

Article 3

1. Any dumping of wastes or other matter from offshore installations is prohibited.

2. This prohibition does not relate to discharges or emissions from offshore sources.

Article 4

1. The use on, or the discharge or emission from, offshore sources of substances which may reach and affect the maritime area shall be strictly subject to authorisation or regulation by the competent authorities of the Contracting Parties. Such authorisation or regulation shall, in particular, implement the relevant applicable decisions, recommendations and all other agreements adopted under the Convention.

2. The competent authorities of the Contracting Parties shall provide for a system of monitoring and inspection to assess compliance with authorisation or regulation as provided for in paragraph 1 of Article 4 of this Annex.

Article 5

1. No disused offshore installation or disused offshore pipeline shall be dumped and no disused offshore installation shall be left wholly or partly in place in the maritime area without a permit issued by the competent authority of the relevant Contracting Party on a case-by-case basis. The Contracting Parties shall ensure that their authorities, when grant-

ing such permits, shall implement the relevant applicable decisions, recommendations and all other agreements adopted under the Convention.

2. No such permit shall be issued if the disused offshore installation or disused offshore pipeline contains substances which result or are likely to result in hazards to human health, harm to living resources and marine ecosystems, damage to amenities or interference with other legitimate uses of the sea.

3. Any Contracting Party which intends to take the decision to issue a permit for the dumping of a disused offshore installation or a disused offshore pipeline placed in the maritime area after 1st January 1998 shall, through the medium of the Commission, inform the other Contracting Parties of its reasons for accepting such dumping, in order to make consultation possible.

4. Each Contracting Party shall keep, and report to the Commission, records of the disused offshore installations and disused offshore pipelines dumped and of the disused offshore installations left in place in accordance with the provisions of this Article, and of the dates, places and methods of dumping.

Article 6

Articles 3 and 5 of this Annex shall not apply in case of force majeure, due to stress of weather or any other cause, when the safety of human life or of an offshore installation is threatened. Such dumping shall be so conducted as to minimise the likelihood of damage to human or marine life and shall immediately be reported to the Commission, together with full details of the circumstances and of the nature and quantities of the matter dumped.

Article 7

The Contracting Parties shall take appropriate measures, both individually and within relevant international organisations, to prevent and eliminate pollution resulting from the abandonment of offshore installations in the maritime area caused by accidents. In the absence of relevant guidance from such international organisations, the measures taken by individual Contracting Parties should be based on such guidelines as the Commission may adopt.

Article 8

No placement of a disused offshore installation or a disused offshore pipeline in the maritime area for a purpose other than that for which it was originally designed or constructed shall take place without authorisation or regulation by the competent authority of the relevant Contracting Party. Such authorisation or regulation shall be in accordance with the relevant applicable criteria, guidelines and procedures adopted by the Commission in accordance with subparagraph (d) of Article 10 of this Annex. This provision shall not be taken to permit the dumping of disused offshore installations or disused offshore pipelines in contravention of the provisions of this Annex.

Article 9

1. Each Contracting Party shall issue instructions to its maritime inspection vessels and aircraft and to other appropriate services to report to its authorities any incidents or conditions in the maritime area which give rise to suspicions that a contravention of the provisions of the present Annex has occurred or is about to occur. Any Contracting Party whose authorities receive such a report shall, if it considers it appropriate, accordingly inform any other Contracting Party concerned.

2. Nothing in this Annex shall abridge the sovereign immunity to which certain vessels are entitled under international law.

Article 10

For the purposes of this Annex, it shall, inter alia, be the duty of the Commission:

(a) to collect information about substances which are used in offshore activities and, on the basis of that information, to agree lists of substances for the purposes of paragraph 1 of Article 4 of this Annex;

(b) to list substances which are toxic, persistent and liable to bioaccumulate and to draw up plans for the reduction and phasing out of their use on, or discharge from, offshore sources;

(c) to draw up criteria, guidelines and procedures for the prevention of pollution from dumping of disused offshore installations and of disused offshore pipelines, and the leaving in place of offshore installations, in the maritime area;

(d) to draw up criteria, guidelines and procedures relating to the placement of disused offshore installations and disused offshore pipelines referred to in Article 8 of this Annex, with a view to preventing and eliminating pollution.

ANNEX IV ON THE ASSESSMENT OF THE QUALITY OF THE MARINE ENVIRONMENT

Article 1

1. For the purposes of this Annex "monitoring" means the repeated measurement of:

(a) the quality of the marine environment and each of its compartments, that is, water, sediments and biota;

(b) activities or natural and anthropogenic inputs which may affect the quality of the marine environment;

(c) the effects of such activities and inputs.

2. Monitoring may be undertaken either for the purposes of ensuring compliance with the Convention, with the objective of identifying patterns and trends or for research purposes.

Article 2

For the purposes of this Annex, the Contracting Parties shall:

(a) cooperate in carrying out monitoring programmes and submit the resulting data to the Commission;

(b) comply with quality assurance prescriptions and participate in intercalibration exercises;

(c) use and develop, individually or preferably jointly, other duly validated scientific assessment tools, such as modelling, remote sensing and progressive risk assessment strategies;

(d) carry out, individually or preferably jointly, research which is considered necessary to assess the quality of the marine environment, and to increase knowledge and scientific understanding of the marine environment and, in particular, of the relationship between inputs, concentration and effects;

(e) take into account scientific progress which is considered to be useful for such assessment purposes and which has been made elsewhere either on the initiative of individual researchers and research institutions, or through other national and international research programmes or under the auspices of the European Economic Community or other regional economic integration organisations.

Article 3

For the purposes of this Annex, it shall, inter alia, be the duty of the Commission:

(a) to define and implement programmes of collaborative monitoring and assessment-related research, to draw up codes of practice for the guidance of participants in carrying out these monitoring programmes and to approve the presentation and interpretation of their results;

(b) to carry out assessments taking into account the results of relevant monitoring and research and the data relating to inputs of substances or energy into the maritime area which are provided by virtue of other Annexes to the Convention, as well as other relevant information;

(c) to seek, where appropriate, the advice or services of competent regional organisations and other competent international organisations and competent bodies with a view to incorporating the latest results of scientific research;

(d) to cooperate with competent regional organisations and other competent international organisations in carrying out quality status assessments.

APPENDIX 1. CRITERIA FOR THE DEFINITION OF PRACTICES AND TECHNIQUES MENTIONED IN PARAGRAPH 3(B)(I) OF ARTICLE 2 OF THE CONVENTION

Best Available Techniques

1. The use of the best available techniques shall emphasise the use of non-waste technology, if available.

2. The term "best available techniques" means the latest stage of development (state of the art) of processes, of facilities or of 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 techniques in general or individual cases, special consideration shall be 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 techniques;

(d) time limits for installation in both new and existing plants;

(e) the nature and volume of the discharges and emissions concerned.

3. It therefore follows that what is "best available techniques" for a particular process will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

4. If the reduction of discharges and emissions resulting from the use of best available techniques does not lead to environmentally acceptable results, additional measures have to be applied.

5. "Techniques" include both the technology used and the way in which the installation is designed, built, maintained, operated and dismantled.

Best Environmental Practice

6. The term "best environmental practice" means the application of the most appropriate combination of environmental control measures and strategies. In making a selection for individual cases, at least the following graduated range of measures should be considered:

(a) the provision of information and education to the public and to users about the environmental consequences of choice of particular activities and choice of products, their use and ultimate disposal;

(b) the development and application of codes of good environmental practice which covers all aspect of the activity in the product's life;

(c) the mandatory application of labels informing users of environmental risks related to a product, its use and ultimate disposal;

(d) saving resources, including energy;

(e) making collection and disposal systems available to the public;

(f) avoiding the use of hazardous substances or products and the generation of hazardous waste;

(g) recycling, recovery and re-use;

(h) the application of economic instruments to activities, products or groups of products;

(i) establishing a system of licensing, involving a range of restrictions or a ban.

7. In determining what combination of measures constitute best environmental practice, in general or individual cases, particular consideration should be given to:

(a) the environmental hazard of the product and its production, use and ultimate disposal;

(b) the substitution by less polluting activities or substances;

(c) the scale of use;

(d) the 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.

8. It therefore follows that best environmental practice for a particular source will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

9. If the reduction of inputs resulting from the use of best environmental practice does not lead to environmentally acceptable results, additional measures have to be applied and best environmental practice redefined.

APPENDIX 2. CRITERIA MENTIONED IN PARAGRAPH 2 OF ARTICLE 1 OF ANNEX I AND IN PARAGRAPH 2 OF ARTICLE 2 OF ANNEX III

1. When setting priorities and in assessing the nature and extent of the programmes and measures and their time scales, the Contracting Parties shall use the criteria given below:

(a) persistency;

(b) toxicity or other noxious properties;

(c) tendency to bioaccumulation;

(d) radioactivity;

(e) the ratio between observed or (where the results of observations are not yet available) predicted concentrations and no observed effect concentrations;

(f) anthropogenically caused risk of eutrophication;

(g) transboundary significance;

(h) risk of undesirable changes in the marine ecosystem and irreversibility or durability of effects;

(i) interference with harvesting of sea-foods or with other legitimate uses of the sea;

(j) effects on the taste and/or smell of products for human consumption from the sea, or effects on smell, colour, transparency or other characteristics of the water in the marine environment;

(k) distribution pattern (i.e., quantities involved, use pattern and liability to reach the marine environment);

(1) non-fulfilment of environmental quality objectives.

2. These criteria are not necessarily of equal importance for the consideration of a particular substance or group of substances.

3. The above criteria indicate that substances which shall be subject to programmes and measures include:

(a) heavy metals and their compounds;

(b) organohalogen compounds (and substances which may form such compounds in the marine environment);

(c) organic compounds of phosphorus and silicon;

(d) biocides such as pesticides, fungicides, herbicides, insecticides, slimicides and chemicals used, inter alia, for the preservation of wood, timber, wood pulp, cellulose, paper, hides and textiles;

(e) oils and hydrocarbons of petroleum origin;

(f) nitrogen and phosphorus compounds;

(g) radioactive substances, including wastes;

(h) persistent synthetic materials which may float, remain in suspension or sink.

FINAL DECLARATION OF THE MINISTERIAL MEETING OF THE OSLO AND PARIS COMMISSIONS, 21-22 SEPTEMBER 1992

The Ministers responsible for the Protection of the Environment, representing the Governments of:

the Kingdom of Belgium

the Kingdom of Denmark

the Republic of Finland

the French Republic

the Federal Republic of Germany

the United Kingdom of Great Britain and Northern Ireland

Ireland

the Republic of Iceland

the Kingdom of the Netherlands

the Kingdom of Norway

the Portuguese Republic

the Kingdom of Spain

the Kingdom of Sweden

the Swiss Confederation

the Grandy Duchy of Luxembourg

and the representative of the member of the Commission of the European Communities responsible for the Protection of the Environment, representing the Commission of the European Communities.

Reaffirming their commitment to the principle of sustainable development;

Recognising the Convention for the Protection of the Marine Environment of the North-East Atlantic and the Action Plan adopted under it as one of the principal means for taking forward the recommendations of Part B of the Oceans Chapter of Agenda 21 of the United Nations Conference on Environment and Development;

Recognising the contribution made to the protection of the marine environment by other international organisations;

Reaffirming their willingness to cooperate in the programmes established within the framework of those organisations;

PART I. THE ACHIEVEMENTS OF THE OSLO AND PARIS COMMISSIONS

Confirm their individual and joint commitment to protect the environment of the North- East Atlantic and to prevent and eliminate pollution of that environment;

Recognise the importance of the measures taken for the protection of the marine environment of the North-East Atlantic over the past two decades within the framework of the

Oslo Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, and of the Paris Convention for the Prevention of Marine Pollution from Land-based Sources;

Acknowledge in particular the achievement of the Oslo Commission in agreeing to phase out the dumping at sea of industrial wastes and sewage sludge and to terminate the incineration of wastes at sea;

Acknowledge in particular the achievement of the Paris Commission in agreeing to phase out the use of hazardous substances such as Polychlorobiphenyls (PCBs), Polychloroterphenyls (PCTs); in establishing reduction programmes, for example for heavy metals, organohalogens, nutrients and oil; and in developing and applying the concepts of best available technology and best environmental practice;

Recognise the importance of the coordinated monitoring programmes established within the framework of the Oslo and Paris Commissions and its achievements in developing a harmonised monitoring methodology;

PART II. THE NEW CONVENTION

Emphasise the comprehensive and simplified approach achieved by merging the Oslo and Paris Conventions into a single Convention under which all sources of pollution which may affect the maritime area covered by the Convention can be addressed;

Welcome the possibility of addressing matters relating to the protection of the marine environment other than those relating to the prevention and elimination of pollution, and the possibility of taking any necessary measures on these matters by the adoption of new Annexes in the future;

Stress the importance of the formal adoption in the Convention of:

- the precautionary principle,

- the polluter pays principle,

- the concepts of best available techniques and of best environmental practice, including, where appropriate, clean technology;

Welcome the opening up of possibilities for further public participation through the new procedures allowing the public to have access to information;

Recognise the benefit of the contributions by non-governmental organisations to the Commissions' decision-making processes, and therefore express a willingness to intensify their cooperation with such organisations in the work of the new Commission;

Stress the importance of the arrangements established in the Convention for periodic assessment of the quality of the marine environment of the maritime area;

Recognise the improvement in the decision-making process that will result from the competence of the Commission to take legally binding decisions;

Emphasise the importance of the new compliance procedure in ensuring the effectiveness of the measures taken by the Contracting Parties;

Note that the concept of regionalisation in the protection of the marine environment allows the appropriate measures to be taken according to specific needs;

Emphasise that the new Convention extends the scope of the Oslo and Paris Conventions and thereby complements existing international regulations;

PART III. PRIORITIES AND OBJECTIVES FOR FUTURE WORK

Undertake to meet periodically, in the first instance, not later than 1997, to assess the progress made under the aegis of the Convention for the Protection of the Marine Environment in the North-East Atlantic and to adapt their strategies on the basis of the results obtained and new priorities which may arise;

Endorse the Commission's Action Plan, undertake to carry it forward and instruct the Commission to adopt specific objectives and timetables for the programmes and measures for the prevention and elimination of pollution by substances, including radioactive substances, on the basis of the priorities set out below:

Establish a programme for a quality assessment of the marine environment of the maritime area;

Agree that, as a matter of principle for the whole Convention area, discharges and emissions of substances which are toxic, persistent and liable to bioaccumulate, in particular organohalogen substances, and which could reach the marine environment should, regardless of their anthropogenic source, be reduced, by the year 2000, to levels that are not harmful to man or nature with the aim of their elimination; to this end to implement substantial reductions in those discharges and emissions and where appropriate, to supplement reduction measures with programmes to phase out the use of such substances; and instruct the Commissions to keep under review what timetables this would require;

Agree to reduce discharges and emissions of nutrients (phosphorous and nitrogen) to areas where these inputs are likely, directly or indirectly, to cause eutrophication; and to implement agreed measures where these have not yet been put into force; this will include the definition of areas from which discharges and emissions of nutrients have to be reduced and measures ensuring reductions of inputs from all sources including inputs from agriculture, households and industry;

Agree to take measures aimed at reducing the amount of oil reaching the marine environment from all sources;

Instruct the Commission to ensure that measures are in place to prevent and eliminate pollution from the dumping of wastes that will continue to be permitted;

Invite States to seek to phase out the dumping of vessels and aircraft as early as possible before 2005;

Agree to establish programmes of coordinated research to conduct investigations into the presence and effects in the environment of substances that could cause pollution if unchecked;

Undertake, in order to facilitate their research and monitoring activities in the maritime area, to promote the harmonisation of the procedures for requesting and issuing permits for conducting such activites;

Agree that the Commission should take forward the commitment of the Contracting Parties to define and apply best available techniques and best environmental practice in-

cluding, where appropriate, clean technology, taking into account the need wherever possible to integrate environmental considerations in all stages of a product from design and production through consumption and use to the final disposal or re-use;

Agree to encourage those responsible for the design and construction of offshore installations to work towards ensuring that their design and construction does not preclude any environmentally sound disposal option;

Declare their willingness to exchange information on ways and means of enforcing the measures adopted under the Convention;

Instruct the Commission to consider developing its role as a central reference point for regional and interregional exchange of information on its activities regarding the protection of the marine environment, and in particular, best available techniques and best environmental practice;

Agree to initiate exchange of information on research, monitoring, technologies and means of regulation relating to the extraction of sand and gravel resources from the seabed, in order to consider whether to include this activity in the scope of the Convention;

Recognise the need to reduce radioactive discharges from nuclear installations to the marine environment and agree to work towards further reductions of such discharges by applying BAT.

PART IV. INVITATIONS FOR FURTHER ACTION

Recognise the work undertaken by the International Maritime Organisation in the field of marine pollution from shipping and, in particular,

Invite that organisation to resume the work on wreck removal;

Recognise the work undertaken by the International Council for the Exploration of the Sea and look forward to future cooperation;

Take note of the obligation contained in the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (OPRC Convention) on the Contracting Parties to that Convention to require that emergency plans are available and invite the Contracting Parties to the Bonn Agreement and the Lisbon Agreement to consider whether contingency arrangements to deal with accidental pollution from offshore operations should be introduced into those agreements;

Invite the Contracting Parties to ratify and to implement the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991) and, within the framework of that Convention,

Agree to strengthen their mutual consultation in order to achieve a better protection of the environment, in particular of the maritime area;

Invite States located in catchment areas upstream of the maritime area to accede to the Convention, to ensure better monitoring, prevention and elimination at source of transfrontier land-based pollution carried by the main international rivers;

Invite States sharing the catchment areas of major rivers entering the maritime area to establish, through bilateral or multilateral cooperation, action programmes for the environmental protection of their waters;

Invite the Contracting Parties to consider, either individually or jointly, the establishment of specially protected areas;

Agree to take individually and jointly within the framework of the appropriate international agreements and organisations all appropriate measures with respect to the Convention area to conserve natural habitats and biological diversity, and to protect ecological processes; and

Agree to seek the entry into force without delay of the Convention for the Protection of the Marine Environment of the North-East Atlantic;

Annex 115

Protocol of 1992 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 27 November 1992, 1956 UNTS 255

No. 14097. INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE. CONCLUDED AT BRUSSELS ON 29 NOVEMBER 1969[1]

N° 14097. CONVENTION INTERNATIONALE SUR LA RESPONSABILITÉ CIVILE POUR LES DOMMAGES DUS À LA POLLUTION PAR LES HYDROCARBURES. CONCLUE À BRUXELLES LE 29 NOVEMBRE 1969[1]

PROTOCOL[2] TO AMEND THE ABOVE-MENTIONED CONVENTION (WITH ANNEX AND FINAL ACT). CONCLUDED AT LONDON ON 27 NOVEMBER 1992

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish.

Registered by the International Maritime Organization on 7 January 1997.

PROTOCOLE[2] MODIFIANT LA CONVENTION SUSMENTIONNÉE (AVEC ANNEXE ET ACTE FINAL). CONCLU À LONDRES LE 27 NOVEMBRE 1992

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.

Enregistré par l'Organisation maritime internationale le 7 janvier 1997.

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[1] United Nations, *Treaty Series*, vol. 973, p. 3; for subsequent actions, see references in Cumulative Indexes Nos. 16 to 24, as well as annex A in volumes 1406, 1428, 1456, 1492, 1515, 1555, 1598, 1678, 1720, 1737, 1777, 1823, 1891 and 1931.

[2] Came into force on 30 May 1996, in accordance with article 13:

Participant	*Date of deposit of the instrument of ratification, accession* (a) *or approval* (AA)	
Denmark	30 May	1995
Egypt	21 April	1995 *a*
France	29 September	1994 *AA*
Germany*	29 September	1994
Japan	24 Augnst	1994 *a*
Mexico	13 May	1994 *a*
Norway	3 April	1995
Oman	8 July	1994 *a*
Sweden	25 May	1995
United Kingdom of Great Britain and Northern Ireland (Also in respect of the Bailiwick of Jersey, the Isle of Man, the Falkland Islands (Malvinas), Montserrat, South Georgia and the South Sandwich Islands.)	29 September	1994 *a*

* For the text of the declaration made upon ratification, see p. 429 of this volume.

(Continued on page 256)

[1] Nations Unies, *Recueil des Traités*, vol. 973, p. 3; pour les faits ultérieurs, voir les références données dans les Index cumulatifs n[os] 16 à 24, ainsi que l'annexe A des volumes 1406, 1428, 1456, 1492, 1515, 1555, 1598, 1678, 1720, 1737, 1777, 1823, 1891 et 1931.

[2] Entré en vigueur le 30 mai 1996, conformément à l'article 13 :

Participant	*Date du dépôt de l'instrument de ratification, d'adhésion* (a) *ou d'approbation* (AA)	
Allemagne*	29 septembre	1994
Danemark	30 mai	1995
Egypte	21 avril	1995 *a*
France	29 septembre	1994 *AA*
Japon	24 août	1994 *a*
Mexique	13 mai	1994 *a*
Norvège	3 avril	1995
Oman	8 juillet	1994 *a*
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord (Aussi à l'égard du bailliage de Jersey, de l'île de Man, des îles Falkland (Malvinas), de Montserrat, de la Géorgie du Sud et des îles Sandwich du Sud.)	29 septembre	1994 *a*
Suède	25 mai	1995

* Pour le texte de la déclaration faite lors de la ratification, voir p. 429 du présent volume.

(Suite à la page 256)

PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMACE, 1969

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention on Civil Liability for Oil Pollution Damage, 1969, and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNIZING that special provisions are necessary in connection with the introduction of corresponding amendments to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,

HAVE AGREED as follows:

Article 1

The Convention which the provisions of this Protocol amend is the International Convention on Civil Liability for Oil Pollution Damage, 1969, hereinsfter referred to as the "1969 Liability Convention". For States Parties to the Protocol of 1976[1] to the 1969 Liability Convention, such reference shsll be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article 2

Article I of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

   1. "Ship" means any sea-going vessel and seaborne craft of any type whatsoever constructed or adapted for the carriage of oil in bulk ss cargo, provided thst a ship cspable of carrying oil and other cargoes shall be regarded as a ship only when it is actually carrying oil in bulk as cargo and during any voyage following such carriage unless it is proved that it hss no residues of such carriage of oil in bulk aboard.

2. Paragraph 5 is replaced by the following text:

   5. "Oil" means any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel oil and lubricating oil, whether carried on board a ship as cargo or in the bunkers of such a ship.

3. Paragraph 6 is replaced by the following text:

   6. "Pollution damage" means:

   (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such

[1] United Nations, *Treaty Series*, vol. 1225, p. 356.

escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken;

(b) the costs of preventive measures and further loss or damage caused by preventive measures.

4. Paragraph 8 is replaced by the following text:

8. "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing auch damage.

5. Paragraph 9 is replaced by the following text:

9. "Organization" means the International Maritime Organization.

6. After paragraph 9 a new paragraph is inserted reading as follows:

10. "1969 Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1969. For States Parties to the Protocol of 1976 to that Convention, the term shall be deemed to include the 1969 Liability Convention as amended by that Protocol.

Article 3

Article II of the 1969 Liability Convention is replaced by the following text:

This Convention shall apply exclusively:

(a) to pollution damage caused:

(i) in the territory, including the territorial sea, of a Contracting State, and

(ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;

(b) to preventive measures, wherever taken, to prevent or minimize such damage.

Article 4

Article III of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

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 the ship as a result of the incident.

2. Paragraph 4 is replaced by the following text:

4. No claim for compensation for pollution damage may be made against the owner otherwise than in accordance with this Convention. Subject to paragraph 5 of this Article, no claim for compensation for pollution damage under this Convention or otherwise may be made against:

(a) the servants or agents of the owner or the members of the crew;

(b) the pilot or any other person who, without being a member of the crew, performs services for the ship;

(c) any charterer (howsoever described, including a bareboat charterer), manager or operator of the ship;

(d) any person performing salvage operations with the consent of the owner or on the instructions of a competent public authority;

(e) any person taking preventive measures;

(f) all servants or agents of persons mentioned in subparagraphs (c), (d) and (e);

unless the damage resulted from their personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

Article 5

Article IV of the 1969 Liability Convention is replaced by the following text:

When an incident involving two or more ships occurs and pollution damage results therefrom, the owners of all the ships concerned, unless exonerated under Article III, shall be jointly snd severally liable for all such damage which is not reasonably separable.

Article 6

Article V of the 1969 Liability Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

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 calculated as follows:

(a) 3 million units of account for a ship not exceeding 5,000 units of tonnage;

(b) for a ship with a tonnage in excess thereof, for each additional unit of tonnage, 420 units of account in addition to the amount mentioned in subparagraph (a);

provided, however, that this aggregate amount shall not in any event exceed 59.7 million units of account.

2. Paragraph 2 is replaced by the following text:

2. The owner shall not be entitled to limit his liability under this Convention if it is proved that the pollution damage resulted from his

personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

3. Paragraph 3 is replaced by the following text:

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 or, if no action is brought, with any Court or other competent authority in any one of the Contracting States in which an action can be 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 other competent authority.

4. Paragraph 9 is replaced by the following text:

9(a). The "unit of account" referred to in paragraph 1 of this Article is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in paragraph 1 shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the date of the constitution of the fund referred to in paragraph 3. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State 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 on the date in question for its operations and transactions. The value of the national currency, in terms of the Special Drawing Right, of a Contracting State which is not a member of the International Monetary Fund shall be calculated in a manner determined by that State.

9(b). Nevertheless, a Contracting State which is not a member of the International Monetary Fund and whose law does not permit the application of the provisions of paragraph 9(a) may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, declare that the unit of account referred to in paragraph 9(a) shall be equal to 15 gold francs. The gold franc referred to in this paragraph corresponds to sixty-five and a half milligrammes of gold of millesimal fineness nine hundred. The conversion of the gold franc into the national currency shall be made according to the law of the State concerned.

9(c). The calculation mentioned in the last sentence of paragraph 9(a) and the conversion mentioned in paragraph 9(b) shall be made in such manner as to express in the national currency of the Contracting State as far as possible the same real value for the amounts in paragraph 1 as would result from the application of the first three sentences of paragraph 9(a). Contracting States shall communicate to the depositary the manner of calculation pursuant to paragraph 9(a), or the result of the conversion in paragraph 9(b) as the case may be, when depositing an instrument of ratification, acceptance, approval of or accession to this Convention and whenever there is a change in either.

5. Paragraph 10 is replaced by the following text:

10. For the purpose of this Article the ship's tonnage shall be the gross tonnage calculated in accordance with the tonnage measurement

regulations contained in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.[1]

6. The second sentence of paragraph 11 is replaced by the following text:

Such a fund may be constituted even if, under the provisions of paragraph 2, the owner is not entitled to limit his liability, but its constitution shall in that case not prejudice the rights of any claimant against the owner.

Article 7

Article VII of the 1969 Liability Convention is amended as follows:

1. The first two sentences of paragraph 2 are replaced by the following text:

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 after the appropriate authority of a Contracting State has determined that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a Contracting State such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a Contracting State it may be issued or certified by the appropriate authority of any Contracting State.

2. Paragraph 4 is replaced by the following text:

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 or, if the ship is not registered in a Contracting State, with the authorities of the State issuing or certifying the certificate.

3. The first sentence of paragraph 7 is replaced by the following text:

Certificates issued or certified under the authority of a Contracting State in accordance with paragraph 2 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 even if issued or certified in respect of a ship not registered in a Contracting State.

4. In the second sentence of paragraph 7 the words "with the State of a ship's registry" are replaced by the words "with the issuing or certifying State".

5. The second sentence of paragraph 8 is replaced by the following text:

In such case the defendant may, even if the owner is not entitled to limit his liability according to Article V, paragraph 2, avail himself of the limits of liability prescribed in Article V, paragraph 1.

Article 8

Article IX of the 1969 Liability Convention is amended as follows:

Paragraph 1 is replaced by the following text:

[1] United Nations, *Treaty Series*, vol. 1291, p. 3.

1. Where an incident has caused pollution damage in the territory, including the territorial sea or an area referred to in Article II, 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 or area, 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.

Article 9

After Article XII of the 1969 Liability Convention two new Articles are inserted as follows:

Article XII bis

Transitional provisions

The following transitional provisions shall apply in the case of a State which at the time of an incident is a Party both to this Convention and to the 1969 Liability Convention:

(a) where an incident has caused pollution damage within the scope of this Convention, liability under this Convention shall be deemed to be discharged if, and to the extent that, it also arises under the 1969 Liability Convention;

(b) where an incident has caused pollution damage within the scope of this Convention, and the State is a Party both to this Convention and to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,[1] liability remaining to be discharged after the application of subparagraph (a) of this Article shall arise under this Convention only to the extent that pollution damage remains uncompensated after application of the said 1971 Convention;

(c) in the application of Article III, paragraph 4, of this Convention the expression "this Convention" shall be interpreted as referring to this Convention or the 1969 Liability Convention, as appropriate;

(d) in the application of Article V, paragraph 3, of this Convention the total sum of the fund to be constituted shall be reduced by the amount by which liability has been deemed to be discharged in accordance with subparagraph (a) of this Article.

Article XII ter

Final clauses

The final clauses of this Convention shall be Articles 12 to 18 of the Protocol of 1992 to amend the 1969 Liability Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.

Article 10

The model of a certificate annexed to the 1969 Liability Convention is replaced by the model annexed to this Protocol.

[1] United Nations, *Treaty Series*, vol. 1110, p. 57.

Article 11

1. The 1969 Liability Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2. Articles I to XII ter, including the model certificate, of the 1969 Liability Convention as amended by this Protocol shall be known as the International Convention on Civil Liability for Oil Pollution Damage, 1992 (1992 Liability Convention).

FINAL CLAUSES

Article 12

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by all States.

2. Subject to paragraph 4, any State may become a Party to this Protocol by:

(a) signature subject to ratification, acceptance or approval followed by ratification, acceptance or approval; or

(b) 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.

4. Any Contracting State to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the 1971 Fund Convention, may ratify, accept, approve or accede to this Protocol only if it ratifies, accepts, approves or accedes to the Protocol of 1992 to amend that Convention at the same time, unless it denounces the 1971 Fund Convention to take effect on the date when this Protocol enters into force for that State.

5. A State which is a Party to this Protocol but not a Party to the 1969 Liability Convention shall be bound by the provisions of the 1969 Liability Convention as amended by this Protocol in relation to other States Parties hereto, but shall not be bound by the provisions of the 1969 Liability Convention in relation to States Parties thereto.

6. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1969 Liability Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

Article 13

Entry into force

1. This Protocol shall enter into force twelve months following the date on which ten States including four States each with not less than one million units of gross tanker tonnage have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization.

2. However, any Contracting State to the 1971 Fund Convention may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol, declare that such instrument shall be deemed not to be effective for the purposes of this Article until the end of the six-month period in Article 31 of the Protocol of 1992 to amend the 1971 Fund Convention. A State which is not a Contracting State to the 1971 Fund Convention but which deposits an instrument of ratification, acceptance, approval or accession in respect of the Protocol of 1992 to amend the 1971 Fund Convention may also make a declaration in accordance with this paragraph at the same time.

3. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to the Secretary-General of the Organization. Any such withdrawal shall take effect on the date the notification is received, provided that such State shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.

4. For any State which ratifies, accepts, approves or accedes to it after the conditions in paragraph 1 for entry into force have been met, this Protocol shall enter into force twelve months following the date of deposit by such State of the appropriate instrument.

Article 14

Revision and amendment

1. A Conference for the purpose of revising or amending the 1992 Liability Convention may be convened by the Organization.

2. The Organization shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Liability Convention at the request of not less than one third of the Contracting States.

Article 15

Amendments of limitation amounts

1. Upon the request of at least one quarter of the Contracting States any proposal to amend the limits of liability laid down in Article V, paragraph 1, of the 1969 Liability Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.

2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.

3. All Contracting States to the 1969 Liability Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.

5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom, changes in the monetary values and the effect of the proposed amendment on the cost of insurance. It shall also take into account the relationship between the limits in Article V, paragraph 1, of the

1969 Liability Convention as amended by this Protocol and those in Article 4, paragraph 4, of the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992.

6(a). No amendment of the limits of liability under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.

(b). No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol increased by 6 per cent per year calculated on a compound basis from 15 January 1993.

(c). No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1969 Liability Convention as amended by this Protocol multiplied by 3.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification, unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organization that they do not accept the amendment in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.

9. All Contracting States shall be bound by the amendment, unless they denounce this Protocol in accordance with Article 16, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted by the Legal Committee but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article 16

Denunciation

1. This Protocol may be denounced by any Party at any time after the date on which it enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organization.

3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.

4. As between the Parties to this Protocol, denunciation by any of them of the 1969 Liability Convention in accordance with Article XVI thereof shall not

be construed in any way as a denunciation of the 1969 Liability Convention as amended by this Protocol.

5. Denunciation of the Protocol of 1992 to amend the 1971 Fund Convention by a State which remains a Party to the 1971 Fund Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1971 Fund Convention takes effect according to Article 34 of that Protocol.

Article 17

Depositary

1. This Protocol and any amendments accepted under Article 15 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 this Protocol of:

(i) each new signature or deposit of an instrument together with the date thereof;

(ii) each declaration and notification under Article 13 and each declaration and communication under Article V, paragraph 9, of the 1992 Liability Convention;

(iii) the date of entry into force of this Protocol;

(iv) any proposal to amend limits of liability which has been made in accordance with Article 15, paragraph 1;

(v) any amendment which has been adopted in accordance with Article 15, paragraph 4;

(vi) any amendment deemed to have been accepted under Article 15, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;

(vii) the deposit of any instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;

(viii) any denunciation deemed to have been made under Article 16, paragraph 5;

(ix) any communication called for by any Article of this Protocol;

(b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to this Protocol.

3. As soon as this Protocol enters 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 18

Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON, this twenty-seventh day of November one thousand nine hundred and ninety-two.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Protocol.

[*For the signatures, see p. 339 of this volume.*]

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, 1992.

Name of ship	Distinctive number or letters	Port of registry	Name and address of owner

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, 1992.

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.

Annex 116

Protocol of 1992 to Amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 27 November 1992, 1953 UNTS 330

No. 17146. INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE. CONCLUDED AT BRUSSELS ON 18 DECEMBER 1971[1]

N° 17146. CONVENTION INTERNATIONALE PORTANT CRÉATION D'UN FONDS INTERNATIONAL D'INDEMNISATION POUR LES DOMMAGES DUS À LA POLLUTION PAR LES HYDROCARBURES. CONCLUE À BRUXELLES LE 18 DÉCEMBRE 1971[1]

PROTOCOL[2] OF 1992 TO AMEND THE ABOVEMENTIONED CONVENTION. CONCLUDED AT LONDON ON 27 NOVEMBER 1992

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish.

Registered by the International Maritime Organization on 23 December 1996.

PROTOCOLE[2] DE 1992 MODIFIANT LA CONVENTION SUSMENTIONNÉE. CONCLU À LONDRES LE 27 NOVEMBRE 1992

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.

Enregistré par l'Organisation maritime internationale le 23 décembre 1996.

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[1] United Nations, *Treaty Series*, vol. 1110, p. 57; for subsequent actions, see references in Cumulative Indexes Nos. 19 to 21, as well as annex A in volumes 1265, 1286, 1323, 1355, 1391, 1406, 1428, 1492, 1515, 1555, 1598, 1678, 1721, 1737, 1777, 1823, 1862, 1891 and 1931.

[2] Came into force on 30 May 1996, in accordance with article 30:

Participant	*Date of deposit of the instrument of ratification, accession* (a) *or approval* (AA)	
Denmark	30 May	1995
France	29 September	1994 *AA*
Germany*	29 September	1994
Japan	24 August	1994 *a*
Mexico	13 May	1994 *a*
Norway	3 April	1995
Oman	8 July	1994 *a*
Sweden	25 May	1995
United Kingdom of Great Britain and Northern Ireland.. (Also in respect of the Bailiwick of Jersey, the Isle of Man, the Falkland Islands (Malvinas), Montserrat, South Georgia and the South Sandwich Islands.)	29 September	1994 *a*

(Continued on page 331)

[1] Nations Unies, *Recueil des Traités*, vol. 1110, p. 57; pour les faits ultérieurs, voir les références données dans les Index cumulatifs n[os] 19 à 21, ainsi que l'annexe A des volumes 1265, 1286, 1323, 1355, 1391, 1406, 1428, 1492, 1515, 1555, 1598, 1678, 1721, 1737, 1777, 1823, 1862, 1891 et 1931.

[2] Entré en vigueur le 30 mai 1996, conformément à l'article 30 :

Participant	*Date du dépôt de l'instrument de ratification, d'adhésion* (a) *ou d'approbation* (AA)	
Allemagne*	29 septembre	1994
Danemark	30 mai	1995
France	29 septembre	1994 *AA*
Japon	24 août	1994 *a*
Mexique	13 mai	1994 *a*
Norvège	3 avril	1995
Oman	8 juillet	1994 *a*
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord ..... (Aussi à l'égard du bailliage de Jersey, de l'île de Man, des îles Falkland (Malvinas), de Montserrat, de la Géorgie du Sud et des îles Sandwich du Sud.)	29 septembre	1994 *a*
Suède	25 mai	1995

(Suite à la page 331)

PROTOCOL OF 1992 TO AMEND THE INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE, 1971

THE PARTIES TO THE PRESENT PROTOCOL,

HAVING CONSIDERED the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971,[1] and the 1984 Protocol thereto,

HAVING NOTED that the 1984 Protocol to that Convention, which provides for improved scope and enhanced compensation, has not entered into force,

AFFIRMING the importance of maintaining the viability of the international oil pollution liability and compensation system,

AWARE OF the need to ensure the entry into force of the content of the 1984 Protocol as soon as possible,

RECOGNIZING the advantage for the States Parties of arranging for the amended Convention to coexist with and be supplementary to the original Convention for a transitional period,

CONVINCED that the economic consequences of pollution damage resulting from the carriage of oil in bulk at sea by ships should continue to be shared by the shipping industry and by the oil cargo interests,

BEARING IN MIND the adoption of the Protocol of 1992[2] to amend the International Convention on Civil Liability for Oil Pollution Damage, 1969,[3]

HAVE AGREED AS FOLLOWS:

Article 1

The Convention which the provisions of this Protocol amend is the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, hereinafter referred to as the "1971 Fund Convention". For States Parties to the Protocol of 1976[4] to the 1971 Fund Convention, such reference shall be deemed to include the 1971 Fund Convention as amended by that Protocol.

Article 2

Article 1 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

   1. "1992 Liability Convention" means the International Convention on Civil Liability for Oil Pollution Damage, 1992.

2. After paragraph 1 a new paragraph is inserted as follows:

   1 bis. "1971 Fund Convention" means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971. For States Parties to the Protocol of 1976

[1] United Nations, *Treaty Series*, vol. 1110, p. 57.
[2] *Ibid.* vol. 1956, No. A-14097.
[3] *Ibid.* vol. 973, p. 3.
[4] *Ibid.* vol. 1225, p. 356.

to that Convention, the term shall be deemed to include the 1971 Fund Convention as amended by that Protocol.

3. Paragraph 2 is replaced by the following text:

2. "Ship", "Person", "Owner", "Oil", "Pollution Damage", "Preventive Measures", "Incident", and "Organization" have the same meaning as in Article I of the 1992 Liability Convention.

4. Paragraph 4 is replaced by the following text:

4. "Unit of account" has the same meaning as in Article V, paragraph 9, of the 1992 Liability Convention.

5. Paragraph 5 is replaced by the following text:

5. "Ship's tonnage" has the same meaning as in Article V, paragraph 10, of the 1992 Liability Convention.

6. Paragraph 7 is replaced by the following text:

7. "Guarantor" means any person providing insurance or other financial security to cover an owner's liability in pursuance of Article VII, paragraph 1, of the 1992 Liability Convention.

Article 3

Article 2 of the 1971 Fund Convention is amended as follows:

Paragraph 1 is replaced by the following text:

1. An International Fund for compensation for pollution damage, to be named "The International Oil Pollution Compensation Fund 1992" and hereinafter referred to as "the Fund", is hereby established with the following aims:

(a) to provide compensation for pollution damage to the extent that the protection afforded by the 1992 Liability Convention is inadequate;

(b) to give effect to the related purposes set out in this Convention.

Article 4

Article 3 of the 1971 Fund Convention is replaced by the following text:

This Convention shall apply exclusively:

(a) to pollution damage caused:

(i) in the territory, including the territorial sea, of a Contracting State, and

(ii) in the exclusive economic zone of a Contracting State, established in accordance with international law, or, if a Contracting State has not established such a zone, in an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured;

date of the decision of the Assembly of the Fund as to the first date of payment of compensation.

4. Paragraph 5 is replaced by the following text:

5. Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under this Convention shall be the same for all claimants.

5. Paragraph 6 is replaced by the following text:

6. The Assembly of the Fund may decide that, in exceptional cases, compensation in accordance with this Convention can be paid even if the owner of the ship has not constituted a fund in accordance with Article V, paragraph 3, of the 1992 Liability Convention. In such case paragraph 4(e) of this Article applies accordingly.

Article 7

Article 5 of the 1971 Fund Convention is deleted.

Article 8

Article 6 of the 1971 Fund Convention is amended as follows:

1. In paragraph 1 the paragraph number and the words "or indemnification under Article 5" are deleted.

2. Paragraph 2 is deleted.

Article 9

Article 7 of the 1971 Fund Convention is amended as follows:

1. In paragraphs 1, 3, 4 and 6 the seven references to "the Liability Convention" are replaced by references to "the 1992 Liability Convention".

2. In paragraph 1 the words "or indemnification under Article 5" are deleted.

3. In the first sentence of paragraph 3 the words "or indemnification" and "or 5" are deleted.

4. In the second sentence of paragraph 3 the words "or under Article 5, paragraph 1," are deleted.

Article 10

In Article 8 of the 1971 Fund Convention the reference to "the Liability Convention" is replaced by a reference to "the 1992 Liability Convention".

Article 11

Article 9 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

1. The Fund shall, in respect of any amount of compensation for pollution damage paid by the Fund in accordance with Article 4,

(b) to preventive meaaures, wherever taken, to prevent or minimize such damage.

Article 5

The heading to Articles 4 to 9 of the 1971 Fund Convention is amended by deleting the words "and indemnification".

Article 6

Article 4 of the 1971 Fund Convention is amended as follows:

1. In paragraph 1 the five references to "the Liability Convention" are replaced by references to "the 1992 Liability Convention".

2. Paragraph 3 is replaced by the following text:

3. If the Fund proves that the pollution damage resulted wholly or partially either from an act or omission done with the intent to cause damage by the person who suffered the damage or from the negligence of that person, the Fund may be exonerated wholly or partially from its obligation to pay compensation to such person. The Fund shall in any event be exonerated to the extent that the shipowner may have been exonerated under Article III, paragraph 3, of the 1992 Liability Convention. However, there shall be no such exoneration of the Fund with regard to preventive measures.

3. Paragraph 4 is replaced by the following text:

4. (a) Except as otherwise provided in subparagraphs (b) and (c) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the 1992 Liability Convention for pollution damage within the scope of application of this Convention as defined in Article 3 shall not exceed 135 million units of account.

(b) Except as otherwise provided in subparagraph (c), the aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional inevitable and irresistible character shall not exceed 135 million units of account.

(c) The maximum amount of compensation referred to in subparagraphs (a) and (b) shall be 200 million units of account with respect to any incident occurring during any period when there are three Parties to this Convention in respect of which the combined relevant quantity of contributing oil received by persons in the territories of such Parties, during the preceding calendar year, equalled or exceeded 600 million tons.

(d) Interest accrued on a fund constituted in accordance with Article V, paragraph 3, of the 1992 Liability Convention, if any, shall not be taken into account for the computation of the maximum compensation payable by the Fund under this Article.

(e) The amounts mentioned in this Article shall be converted into national currency on the basis of the value of that currency by reference to the Special Drawing Right on the

paragraph 1, of this Convention, acquire by subrogation the rights that the person so compensated may enjoy under the 1992 Liability Convention against the owner or his guarantor.

2. In paragraph 2 the words "or indemnification" are deleted.

Article 12

Article 10 of the 1971 Fund Convention is amended as follows:

The opening phrase of paragraph 1 is replaced by the following text:

Annual contributions to the Fund shall be made in respect of each Contracting State by any person who, in the calendar year referred to in Article 12, paragraph 2(a) or (b), has received in total quantities exceeding 150,000 tons:

Article 13

Article 11 of the 1971 Fund Convention is deleted.

Article 14

Article 12 of the 1971 Fund Convention is amended as follows:

1. In the opening phrase of paragraph 1 the words "for each person referred to in Article 10" are deleted.

2. In paragraph 1(i), subparagraphs (b) and (c), the words "or 5" are deleted and the words "15 million francs" are replaced by the words "four million units of account".

3. Subparagraph 1(ii)(b) is deleted.

4. In paragraph 1(ii), subparagraph (c) becomes (b) and subparagraph (d) becomes (c).

5. The opening phrase in paragraph 2 is replaced by the following text:

The Assembly shall decide the total amount of contributions to be levied. On the basis of that decision, the Director shall, in respect of each Contracting State, calculate for each person referred to in Article 10 the amount of his annual contribution:

6. Paragraph 4 is replaced by the following text:

4. The annual contribution shall be due on the date to be laid down in the Internal Regulations of the Fund. The Assembly may decide on a different date of payment.

7. Paragraph 5 is replaced by the following text:

5. The Assembly may decide, under conditions to be laid down in the Financial Regulations of the Fund, to make transfers between funds received in accordance with Article 12.2(a) and funds received in accordance with Article 12.2(b).

8. Paragraph 6 is deleted.

Article 15

Article 13 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

> 1. The amount of any contribution due under Article 12 and which is in arrears shall bear interest at a rate which shall be determined in accordance with the Internal Regulations of the Fund, provided that different rates may be fixed for different circumstances.

2. In paragraph 3 the words "Articles 10 and 11" are replaced by the words "Articles 10 and 12" and the words "for a period exceeding three months" are deleted.

Article 16

A new paragraph 4 is added to Article 15 of the 1971 Fund Convention:

4. Where a Contracting State does not fulfil its obligations to submit to the Director the communication referred to in paragraph 2 and this results in a financial loss for the Fund, that Contracting State shall be liable to compensate the Fund for such loss. The Assembly shall, on the recommendation of the Director, decide whether such compensation shall be payable by that Contracting State.

Article 17

Article 16 of the 1971 Fund Convention is replaced by the following text:

The Fund shall have an Assembly and a Secretariat headed by a Director.

Article 18

Article 18 of the 1971 Fund Convention is amended as follows:

1. In the opening sentence of the article the words ", subject to the provisions of Article 26," are deleted.

2. Paragraph 8 is deleted.

3. Paragraph 9 is replaced by the following text:

> 9. to establish any temporary or permanent subsidiary body it may consider to be necessary, to define its terms of reference and to give it the authority needed to perform the functions entrusted to it; when appointing the members of such body, the Assembly shall endeavour to secure an equitable geographical distribution of members and to ensure that the Contracting States, in respect of which the largest quantities of contributing oil are being received, are appropriately represented; the Rules of Procedure of the Assembly may be applied, mutatis mutandis, for the work of such subsidiary body;

4. In paragraph 10 the words ", the Executive Committee," are deleted.

5. In paragraph 11 the words ", the Executive Committee" are deleted.

6. Paragraph 12 is deleted.

Article 19

Article 19 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

1. Regular sessions of the Assembly shall take place once every calendar year upon convocation by the Director.

2. In paragraph 2 the words "of the Executive Committee or" are deleted.

Article 20

Articles 21 to 27 of the 1971 Fund Convention and the heading to these articles are deleted.

Article 21

Article 29 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is replaced by the following text:

1. The Director shall be the chief administrative officer of the Fund. Subject to the instructions given to him by the Assembly, he shall perform those functions which are assigned to him by this Convention, the Internal Regulations of the Fund and the Assembly.

2. In paragraph 2(e) the words "or the Executive Committee" are deleted.

3. In paragraph 2(f) the words "or to the Executive Committee, as the case may be," are deleted.

4. Paragraph 2(g) is replaced by the following text:

(g) prepare, in consultation with the Chairman of the Assembly, and publish a report of the activities of the Fund during the previous calendar year;

5. In paragraph 2(h) the words ", the Executive Committee" are deleted.

Article 22

In Article 31, paragraph 1, of the 1971 Fund Convention, the words "on the Executive Committee and" are deleted.

Article 23

Article 32 of the 1971 Fund Convention is amended as follows:

1. In the opening phrase the words "and the Executive Committee" are deleted.

2. In subparagraph (b) the words "and the Executive Committee" are deleted.

Article 24

Article 33 of the 1971 Fund Convention is amended as follows:

1. Paragraph 1 is deleted.

2. In paragraph 2 the paragraph number is deleted.

3. Subparagraph (c) is replaced by the following text:

(c) the establishment of subsidiary bodies, under Article 18, paragraph 9, and matters relating to such establishment.

Article 25

Article 35 of the 1971 Fund Convention is replaced by the following text:

Claims for compensation under Article 4 arising from incidents occurring after the date of entry into force of this Convention may not be brought against the Fund earlier than the one hundred and twentieth day after that date.

Article 26

After Article 36 of the 1971 Fund Convention four new articles are inserted as follows:

Article 36 bis

The following transitional provisions shall apply in the period, hereinafter referred to as the transitional period, commencing with the date of entry into force of this Convention and ending with the date on which the denunciations provided for in Article 31 of the 1992 Protocol to amend the 1971 Fund Convention take effect:

(a) In the application of paragraph 1(a) of Article 2 of this Convention, the reference to the 1992 Liability Convention shall include reference to the International Convention on Civil Liability for Oil Pollution Damage, 1969, either in its original version or as amended by the Protocol thereto of 1976 (referred to in this Article as "the 1969 Liability Convention"), and also the 1971 Fund Convention.

(b) Where an incident has caused pollution damage within the scope of this Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person has been unable to obtain full and adequate compensation for the damage under the terms of the 1969 Liability Convention, the 1971 Fund Convention and the 1992 Liability Convention, provided that, in respect of pollution damage within the scope of this Convention in respect of a Party to this Convention but not a Party to the 1971 Fund Convention, the Fund shall pay compensation to any person suffering pollution damage only if, and to the extent that, such person would have been unable to obtain full and adequate compensation had that State been party to each of the above-mentioned Conventions.

(c) In the application of Article 4 of this Convention, the amount to be taken into account in determining the aggregate amount of compensation payable by the Fund shall also include the amount of compensation actually paid under the 1969 Liability Convention, if any, and the amount of compensation actually paid or deemed to have been paid under the 1971 Fund Convention.

(d) Paragraph 1 of Article 9 of this Convention shall also apply to the rights enjoyed under the 1969 Liability Convention.

Article 36 ter

1 Subject to paragraph 4 of this Article, the aggregate amount of the annual contributions payable in respect of contributing oil received in a single Contracting State during a calendar year shall not exceed 27.5% of the total amount of annual contributions pursuant to the 1992 Protocol to amend the 1971 Fund Convention, in respect of that calendar year.

2 If the application of the provisions in paragraphs 2 and 3 of Article 12 would result in the aggregate amount of the contributions payable by contributors in a single Contracting State in respect of a given calendar year exceeding 27.5% of the total annual contributions, the contributions payable by all contributors in that State shall be reduced pro rata so that their aggregate contributions equal 27.5% of the total annual contributions to the Fund in respect of that year.

3 If the contributions payable by persons in a given Contracting State shall be reduced pursuant to paragraph 2 of this Article, the contributions payable by persons in all other Contracting States shall be increased pro rata so as to ensure that the total amount of contributions payable by all persons liable to contribute to the Fund in respect of the calendar year in question will reach the total amount of contributions decided by the Assembly.

4 The provisions in paragraphs 1 to 3 of this Article shall operate until the total quantity of contributing oil received in all Contracting States in a calendar year has reached 750 million tons or until a period of 5 years after the date of entry into force of the said 1992 Protocol has elapsed, whichever occurs earlier.

Article 36 quater

Notwithstanding the provisions of this Convention, the following provisions shall apply to the administration of the Fund during the period in which both the 1971 Fund Convention and this Convention are in force:

(a) The Secretariat of the Fund, established by the 1971 Fund Convention (hereinafter referred to as "the 1971 Fund"), headed by the Director, may also function as the Secretariat and the Director of the Fund.

(b) If, in accordance with subparagraph (a), the Secretariat and the Director of the 1971 Fund also perform the function of Secretariat and Director of the Fund, the Fund shall be represented, in cases of conflict of interests between the 1971 Fund and the Fund, by the Chairman of the Assembly of the Fund.

(c) The Director and the staff and experts appointed by him, performing their duties under this Convention and the 1971 Fund Convention, shall not be regarded as contravening the provisions of Article 30 of this Convention in so far as they discharge their duties in accordance with this Article.

(d) The Assembly of the Fund shall endeavour not to take decisions which are incompatible with decisions taken by the Assembly of the 1971 Fund. If differences of opinion with respect to common administrative issues arise, the Assembly of the Fund shall try to reach a consensus with the Assembly of the 1971 Fund, in a spirit of mutual co-operation and with the common aims of both organizations in mind.

(e) The Fund may succeed to the rights, obligations and assets of the 1971 Fund if the Assembly of the 1971 Fund so decides, in accordance with Article 44, paragraph 2, of the 1971 Fund Convention.

(f) The Fund shall reimburse to the 1971 Fund all costs and expenses arising from administrative services performed by the 1971 Fund on behalf of the Fund.

Article 36 quinquies

Final clauses

The final clauses of this Convention shall be Articles 28 to 39 of the Protocol of 1992 to amend the 1971 Fund Convention. References in this Convention to Contracting States shall be taken to mean references to the Contracting States of that Protocol.

Article 27

1. The 1971 Fund Convention and this Protocol shall, as between the Parties to this Protocol, be read and interpreted together as one single instrument.

2. Articles 1 to 36 quinquies of the 1971 Fund Convention as amended by this Protocol shall be known as the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (1992 Fund Convention).

FINAL CLAUSES

Article 28

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open for signature at London from 15 January 1993 to 14 January 1994 by any State which has signed the 1992 Liability Convention.

2. Subject to paragraph 4, this Protocol shall be ratified, accepted or approved by States which have signed it.

3. Subject to paragraph 4, this Protocol is open for accession by States which did not sign it.

4. This Protocol may be ratified, accepted, approved or acceded to only by States which have ratified, accepted, approved or acceded to the 1992 Liability Convention.

5. 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.

6. A State which is a Party to this Protocol but is not a Party to the 1971 Fund Convention shall be bound by the provisions of the 1971 Fund Convention as amended by this Protocol in relation to other Parties hereto, but shall not be bound by the provisions of the 1971 Fund Convention in relation to Parties thereto.

7. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to the 1971 Fund Convention as amended by this Protocol shall be deemed to apply to the Convention so amended, as modified by such amendment.

Article 29

Information on contributing oil

1. Before this Protocol comes into force for a State, that State shall, when depositing an instrument referred to in Article 28, paragraph 5, and annually thereafter at a date to be determined by the Secretary-General of the Organization, communicate to him the name and address of any person who in respect of that State would be liable to contribute to the Fund pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol as well as data on the relevant quantities of contributing oil received by any such person in the territory of that State during the preceding calendar year.

2. During the transitional period, the Director shall, for Parties, communicate annually to the Secretary-General of the Organization data on quantities of contributing oil received by persons liable to contribute to the Fund pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol.

Article 30

Entry into force

1. This Protocol shall enter into force twelve months following the date on which the following requirements are fulfilled:

(a) at least eight States have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization; and

(b) the Secretary-General of the Organization has received information in accordance with Article 29 that those persons who would be liable to contribute pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol have received during the preceding calendar year a total quantity of at least 450 million tons of contributing oil.

2. However, this Protocol shall not enter into force before the 1992 Liability Convention has entered into force.

3. For each State which ratifies, accepts, approves or accedes to this Protocol after the conditions in paragraph 1 for entry into force have been met, the Protocol shall enter into force twelve months following the date of the deposit by such State of the appropriate instrument.

4. Any State may, at the time of the deposit of its instrument of ratification, acceptance, approval or accession in respect of this Protocol declare that such instrument shall not take effect for the purpose of this Article until the end of the six-month period in Article 31.

5. Any State which has made a declaration in accordance with the preceding paragraph may withdraw it at any time by means of a notification addressed to the Secretary-General of the Organization. Any such withdrawal shall take effect on the date the notification is received, and any State making such a withdrawal shall be deemed to have deposited its instrument of ratification, acceptance, approval or accession in respect of this Protocol on that date.

6. Any State which has made a declaration under Article 13, paragraph 2, of the Protocol of 1992 to amend the 1969 Liability Convention shall be deemed to have also made a declaration under paragraph 4 of this Article. Withdrawal of a declaration under the said Article 13, paragraph 2, shall be deemed to constitute withdrawal also under paragraph 5 of this Article.

Article 31

Denunciation of the 1969 and 1971 Conventions

Subject to Article 30, within six months following the date on which the following requirements are fulfilled:

(a) at least eight States have become Parties to this Protocol or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General of the Organization, whether or not subject to Article 30, paragraph 4, and

(b) the Secretary-General of the Organization has received information in accordance with Article 29 that those persons who are or would be liable to contribute pursuant to Article 10 of the 1971 Fund Convention as amended by this Protocol have received during the preceding calendar year a total quantity of at least 750 million tons of contributing oil;

each Party to this Protocol and each State which has deposited an instrument of ratification, acceptance, approval or accesaion, whether or not subject to Article 30, paragraph 4, shall, if Party thereto, denounce the 1971 Fund Convention and the 1969 Liability Convention with effect twelve months after the expiry of the above-mentioned six-month period.

Article 32

Revision and amendment

1. A conference for the purpose of revising or amending the 1992 Fund Convention may be convened by the Organization.

2. The Organization shall convene a Conference of Contracting States for the purpose of revising or amending the 1992 Fund Convention at the request of not less than one third of all Contracting States.

Article 33

Amendment of compensation limits

1. Upon the request of at least one quarter of the Contracting States, any proposal to amend the limits of amounts of compensation laid down in Article 4, paragraph 4, of the 1971 Fund Convention as amended by this Protocol shall be circulated by the Secretary-General to all Members of the Organization and to all Contracting States.

2. Any amendment proposed and circulated as above shall be submitted to the Legal Committee of the Organization for consideration at a date at least six months after the date of its circulation.

3. All Contracting States to the 1971 Fund Convention as amended by this Protocol, whether or not Members of the Organization, shall be entitled to participate in the proceedings of the Legal Committee for the consideration and adoption of amendments.

4. Amendments shall be adopted by a two-thirds majority of the Contracting States present and voting in the Legal Committee, expanded as provided for in paragraph 3, on condition that at least one half of the Contracting States shall be present at the time of voting.

5. When acting on a proposal to amend the limits, the Legal Committee shall take into account the experience of incidents and in particular the amount of damage resulting therefrom and changes in the monetary values. It shall also take into account the relationship between the limits in Article 4, paragraph 4, of the 1971 Fund Convention as amended by this Protocol and those in Article V, paragraph 1, of the International Convention on Civil Liability for Oil Pollution Damage, 1992.

6. (a) No amendment of the limits under this Article may be considered before 15 January 1998 nor less than five years from the date of entry into force of a previous amendment under this Article. No amendment under this Article shall be considered before this Protocol has entered into force.

(b) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1971 Fund Convention as amended by this Protocol increased by six per cent per year calculated on a compound basis from 15 January 1993.

(c) No limit may be increased so as to exceed an amount which corresponds to the limit laid down in the 1971 Fund Convention as amended by this Protocol multiplied by three.

7. Any amendment adopted in accordance with paragraph 4 shall be notified by the Organization to all Contracting States. The amendment shall be deemed to have been accepted at the end of a period of eighteen months after the date of notification unless within that period not less than one quarter of the States that were Contracting States at the time of the adoption of the amendment by the Legal Committee have communicated to the Organization that they do not accept the amendment in which case the amendment is rejected and shall have no effect.

8. An amendment deemed to have been accepted in accordance with paragraph 7 shall enter into force eighteen months after its acceptance.

9. All Contracting States shall be bound by the amendment, unlesa they denounce this Protocol in accordance with Article 34, paragraphs 1 and 2, at least six months before the amendment enters into force. Such denunciation shall take effect when the amendment enters into force.

10. When an amendment has been adopted by the Legal Committee but the eighteen-month period for its acceptance has not yet expired, a State which becomes a Contracting State during that period shall be bound by the amendment if it enters into force. A State which becomes a Contracting State after that period shall be bound by an amendment which has been accepted in accordance with paragraph 7. In the cases referred to in this paragraph, a State becomes bound by an amendment when that amendment enters into force, or when this Protocol enters into force for that State, if later.

Article 34

Denunciation

1. This Protocol may be denounced by any Party at any time after the date on which it enters into force for that Party.

2. Denunciation shall be effected by the deposit of an instrument with the Secretary-General of the Organization.

3. A denunciation shall take effect twelve months, or such longer period as may be specified in the instrument of denunciation, after its deposit with the Secretary-General of the Organization.

4. Denunciation of the 1992 Liability Convention shall be deemed to be a denunciation of this Protocol. Such denunciation shall take effect on the date on which denunciation of the Protocol of 1992 to amend the 1969 Liability Convention takes effect according to Article 16 of that Protocol.

5. Any Contracting State to this Protocol which has not denounced the 1971 Fund Convention and the 1969 Liability Convention as required by Article 31 shall be deemed to have denounced this Protocol with effect twelve months after the expiry of the six-month period mentioned in that Article. As from the date on which the denunciations provided for in Article 31 take effect, any Party to this Protocol which deposits an instrument of ratification, acceptance, approval or accession to the 1969 Liability Convention shall be deemed to have denounced this Protocol with effect from the date on which such instrument takes effect.

6. As between the Parties to this Protocol, denunciation by any of them of the 1971 Fund Convention in accordance with Article 41 thereof shall not be construed in any way as a denunciation of the 1971 Fund Convention as amended by this Protocol.

7. Notwithstanding a denunciation of this Protocol by a Party pursuant to this Article, any provisions of this Protocol relating to the obligations to make contributions under Article 10 of the 1971 Fund Convention as amended by this Protocol with respect to an incident referred to in Article 12, paragraph 2(b), of that amended Convention and occurring before the denunciation takes effect shall continue to apply.

Article 35

Extraordinary sessions of the Assembly

1. Any Contracting State may, within ninety days after the deposit of an instrument of denunciation the result of which it considers will significantly increase the level of contributions for the remaining Contracting States, request the Director to convene an extraordinary session of the Assembly. The Director shall convene the Assembly to meet not later than sixty days after receipt of the request.

2. The Director may convene, on his own initiative, an extraordinary session of the Assembly to meet within sixty days after the deposit of any instrument of denunciation, if he considers that such denunciation will result in a significant increase in the level of contributions of the remaining Contracting States.

3. If the Assembly at an extraordinary session convened in accordance with paragraph 1 or 2 decides that the denunciation will result in a significant increase in the level of contributions for the remaining Contracting States, any such State may, not later than one hundred and twenty days before the date on which the denunciation takes effect, denounce this Protocol with effect from the same date.

Article 36

Termination

1. This Protocol shall cease to be in force on the date when the number of Contracting States falls below three.

2. States which are bound by this Protocol on the day before the date it ceases to be in force shall enable the Fund to exercise its functions as described under Article 37 of this Protocol and shall, for that purpose only, remain bound by this Protocol.

Article 37

Winding up of the Fund

1. If this Protocol ceases to be in force, the Fund shall nevertheless:

(a) meet its obligations in respect of any incident occurring before the Protocol ceased to be in force;

(b) be entitled to exercise its rights to contributions to the extent that these contributions are necessary to meet the obligations under subparagraph (a), including expenses for the administration of the Fund necessary for this purpose.

2. The Assembly shall take all appropriate measures to complete the winding up of the Fund including the distribution in an equitable manner of any remaining assets among those persons who have contributed to the Fund.

3. For the purposes of this Article the Fund shall remain a legal person.

Article 38

Depositary

1. This Protocol and any amendments accepted under Article 33 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 this Protocol of:

(i) each new signature or deposit of an instrument together with the date thereof;

(ii) each declaration and notification under Article 30 including declarations and withdrawals deemed to have been made in accordance with that Article;

(iii) the date of entry into force of this Protocol;

(iv) the date by which denunciations provided for in Article 31 are required to be made;

(v) any proposal to amend limits of amounts of compensation which has been made in accordance with Article 33, paragraph 1;

(vi) any amendment which has been adopted in accordance with Article 33, paragraph 4;

(vii) any amendment deemed to have been accepted under Article 33, paragraph 7, together with the date on which that amendment shall enter into force in accordance with paragraphs 8 and 9 of that Article;

(viii) the deposit of an instrument of denunciation of this Protocol together with the date of the deposit and the date on which it takes effect;

(ix) any denunciation deemed to have been made under Article 34, paragraph 5;

(x) any communication called for by any Article in this Protocol;

(b) transmit certified true copies of this Protocol to all Signatory States and to all States which accede to the Protocol.

3. As soon as this Protocol enters 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 39

Languages

This Protocol is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE AT LONDON this twenty-seventh day of November one thousand nine hundred and ninety-two.

IN WITNESS WHEREOF the undersigned being duly authorized for that purpose have signed this Protocol.

[*For the signaturese, see p. 442 of this volume.*]

Annex 117

Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment, 21 June 1993, European Treaty Series No. 150

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

European Treaty Series - No. 150

Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment [*]

Lugano, 21.VI.1993

The member States of the Council of Europe, the other States and the European Economic Community signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Noting that one of the objectives of the Council of Europe is to contribute to the quality of life of human beings, in particular by promoting a natural, healthy and agreeable environment;

Considering the wish of the Council of Europe to co-operate with other States in the field of nature conservation and protection of the environment;

Realising that man, the environment and property are exposed to specific dangers caused by certain activities;

Considering that emissions released in one country may cause damage in another country and that, therefore, the problems of adequate compensation for such damage are also of an international nature;

Having regard to the desirability of providing for strict liability in this field taking into account the "Polluter Pays" Principle;

Mindful of the work which has already been carried out at an international level, in particular to prevent damage and to deal with damage caused by nuclear substances and the carriage of dangerous goods;

Having noted Principle 13 of the 1992 Rio Declaration on Environment and Development, according to which "States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage; they shall also co-operate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction";

Recognising the need to adopt further measures to deal with grave and imminent threats of damage from dangerous activities and to facilitate the burden of proof for persons requesting compensation for such damage,

Have agreed as follows:

(*) 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.

Chapter I – General provisions

Article 1 – Object and purpose

This Convention aims at ensuring adequate compensation for damage resulting from activities dangerous to the environment and also provides for means of prevention and reinstatement.

Article 2 – Definitions

For the purpose of this Convention:

1 "Dangerous activity" means one or more of the following activities provided that it is performed professionally, including activities conducted by public authorities:

a the production, handling, storage, use or discharge of one or more dangerous substances or any operation of a similar nature dealing with such substances;

b the production, culturing, handling, storage, use, destruction, disposal, release or any other operation dealing with one or more:

– genetically modified organisms which as a result of the properties of the organism, the genetic modification and the conditions under which the operation is exercised, pose a significant risk for man, the environment or property;

– micro-organisms which as a result of their properties and the conditions under which the operation is exercised pose a significant risk for man, the environment or property, such as those micro-organisms which are pathogenic or which produce toxins;

c the operation of an installation or site for the incineration, treatment, handling or recycling of waste, such as those installations or sites specified in Annex II, provided that the quantities involved pose a significant risk for man, the environment or property;

d the operation of a site for the permanent deposit of waste.

2 "Dangerous substance" means:

a substances or preparations which have properties which constitute a significant risk for man, the environment or property. A substance or preparation which is ex-plosive, oxidizing, extremely flammable, highly flammable, flammable, very toxic, toxic, harmful, corrosive, irritant, sensitizing, carcinogenic, mutagenic, toxic for reproduction or dangerous for the environment within the meaning of Annex I, Part A to this Convention shall in any event be deemed to constitute such a risk;

b substances specified in Annex I, Part B to this Convention. Without prejudice to the application of sub-paragraph a above, Annex I, Part B may restrict the specification of dangerous substances to certain quantities or concentrations, certain risks or certain situations.

3 "Genetically modified organism" means any organism in which the genetic material has been altered in a way which does not occur naturally by mating and/or natural recombination.

However, the following genetically modified organisms are not covered by the Convention:

– organisms obtained by mutagenesis on condition that the genetic modification does not involve the use of genetically modified organisms as recipient organisms; and

– plants obtained by cell fusion (including protoplast fusion) if the resulting plant can also be produced by traditional breeding methods and on condition that the genetic modification does not involve the use of genetically modified organisms as parental organisms.

"Organism" refers to any biological entity capable of replication or of transferring genetic material.

4 "Micro-organism" means any microbiological entity, cellular or non-cellular, capable of replication or of transferring genetic material.

5 "Operator" means the person who exercises the control of a dangerous activity.

6 "Person" means any individual or partnership or any body governed by public or private law, whether corporate or not, including a State or any of its constituent subdivisions.

7 "Damage" means:

a loss of life or personal injury;

b loss of or damage to property other than to the installation itself or property held under the control of the operator, at the site of the dangerous activity;

c loss or damage by impairment of the environment in so far as this is not considered to be damage within the meaning of sub-paragraphs a or b above provided that compensation for impairment of the environment, other than for loss of profit from such impairment, shall be limited to the costs of measures of reinstatement actually undertaken or to be undertaken;

d the costs of preventive measures and any loss or damage caused by preventive measures,

to the extent that the loss or damage referred to in sub-paragraphs a to c of this paragraph arises out of or results from the hazardous properties of the dangerous substances, genetically modified organisms or micro-organisms or arises or results from waste.

8 "Measures of reinstatement" means any reasonable measures aiming to reinstate or restore damaged or destroyed components of the environment, or to introduce, where reasonable, the equivalent of these components into the environment. Internal law may indicate who will be entitled to take such measures.

9 "Preventive measures" means any reasonable measures taken by any person, after an incident has occurred to prevent or minimise loss or damage as referred to in paragraph 7, sub-paragraphs a to c of this article.

10 "Environment" includes:

– natural resources both abiotic and biotic, such as air, water, soil, fauna and flora and the interaction between the same factors;

– property which forms part of the cultural heritage; and

– the characteristic aspects of the landscape.

11 "Incident" means any sudden occurrence or continuous occurrence or any series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing damage.

Article 3 – Geographical scope

Without prejudice to the provisions of Chapter III, this Convention shall apply:

a when the incident occurs in the territory of a Party, as determined in accordance with Article 34, regardless of where the damage is suffered;

b when the incident occurs outside the territory referred to in sub-paragraph a above and the conflict of laws rules lead to the application of the law in force for the territory referred to in sub-paragraph a above.

Article 4 – Exceptions

1 This Convention shall not apply to damage arising from carriage; carriage includes the period from the beginning of the process of loading until the end of the process of unloading. However, the Convention shall apply to carriage by pipeline, as well as to carriage performed entirely in an installation or on a site unaccessible to the public where it is accessory to other activities and is an integral part thereof.

2 This Convention shall not apply to damage caused by a nuclear substance:

a arising from a nuclear incident the liability of which is regulated either by the Paris Convention of 29 July 1960 on third party liability in the field of nuclear energy, and its Additional Protocol of 28 January 1964, or the Vienna Convention of 21 May 1963 on civil liability for nuclear damage; or

b if liability for such damage is regulated by a specific internal law, provided that such law is as favourable, with regard to compensation for damage, as any of the instruments referred to under sub-paragraph a above.

3 This Convention shall not apply to the extent that it is incompatible with the rules of the applicable law relating to workmen's compensation or social security schemes.

Chapter II – Liability

Article 5 – Transitional provisions

1 The provisions of this chapter shall apply to incidents occurring after the entry into force of the Convention in respect of a Party. When the incident consists of a continuous occurrence or a series of occurrences having the same origin and part of these occurrences took place before the entry into force of this Convention, this chapter shall only apply to damage caused by occurrences or part of a continuous occurrence taking place after the entry into force.

2 In respect of damage caused by waste deposited at a site for the permanent deposit of waste the provisions of this chapter shall apply to damage which becomes known after the entry into force of the Convention in respect of the Party on the territory of which the site is situated. However this chapter shall not apply if:

a the site was closed in accordance with the provisions of internal law before the entry into force of the Convention;

b the operator proves, in the case where the operation of the site continues after that entry into force of the Convention, that the damage was caused solely by waste deposited there before that entry into force.

Article 6 – Liability in respect of substances, organisms and certain waste installations or sites

1 The operator in respect of a dangerous activity mentioned under Article 2, paragraph 1, sub-paragraphs a to c shall be liable for the damage caused by the activity as a result of incidents at the time or during the period when he was exercising the control of that activity.

2 If an incident consists of a continuous occurrence, all operators successively exercising the control of the dangerous activity during that occurrence shall be jointly and severally liable. However, the operator who proves that the occurrence during the period when he was exercising the control of the dangerous activity caused only a part of the damage shall be liable for that part of the damage only.

3 If an incident consists of a series of occurrences having the same origin, the operators at the time of any such occurrence shall be jointly and severally liable. However, the operator who proves that the occurrence at the time when he was exercising the control of the dangerous activity caused only a part of the damage shall be liable for that part of the damage only.

4 If the damage resulting from a dangerous activity becomes known after all such dangerous activity in the installation or on the site has ceased, the last operator of this activity shall be liable for that damage unless he or the person who suffered damage proves that all or part of the damage resulted from an incident which occurred at a time before he became the operator. If it is so proved, the provisions of paragraphs 1 to 3 of this article shall apply.

5 Nothing in this Convention shall prejudice any right of recourse of the operator against any third party.

Article 7 – Liability in respect of sites for the permanent deposit of waste

1 The operator of a site for the permanent deposit of waste at the time when damage caused by waste deposited at that site becomes known, shall be liable for this damage. Should the damage caused by waste deposited before the closure of such a site become known after that closure, the last operator shall be liable.

2 Liability under this article shall apply to the exclusion of any liability of the operator under Article 6, irrespective of the nature of the waste.

3 Liability under this article shall apply to the exclusion of any liability of the operator under Article 6 if the same operator conducts another dangerous activity on the site for the permanent deposit of waste.

However, if this operator or the person who has suffered damage proves that only a part of the damage was caused by the activity concerning the permanent deposit of waste, this article shall only apply to that part of the damage.

4 Nothing in this Convention shall prejudice any right of recourse of the operator against any third party.

Article 8 – Exemptions

The operator shall not be liable under this Convention for damage which he proves:

a was caused by an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;

b was caused by an act done with the intent to cause damage by a third party, despite safety measures appropriate to the type of dangerous activity in question;

c resulted necessarily from compliance with a specific order or compulsory measure of a public authority;

d was caused by pollution at tolerable levels under local relevant circumstances; or

e was caused by a dangerous activity taken lawfully in the interests of the person who suffered the damage, whereby it was reasonable towards this person to expose him to the risks of the dangerous activity.

Article 9 – Fault of the person who suffered the damage

If the person who suffered the damage or a person for whom he is responsible under internal law, has, by his own fault, contributed to the damage, the compensation may be reduced or disallowed having regard to all the circumstances.

Article 10 – Causality

When considering evidence of the causal link between the incident and the damage or, in the context of a dangerous activity as defined in Article 2, paragraph 1, sub-paragraph d, between the activity and the damage, the court shall take due account of the increased danger of causing such damage inherent in the dangerous activity.

Article 11 – Plurality of installations or sites

When damage results from incidents which have occurred in several installations or on several sites where dangerous activities are conducted or from dangerous activities under Article 2, paragraph 1, sub-paragraph d, the operators of the installations or sites concerned shall be jointly and severally liable for all such damage. However, the operator who proves that only part of the damage was caused by an incident in the installation or on the site where he conducts the dangerous activity or by a dangerous activity under Article 2, paragraph 1, sub-paragraph d, shall be liable for that part of the damage only.

Article 12 – Compulsory financial security scheme

Each Party shall ensure that where appropriate, taking due account of the risks of the activity, operators conducting a dangerous activity on its territory be required to participate in a financial security scheme or to have and maintain a financial guarantee up to a certain limit, of such type and terms as specified by internal law, to cover the liability under this Convention.

Chapter III – Access to information

Article 13 – Definition of public authorities

For the purpose of this chapter "public authorities" means any public administration of a Party at national, regional or local level with responsibilities, and possessing information relating to the environment, with the exception of bodies acting in a judicial or legislative capacity.

Article 14 – Access to information held by public authorities

1 Any person shall, at his request and without his having to prove an interest, have access to information relating to the environment held by public authorities.

The Parties shall define the practical arrangements under which such information is effectively made available.

2 The right of access may be restricted under internal law where it affects:

– the confidentiality of the proceedings of public authorities, international relations and national defence;

– public security;

– matters which are or have been *sub judice*, or under enquiry (including disciplinary enquiries), or which are the subject of preliminary investigation proceedings;

– commercial and industrial confidentiality, including intellectual property;

– the confidentiality of personal data and/or files;

– material supplied by a third party without that party being under a legal obligation to do so; or

– material, the disclosure of which would make it more likely that the environment to which that material related would be damaged.

Information held by public authorities shall be supplied in part where it is possible to separate out information on items concerning the interests referred to above.

3 A request for information may be refused where it would involve the supply of unfinished documents or data or internal communications, or where the request is manifestly unreasonable or formulated in too general a manner.

4 A public authority shall respond to a person requesting information as soon as possible and at the latest within two months. The reasons for a refusal to provide the information requested must be given.

5 A person who considers that his request for information has been unreasonably refused or ignored, or has been inadequately answered by a public authority, may seek a judicial or administrative review of the decision, in accordance with the relevant internal legal system.

6 The Parties may make a charge for supplying the information, but such a charge may not exceed a reasonable cost.

Article 15 – Access to information held by bodies with public responsibilities for the environment

On the same terms and conditions as those set out in Article 14 any person shall have access to information relating to the environment held by bodies with public responsibilities for the environment and under the control of a public authority. Access shall be given via the competent public administration or directly by the bodies themselves.

Article 16 – Access to specific information held by operators

1 The person who suffered the damage may, at any time, request the court to order an operator to provide him with specific information, in so far as this is necessary to establish the existence of a claim for compensation under this Convention.

2 Where, under this Convention, a claim for compensation is made to an operator, whether or not in the framework of judicial proceedings, this operator may request the court to order another operator to provide him with specific information, in so far as this is necessary to establish the extent of his possible obligation to compensate the person who has suffered the damage, or of his own right to compensation from the other operator.

3 The operator shall be required to provide information under paragraphs 1 and 2 of this article concerning the elements which are available to him and dealing essentially with the particulars of the equipment, the machinery used, the kind and concentration of the dangerous substances or waste as well as the nature of genetically modified organisms or micro-organisms.

4 These measures shall not affect measures of investigation which may legally be ordered under internal law.

5 The court may refuse a request which places a disproportionate burden on the operator, taking into account all the interests involved.

6 In addition to the restrictions under Article 14, paragraph 2 of this Convention, which shall apply *mutatis mutandis*, the operator may refuse to provide information where such information would incriminate him.

7 Any reasonable charge shall be paid by the person requesting the information. The operator may require an appropriate guarantee for such payment. However a court, when allowing a claim for compensation, may establish that this charge shall be borne by the operator, except to the extent that the request resulted in unnecessary costs.

Chapter IV – Actions for compensation and other claims

Article 17 – Limitation periods

1 Actions for compensation under this Convention shall be subject to a limitation period of three years from the date on which the claimant knew or ought reasonably to have known of the damage and of the identity of the operator. The laws of the Parties regulating suspension or interruption of limitation periods shall apply to the limitation period prescribed in this paragraph.

2 However, in no case shall actions be brought after thirty years from the date of the incident which caused the damage. Where the incident consists of a continuous occurrence the thirty years' period shall run from the end of that occurrence. Where the incident consists of a series of occurrences having the same origin the thirty years' period shall run from the date of the last of such occurrences. In respect of a site for the permanent deposit of waste the thirty years' period shall at the latest run from the date on which the site was closed in accordance with the provisions of internal law.

Article 18 – Requests by organisations

1 Any association or foundation which according to its statutes aims at the protection of the environment and which complies with any further conditions of internal law of the Party where the request is submitted may, at any time, request:

a the prohibition of a dangerous activity which is unlawful and poses a grave threat of damage to the environment;

b that the operator be ordered to take measures to prevent an incident or damage;

c that the operator be ordered to take measures, after an incident, to prevent damage; or

d that the operator be ordered to take measures of reinstatement.

2 Internal law may stipulate cases where the request is inadmissible.

3 Internal law may specify the body, whether administrative or judicial, before which the request referred to in paragraph 1 above should be made. In all cases provision shall be made for a right of review.

4 Before deciding upon a request mentioned under paragraph 1 above the requested body may, in view of the general interests involved, hear the competent public authorities.

5 When the internal law of a Party requires that the association or foundation has its registered seat or the effective centre of its activities in its territory, the Party may declare at any time, by means of a notification addressed to the Secretary General of the Council of Europe, that, on the basis of reciprocity, an association or foundation having its seat or centre of activities in the territory of another Party and complying in that other Party with the other conditions mentioned in paragraph 1 above shall have the right to submit requests in accordance with paragraphs 1 to 3 above. The declaration will become effective on the first day of the month following the expiration of a period of three months after the date of its reception by the Secretary General.

Article 19 – Jurisdiction

1 Actions for compensation under this Convention may only be brought within a Party at the court of the place:

a where the damage was suffered;

b where the dangerous activity was conducted; or

c where the defendant has his habitual residence.

2 Requests for access to specific information held by operators under Article 16, paragraphs 1 and 2 may only be submitted within a Party at the court of the place:

a where the dangerous activity is conducted; or

b where the operator who may be required to provide the information has his habitual residence.

3 Requests by organisations under Article 18, paragraph 1, sub-paragraph a may only be submitted within a Party at the court or, if internal law so provides, at a competent administrative authority of the place where the dangerous activity is or will be conducted.

4 Requests by organisations under Article 18, paragraph 1, sub-paragraphs b, c and d may only be submitted within a Party at the court or, if internal law so provides, at a competent administrative authority:

a of the place where the dangerous activity is or will be conducted; or

b of the place where the measures are to be taken.

Article 20 – Notification

The court shall stay the proceedings so long as it is not shown that the defendant has been able to receive the document instituting the proceedings or an equivalent document in sufficient time to enable him to arrange for his defence, or that all necessary steps have been taken to this end.

Article 21 – *Lis pendens*

1 Where proceedings involving the same cause of action and between the same parties are brought in the courts of different Parties, any court other than the court first seised shall of its own motion stay its proceedings until such time as the jurisdiction of the court first seised is established.

2 Where the jurisdiction of the court first seised is established, any court other than the court first seised shall decline jurisdiction in favour of that court.

Article 22 – Related actions

1 Where related actions are brought in the courts of different Parties, any court other than the court first seised may, while the actions are pending at first instance, stay its proceedings.

2 A court other than the court first seised may also, on the application of one of the parties, decline jurisdiction if the law of that court permits the consolidation of related actions and the court first seised has jurisdiction over both actions.

3 For the purposes of this article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgments resulting from separate proceedings.

Article 23 – Recognition and enforcement

1 Any decision given by a court with jurisdiction in accordance with Article 19 above where it is no longer subject to ordinary forms of review, shall be recognised in any Party, unless:

a such recognition is contrary to public policy in the Party in which recognition is sought;

b it was given in default of appearance and the defendant was not duly served with the document which instituted the proceedings or with an equivalent document in sufficient time to enable him to arrange for his defence;

c the decision is irreconcilable with a decision given in a dispute between the same parties in the Party in which recognition is sought; or

d the decision is irreconcilable with an earlier decision given in another State involving the same cause of action and between the same parties, provided that this latter decision fulfils the conditions necessary for its recognition in the Party addressed.

2 A decision recognised under paragraph 1 above which is enforceable in the Party of origin shall be enforceable in each Party as soon as the formalities required by that Party have been completed. The formalities shall not permit the merits of the case to be re-opened.

Article 24 – Other treaties relating to jurisdiction, recognition and enforcement

Whenever two or more Parties are bound by a treaty establishing rules of jurisdiction or providing for recognition and enforcement in a Party of decisions given in another Party, the provisions of that treaty shall replace the corresponding provisions of Articles 19 to 23.

Chapter V – Relation between this Convention and other provisions

Article 25 – Relation between this Convention and other provisions

1 Nothing in this Convention shall be construed as limiting or derogating from any of the rights of the persons who have suffered the damage or as limiting the provisions concerning the protection or reinstatement of the environment which may be provided under the laws of any Party or under any other treaty to which it is a Party.

2 In their mutual relations, Parties which are members of the European Economic Community shall apply Community rules and shall therefore not apply the rules arising from this Convention except in so far as there is no Community rule governing the particular subject concerned.

Chapter VI – The Standing Committee

Article 26 – The Standing Committee

1 For the purposes of this Convention, a Standing Committee is hereby set up.

2 Each Party may be represented on the Standing Committee by one or more delegates.

3 Each delegation shall have one vote. However, within the areas of its competence the European Economic Community shall exercise its right to vote in the Standing Committee with a number of votes equal to the number of its member States which are Parties to this Convention. It shall not exercise its right to vote in cases where the member States exercise theirs and conversely. As long as no member State of the European Economic Community is a Party, the Community as a Party shall have one vote.

4 Any State referred to in Article 32 or invited to accede to the Convention in accordance with the provisions of Article 33 which is not a Party to this Convention may be represented on the Standing Committee by an observer. If the European Economic Community is not a Party it may be represented on the Standing Committee by an observer.

5 Unless, at least one month before the meeting, a Party has informed the Secretary General of its objection, the Standing Committee may invite the following to attend as observers at all its meetings or one or part of a meeting:

- any State not referred to in paragraph 4 above;
- any international or national, governmental or non-governmental body technically qualified in the fields covered by this Convention.

6 The Standing Committee may seek the advice of experts in order to discharge its functions.

7 The Standing Committee shall be convened by the Secretary General of the Council of Europe. It shall meet whenever one-third of the Parties or the Committee of Ministers of the Council of Europe so request.

8 One-third of the Parties shall constitute a quorum for holding a meeting of the Standing Committee.

9 Decisions may only be taken in the Standing Committee if at least one-half of the Parties are present.

10 Subject to Articles 27 and 29 to 31 the decisions of the Standing Committee shall be taken by a majority of the members present.

11 Subject to the provisions of this Convention the Standing Committee shall draw up its own rules of procedure.

Article 27 – Functions of the Standing Committee

The Standing Committee shall keep under review problems relating to this Convention. It may, in particular:

a consider any question of a general nature referred to it concerning interpretation or implementation of the Convention. The Standing Committee's conclusions concerning implementation of the Convention may take the form of a recommendation; recommendations shall be adopted by a three quarters majority of the votes cast;

b propose any necessary amendments to the Convention including its annexes and examine those proposed in accordance with Articles 29 to 31.

Article 28 – Reports of the Standing Committee

After each meeting, the Standing Committee shall forward to the Parties and the Committee of Ministers of the Council of Europe a report on its discussions and any decisions taken.

Chapter VII – Amendments to the Convention

Article 29 – Amendments to the Articles

1 Any amendment to the articles of this Convention proposed by a Party or the Standing Committee 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 the European Economic Community, to any Signatory, to any Party, to any State invited to sign this Convention in accordance with the provisions of Article 32 and to any State invited to accede to it in accordance with the provisions of Article 33.

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 25 shall submit the text adopted by a three-quarters majority of the votes cast to the Parties for acceptance;

b for amendments to Articles 26 to 37 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 Parties for acceptance.

3 Any amendment to Articles 1 to 25 shall enter into force, in respect of those Parties which have accepted it, on the first day of the month following the expiration of a period of one month after the date on which three Parties, including at least two member States of the Council of Europe, have informed the Secretary General that they have accepted it.

In respect of any Party which subsequently accepts it, the amendment shall enter into force on the first day of the month following the expiration of a period of one month after the date on which that Party has informed the Secretary General of its acceptance.

4 Any amendment to Articles 26 to 37 shall enter into force on the first day of the month following the expiration of a period of one month after the date on which all Parties have informed the Secretary General that they have accepted it.

Article 30 – Amendments to the annexes

1 Any amendment to the annexes of this Convention proposed by a Party or the Standing Committee 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 the European Economic Community, to any Signatory, to any Party, to any State invited to sign this Convention in accordance with the provisions of Article 32 and to any State invited to accede to it in accordance with the provisions of Article 33.

2 Any amendment proposed in accordance with the provisions of the preceding paragraph or, where appropriate, of Article 31 shall be examined by the Standing Committee, which may adopt it by a three-quarters majority of the votes cast. The text adopted shall be forwarded to the Parties.

3 On the first day of the month following the expiration of a period of eighteen months after its adoption by the Standing Committee, unless more than one-third of the Parties have notified objections, any amendment shall enter into force for those Parties which have not notified objections.

Article 31 – Tacit amendments to Annex I, Parts A and B

1 Whenever the European Economic Community adopts an amendment to one of the annexes to the directives referred to in Annex I, Parts A and B of this Convention, the Secretary General shall communicate it to all the Parties not later than four months after its publication in the *Official Journal of the European Communities*.

2 Within a time limit of six months after this communication, any Party may request that the amendment be submitted to the Standing Committee, in which case the procedure under Article 30, paragraphs 2 and 3, shall be followed. If no Party requests the submission of the amendment to the Standing Committee, the provisions of paragraph 3 below shall apply.

3 On the first day of the month following the expiration of a period of eighteen months after the communication of the amendment to all Parties, and unless more than one-third of the Parties have notified objections, the amendment shall enter into force for those Parties which have not notified objections.

However, the entry into force of the amendment shall be postponed to the date fixed for the member States of the European Economic Community for the compliance of their domestic law with the directive, if this date is later than that resulting from the time limit stated in the first part of this paragraph.

Chapter VIII – Final clauses

Article 32 – Signature, ratification and entry into force

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

2 This 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.

3 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which three States, including at least two member States of the Council of Europe, have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 2 of the present article.

4 In respect of any Signatory 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 three months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 33 – Non-member States

1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may, on its own initiative or following a proposal from the Standing Committee and after consultation of the Parties, invite any non-member State of the Council of Europe to accede to this Convention by a decision taken by the majority provided for in Article 20, sub-paragraph 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 three months after the date of deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article 34 – Territories

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

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 and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings. 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 three 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 three months after the date of receipt of such notification by the Secretary General.

Article 35 – Reservations

1 Any Signatory may declare, at the time of signature or when depositing its instrument of ratification, acceptance or approval, that it reserves the right:

a to apply Article 3, sub-paragraph a, to damage suffered in the territory of the States which are not Parties to this Convention only on the basis of reciprocity;

b to provide in its internal law that, without prejudice to Article 8, the operator shall not be liable if he proves that in the case of damage caused by a dangerous activity mentioned under Article 2, paragraph 1, sub-paragraphs a and b, the state of scientific and technical knowledge at the time of the incident was not such as to enable the existence of the dangerous properties of the substance or the significant risk involved in the operation dealing with the organism to be discovered;

c not to apply Article 18.

Any other State may formulate the same reservations when depositing its instrument of accession.

2 Any Signatory or any other State which makes use of a reservation shall notify the Secretary General of the Council of Europe of the relevant contents of its internal law.

3 Any Party which extends the application of this Convention to a territory mentioned in the declaration referred to in Article 34, paragraph 2, may, in respect of the territory concerned, make a reservation in accordance with the provisions of the preceding paragraphs.

4 No reservation shall be made to the provisions of this Convention, except those mentioned in this article.

5 Any Party which has made one of the reservations mentioned in this article may withdraw it by means of a declaration addressed to the Secretary General of the Council of Europe. The withdrawal shall become effective on the first day of the month following the expiration of a period of one month after the date of its receipt by the Secretary General.

Article 36 – 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 three months after the date of receipt of notification by the Secretary General.

Article 37 – Notifications

The Secretary General of the Council of Europe shall notify the member States of the Council, any Signatory, any Party and any other State which has been invited to accede 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 32 or 33;

d any amendment adopted in accordance with Articles 29, 30 or 31, and the date on which such an amendment enters into force;

e any declaration made under the provisions of Articles 18 or 34;

f any reservation and withdrawal of reservation made in pursuance of the provisions of Article 35;

g 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 Lugano, this 21st day of June 1993, 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 the non-member States which have participated in the elaboration of this Convention, to the European Economic Community and to any State invited to accede to this Convention.

Annex 118

Agreement Between Australia and the Republic of Nauru for the Settlement of the Case in the International Court of Justice Concerning Certain Phosphate Lands in Nauru, (Australia and the Republic of Nauru), 10 August 1993

COUR INTERNATIONALE DE JUSTICE

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Référence abrégée :
C.I.J. Mémoires, Certaines terres à phosphates à Nauru (Nauru c. Australie), vol. III

Abbreviated reference :
I.C.J. Pleadings, Certain Phosphate Lands in Nauru (Nauru v. *Australia)*, Vol. III

ISSN 0074-4433
ISBN 92-1-070938-1

N° de vente :
Sales number **836**

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L'affaire de *Certaines terres à phosphates à Nauru (Nauru c. Australie)*, inscrite au rôle général de la Cour sous le numéro 80 le 19 mai 1989, a fait l'objet d'un arrêt rendu le 26 juin 1992 (*Certaines terres à phosphates à Nauru (Nauru c. Australie), exceptions préliminaires, arrêt, C.I.J. Recueil 1992*, p. 240). Elle en a été rayée par ordonnance de la Cour du 13 septembre 1993, à la suite du désistement par accord des Parties (*Certaines terres à phosphates à Nauru (Nauru c. Australie), C.I.J. Recueil 1993*, p. 322).

Les pièces de procédure relatives à cette affaire sont publiées dans l'ordre suivant :

Volume I. Requête introductive d'instance de Nauru ; mémoire de Nauru.
Volume II. Exceptions préliminaires de l'Australie ; exposé écrit de Nauru sur les exceptions préliminaires.
Volume III. Contre-mémoire de l'Australie ; procédure orale sur les exceptions préliminaires ; réponses écrites aux questions ; choix de correspondance ; document présenté à la Cour.

*

Au sujet de la reproduction des dossiers, la Cour a décidé que dorénavant, quel que soit le stade auquel aura pris fin une affaire, ne devront être retenus à fin de publication que les pièces de procédure écrite et les comptes rendus des audiences publiques, ainsi que les seuls documents, annexes et correspondance considérés comme essentiels à l'illustration de la décision qu'elle aura prise. En outre, la Cour a demandé expressément que, chaque fois que les moyens techniques le permettraient, les volumes soient composés de fac-similés des pièces déposées devant elle, en l'état où elles ont été produites par les parties.

De ce fait, certaines des pièces reproduites dans la présente édition ont été photographiées d'après leur présentation originale.

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S'agissant des renvois du Greffe, les chiffres romains gras indiquent le volume de la présente édition ; s'ils sont immédiatement suivis par une référence de page, cette référence renvoie à la nouvelle pagination du volume concerné. En revanche, les numéros de page qui sont précédés de l'indication d'une pièce de procédure visent la pagination originale de ladite pièce et renvoient donc à la pagination entre crochets de la pièce mentionnée.

En ce qui concerne les exposés oraux, la pagination originale est précédée du numéro d'ordre des comptes rendus distribués sous forme multicopiée provisoire sous la cote CR 91/-- et, pour les renvois, c'est aussi à la pagination correspondante placée entre crochets sur le bord intérieur des pages qu'il faudra se reporter.

Ni la typographie ni la présentation ne sauraient être utilisées aux fins de l'interprétation des textes reproduits.

La Haye, 2004.

The case concerning *Certain Phosphate Lands in Nauru (Nauru* v. *Australia)*, entered on the Court's General List on 19 May 1989 under Number 80, was the subject of a Judgment delivered on 26 June 1992 (*Certain Phosphate Lands in Nauru (Nauru* v. *Australia), Preliminary Objections, Judgment, I.C.J. Reports 1992*, p. 240). The case was removed from the List by an Order of 13 September 1993, following discontinuance by agreement of the Parties (*Certain Phosphate Lands in Nauru (Nauru* v. *Australia), I.C.J. Reports 1993*, p. 322).

The pleadings in the case are being published in the following order :

Volume I. Application instituting proceedings of Nauru; Memorial of Nauru.
Volume II. Preliminary objections of Australia; written statement of Nauru on the preliminary objections.
Volume III. Counter-Memorial of Australia; oral arguments on the preliminary objections; written replies to questions; selection of correspondence; document submitted to the Court.

*

Regarding the reproduction of case files, the Court has decided that henceforth, irrespective of the stage at which a case has terminated, publication should be confined to the written proceedings and oral arguments in the case, together with those documents, annexes and correspondence considered essential to illustrate its decision. The Court has also specifically requested that, whenever technically feasible, the volumes should consist of facsimile versions of the documents submitted to it, in the form in which they were produced by the parties.

Accordingly, certain documents reproduced in the present volume have been photographed from their original presentation.

For ease of use, in addition to the normal continuous pagination, wherever necessary this volume also contains, between square brackets on the inner margin of the pages, the original pagination of the pleadings reproduced and occasionally, within parentheses, the pagination of the original document.

In references by the Registry, bold Roman numerals are used to refer to Volumes of this edition; if they are immediately followed by a page reference, this relates to the new pagination of the Volume in question. On the other hand, the page numbers which are preceded by a reference to one of the pleadings relate to the original pagination of that pleading and accordingly refer to the bracketed pagination of the document in question.

In the case of the oral arguments, the original pagination is preceded by the number of the verbatim records as issued in a provisional duplicated form and carrying the reference CR 91/-- and it is also to the corresponding pagination between square brackets on the inner margin of the pages that one should refer for all cross-references.

Neither the typography nor the presentation may be used for the purpose of interpreting the texts reproduced.

The Hague, 2004.

DOCUMENT PRÉSENTÉ À LA COUR

DOCUMENT SUBMITTED TO THE COURT

AGREEMENT BETWEEN AUSTRALIA AND THE REPUBLIC OF NAURU FOR THE SETTLEMENT OF THE CASE IN THE INTERNATIONAL COURT OF JUSTICE CONCERNING *CERTAIN PHOSPHATE LANDS IN NAURU*

THE REPUBLIC OF NAURU AND AUSTRALIA,

Wishing to strengthen the existing friendly relations between the two countries, and

Wishing to settle amicably the application brought by the Republic of Nauru against Australia in the International Court of Justice,

Have agreed as follows:

Article 1

(1) Australia agrees that, in an effort to assist the Republic of Nauru in its preparations for its post-phosphate future, it shall pay the Republic of Nauru a cash settlement of one hundred and seven million dollars ($A107 million) as follows:

(a) The sum of ten million dollars ($A10 million) on or before 31 August 1993.
(b) The sum of thirty million dollars ($A30 million) as soon as it may lawfully be paid and not later than 31 December 1993.
(c) The sum of seventeen million dollars ($A17 million) on 31 August 1994.
(d) An amount of fifty million dollars ($A50 million) to be paid at an annual rate of $2.5 million dollars, maintained in real terms by reference to the Australian Bureau of Statistics' non-farm GDP deflator, for twenty years commencing in the financial year 1993-94.

The above payments are made without prejudice to Australia's long-standing position that it bears no responsibility for the rehabilitation of the phosphate lands worked out before 1 July 1967.

(2) At the end of the 20 year period referred to in paragraph (1) *(d)* the Republic of Nauru shall continue to receive development co-operation assistance from Australia at a mutually agreed level.

Article 2

In consequence of the undertakings by Australia in Article 1, the parties agree that they shall take the action necessary to discontinue the present proceedings brought by the Republic of Nauru against Australia in the International Court of Justice.

Article 3

The Republic of Nauru agrees that it shall make no claim whatsoever, whether in the International Court of Justice or otherwise, against all or any of Australia, the United Kingdom of Great Britain and Northern Ireland and New Zealand, their servants or agents arising out of or concerning the administration of Nauru during the period of the Mandate or Trusteeship or the termination of that administration, as well as any matter pertaining to phosphate mining,

including matters pertaining to the British Phosphate Commissioners, their assets or the winding up thereof.

Article 4

This Agreement shall enter into force on the date on which the parties have notified each other that the constitutional requirements of each party for the entry into force of this Agreement have been complied with.

DONE in two originals at Nauru this 10th day of August 1993.

For Australia,

(Signed) Paul KEATING,
Prime Minister.

For the Republic of Nauru,

(Signed) Bernard DOWIYOGO,
President.

Annex 119

Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 24 November 1993, 2221 UNTS 91

No. 39486

Multilateral

Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. Rome, 24 November 1993

Entry into force: *24 April 2003, in accordance with article XI (see following page)*

Authentic texts: *Arabic, Chinese, English, French and Spanish*

Registration with the Secretariat of the United Nations: *Food and Agriculture Organization of the United Nations, 1 August 2003*

Multilatéral

Accord visant à favoriser le respect par les navires de pêche en haute mer des mesures internationales de conservation et de gestion. Rome, 24 novembre 1993

Entrée en vigueur : *24 avril 2003, conformément à l'article XI (voir la page suivante)*

Textes authentiques : *arabe, chinois, anglais, français et espagnol*

Enregistrement auprès du Secrétariat des Nations Unies : *Organisation des Nations Unies pour l'alimentation et l'agriculture, 1er août 2003*

Participant	Acceptance			
Argentina	24	Jun	1996	A
Barbados	26	Oct	2000	A
Benin	4	Jan	1999	A
Canada	20	May	1994	A
Cyprus	19	Jul	2000	A
Egypt	14	Aug	2001	A
European Community	6	Aug	1996	A
Georgia	7	Sep	1994	A
Japan	20	Jun	2000	A
Madagascar	26	Oct	1994	A
Mauritius	27	Mar	2003	A
Mexico	11	Mar	1999	A
Morocco	30	Jan	2001	A
Myanmar	8	Sep	1994	A
Namibia	7	Aug	1998	A
Norway	28	Dec	1994	A
Peru	23	Feb	2001	A
Republic of Korea	24	Apr	2003	A
Saint Kitts and Nevis	24	Jun	1994	A
Saint Lucia	23	Oct	2002	A
Seychelles	7	Apr	2000	A
Sweden	25	Oct	1994	A
Syrian Arab Republic with reservation[1]	13	Nov	2002	A
United Republic of Tanzania	17	Feb	1999	A
United States of America	19	Dec	1995	A
Uruguay	11	Nov	1999	A

[1] For the text of the reservation made upon accceptance see p 154 of this volume.

Participant	**Acceptation**
Argentine	24 juin 1996 A
Barbade	26 oct 2000 A
Bénin	4 janv 1999 A
Canada	20 mai 1994 A
Chypre	19 juil 2000 A
Communauté européenne	6 août 1996 A
Géorgie	7 sept 1994 A
Japon	20 juin 2000 A
Madagascar	26 oct 1994 A
Maroc	30 janv 2001 A
Maurice	27 mars 2003 A
Mexique	11 mars 1999 A
Myanmar	8 sept 1994 A
Namibie	7 août 1998 A
Norvège	28 déc 1994 A
Pérou	23 févr 2001 A
République arabe syrienne avec réserve [1]	13 nov 2002 A
République de Corée	24 avr 2003 A
République-Unie de Tanzanie	17 févr 1999 A
Saint-Kitts-et-Nevis	24 juin 1994 A
Sainte-Lucie	23 oct 2002 A
Seychelles	7 avr 2000 A
Suède	25 oct 1994 A
Uruguay	11 nov 1999 A
Égypte	14 août 2001 A
États-Unis d'Amérique	19 déc 1995 A

[1] Pour le texte de la réserve faite lors de l'acceptation, voir p. 154 du présent volume.

[ENGLISH TEXT — TEXTE ANGLAIS]

AGREEMENT TO PROMOTE COMPLIANCE WITH INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES BY FISHING VESSELS ON THE HIGH SEAS

PREAMBLE

The Parties to this Agreement,

Recognizing that all States have the right for their nationals to engage in fishing on the high seas, subject to the relevant rules of international law, as reflected in the United Nations Convention on the Law of the Sea,

Further recognizing that, under international law as reflected in the United Nations Convention on the Law of the Sea, all States have the duty to take, or to cooperate with other States in taking such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas,

Acknowledging the right and interest of all States to develop their fishing sectors in accordance with their national policies, and the need to promote cooperation with developing countries to enhance their capabilities to fulfil their obligations under this Agreement,

Recalling that Agenda 21, adopted by the United Nations Conference on Environment and Development, calls upon States to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas,

Further recalling that the Declaration of Cancun, adopted by the International Conference on Responsible Fishing, also calls on States to take action in this respect,

Bearing in mind that under Agenda 21, States commit themselves to the conservation and sustainable use of marine living resources on the high seas,

Calling upon States which do not participate in global, regional or subregional fisheries organizations or arrangements to join or, as appropriate, to enter into understandings with such organizations or with parties to such organizations or arrangements with a view to achieving compliance with international conservation and management measures,

Conscious of the duties of every State to exercise effectively its jurisdiction and control over vessels flying its flag, including fishing vessels and vessels engaged in the transhipment of fish,

Mindful that the practice of flagging or reflagging fishing vessels as a means of avoiding compliance with international conservation and management measures for living marine resources, and the failure of flag States to fulfil their responsibilities with respect to fishing vessels entitled to fly their flag, are among the factors that seriously undermine the effectiveness of such measures,

Realizing that the objective of this Agreement can be achieved through specifying flag States' responsibility in respect of fishing vessels entitled to fly their flags and operating on the high seas, including the authorization by the flag State of such operations, as well as

through strengthened international cooperation and increased transparency through the exchange of information on high seas fishing,

Noting that this Agreement will form an integral part of the International Code of Conduct for Responsible Fishing called for in the Declaration of Cancun,

Desiring to conclude an international agreement within the framework of the Food and Agriculture Organization of the United Nations, hereinafter referred to as FAO, under Article XIV of the FAO Constitution,

Have agreed as follows:

Article I. Definitions

For the purposes of this Agreement:

(a) "fishing vessel" means any vessel used or intended for use for the purposes of the commercial exploitation of living marine resources, including mother ships and any other vessels directly engaged in such fishing operations;

(b) "international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law as reflected in the 1982 United Nations Convention on the Law of the Sea. Such measures may be adopted either by global, regional or subregional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements;

(e) "length" means

(i) for any fishing vessel built after 18 July 1982, 96 percent of the total length on a waterline at 85 percent 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;

(ii) for any fishing vessel built before 18 July 1982, registered length as entered on the national register or other record of vessels;

(d) "record of fishing vessels" means a record of fishing vessels in which are recorded pertinent details of the fishing vessel. It may constitute a separate record for fishing vessels or form part of a general record of vessels;

(e) "regional economic integration organization" means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;

(f) "vessels entitled to fly its flag" and "vessels entitled to fly the flag of a State", includes vessels entitled to fly the flag of a member State of a regional economic integration organization.

Article II. Application

1. Subject to the following paragraphs of this Article, this Agreement shall apply to all fishing vessels that are used or intended for fishing on the high seas.

2. A Party may exempt fishing vessels of less than 24 metres in length entitled to fly its flag from the application of this Agrecment unless the Party determines that such an exemption would undermine the object and purpose of this Agreement, provided that such exemptions:

(a) shall not be granted in respect of fishing vessels operating in fishing regions referred to in paragraph 3 below, other than fishing vessels that are entitled to fly the flag of a coastal State of that fishing region; and

(b) shall not apply to the obligations undertaken by a Party under paragraph 1 of Article III, or paragraph 7 of Article VI of this Agreement.

3. Without prejudice to the provisions of paragraph 2 above, in any fishing region where bordering coastal States have not yet declared exclusive economic zones, or equivalent zones of national jurisdiction over fisheries, such coastal States as are Parties to this Agreement may agree, either directly or through appropriate regional fisheries organizations, to establish a minimum length of fishing vessels below which this Agreement shall not apply in respect of fishing vessels flying the flag of any such coastal State and operating exclusively in such fishing region.

Article III. Flag State Responsibility

(a) Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures.

(b) In the event that a Party has, pursuant to paragraph 2 of Article II, granted an exemption for fishing vessels of less than 24 metres in length entitled to fly its flag from the application of other provisions of this Agreement, such Party shall nevertheless take effective measures in respect of any such fishing vessel that undermines the effectiveness of international conservation and management measures. These measures shall be such as to ensure that the fishing vessel ceases to engage in activities that undermine the effectiveness of the international conservation and management measures.

2. In particular, no Party shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been authorized to be so used by the appropriate authority or authorities of that Party. A fishing vessel so authorized shall fish in accordance with the conditions of the authorization.

3. No Party shall authorize any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless the Party is satisfied that it is able, taking into account the links that exist between it and the fishing vessel concerned, to exercise effectively its responsibilities under this Agreement in respect of that fishing vessel.

4. Where a fishing vessel that has been authorized to be used for fishing on the high seas by a Party ceases to be entitled to fly the flag of that Party, the authorization to fish on the high seas shall be deemed to have been canceled.

5. (a) No Party shall authorize any fishing vessel previously registered in the territory of another Party that has undermined the effectiveness of international conservation and management measures to be used for fishing on the high seas, unless it is satisfied that

(i) any period of suspension by another Party of an authorization for such fishing vessel to be used for fishing on the high seas has expired; and

(ii) no authorization for such fishing vessel to be used for fishing on the high seas has been withdrawn by another Party within the last three years.

(b) The provisions of subparagraph (a) abovc shall also apply in respect of fishing vessels previously registered in the territory of a State which is not a Party to this Agreement, provided that sufficient information is available to the Party concerned on the circumstances in which the authorization to fish was suspended or withdrawn.

(c) The provisions of subparagraphs (a) and (b) shall not apply where the ownership of the fishing vessel has subsequently changed, and the new owner has provided sufficient evidence. demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the fishing vessel.

(d) Notwithstanding the provisions of subparagraphs (a) and (b) above, a Party may authorize a fishing vessel, to which those subparagraphs would otherwise apply, to be used for fishing on the high seas, where the Party concerned, after having taken into account all relevant facts, including the circumstances in which the fishing authorization has been withdrawn by the other Party or State, has determined that to grant an authorization to use the vessel for fishing on the high seas would not undermine the object and purpose of this Agreement.

6. Each Party shall ensure that all fishing vessels entitled to fly its flag that it has entered in the record maintained under Article IV are marked in such a way that they can be readily identified in accordance with generally accepted standards, such as the FAO Standard Specifications for the Marking and Identification of Fishing Vessels.

7. Each Party shall ensure that each fishing vessel entitled to fly its flag shall provide it with such information on its operations as may be necessary to enable the Party to fulfil its obligations under this Agreement, including in particular information pertaining to the area of its fishing operations and to its catches and landings.

8. Each Party shall take enforcement measures in respect of fishing vessels entitled to fly its flag which act in contravention of the provisions of this Agreement, including, where appropriate, making the contravention of such provisions an. offence under national legislation. Sanctions applicable in respect of such contraventions shall be of sufficient gravity as to be effective in securing compliance with the requirements of this Agreement and to deprive offenders of the benefits accruing from their illegal activities. Such sanctions shall, for serious offences, include refusal, suspension or withdrawal of the authorization to fish on the high seas.

Article IV. Records of Fishing Vessels

Each Party shall, for the purposes of this Agreement, maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing on the high seas, and shall take such measures as may be necessary to ensure that all such fishing vessels are entered in that record.

Article V. International Cooperation

1. The Parties shall cooperate as appropriate in the implementation of this Agreement, and shall, in particular, exchange information, including evidentiary material, relating to activities of fishing vessels in order to assist the flag State in identifying those fishing vessels flying its flag reported to have engaged in activities undermining international conservation and management measures, so as to fulfil its obligations under Article III.

2. When a fishing vessel is voluntarily in the port of a Party other than its flag State, that Party, where it has reasonable grounds for believing that the fishing vessel has been used for an activity that undermines the effectiveness of international conservation and management measures, shall promptly notify the flag State accordingly. Parties may make arrangements regarding the undertaking by port States of such investigatory measures as may be considered necessary to establish whether the fishing vessel has indeed been used contrary to the provisions of this Agreement.

3. The Parties shall, when and as appropriate, enter into cooperative agreements or arrangements of mutual assistance on a global, regional, sub-regional or bilateral basis so as to promote the achievement of the objectives of this Agreement.

Article VI. Exchange of Information

1. Each Party shall make readily available to FAO the following information with respect to each fishing vessel entered in the record required to be maintained under Article IV:

(a) name of fishing vessel, registration number, previous names (if known), and port of registry;

(b) previous flag (if any);

(c) International Radio Call Sign (if any);

(d) name and address of owner or owners;

(e) where and when built;

(f) type of vessel;

(g) length.

2. Each Party shall, to the extent practicable, make available to FAO the following additional information with respect to each fishing vessel entered in the record required to be maintained under Article IV:

(a) name and address of operator (manager) or operators (managers) (if any);

(b) type of fishing method or methods;

(c) moulded depth;

(d) beam;

(e) gross register tonnage;

(f) power of main engine or engines.

3. Each Party shall promptly notify to FAO any modifications to the information listed in paragraphs 1 and 2 of this Article.

4. FAO shall circulate periodically the information provided under paragraphs 1, 2, and 3 of this Article to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information on request individually to any global, regional or sub-regional fisheries organization.

5. Each Party shall also promptly inform FAO of -

(a) any additions to the record;

(b) any deletions from the record by reason of -

(i) the voluntary relinquishment or non-renewal of the fishing authorization by the fishing vessel owner or operator;

(ii) the withdrawal of the fishing authorization issued in respect of the fishing vessel under paragraph 8 of Article 111;

(iii) the fact that the fishing vessel concerned is no longer entitled to fly its flag;

(iv) the scrapping, decommissioning or loss of the fishing vessel concerned; or

(v) any other reason.

6. Where information is given to FAO under paragraph 5 (b) above, the Party concerned shall specify which of the reasons listed in that paragraph is applicable.

7. Each Party shall inform FAO of

(a) any exemption it has granted under paragraph 2 of Article II, the number and type of fishing vessel involved and the geographical areas in which such fishing vessels operate; and

(b) any agreement reached under paragraph 3 of Article II.

8. (a) Each Party shall report promptly to FAO all relevant information regarding any activities of fishing vessels flying its flag that undermine the effectiveness of international conservation and management measures, including the identity of the fishing vessel or vessels involved and measures imposed by the Party in respect of such activities. Reports on measures imposed by a Party may be subject to such limitations as may be required by national legislation with respect to confidentiality, including, in particular, confidentiality regarding measures that are not yet final.

(b) Each Party, where it has reasonable grounds to believe that a fishing vessel not entitled to fly its flag has engaged in any activity that undermines the effectiveness of international conservation and management measures, shall draw this to the attention' of the flag State concerned and may, as appropriate, draw it to the attention of FAO. It shall pro-

vide the flag State with full supporting evidence and may provide FAO with a summary of such evidence. FAO shall not circulate such information until such time as the flag State has had an opportunity to comment on the allegation and' evidence submitted, or to object as the case may be.

9. Each Party shall inform FAO of any cases where the Party, pursuant to paragraph 5 (d) of Article III, has granted an authorization notwithstanding the provisions of paragraph 5 (a) or 5 (b) of Article III. The information shall include pertinent data permitting the identification of the fishing vessel and the owner or operator and, as appropriate, any other information relevant to the Party's decision.

10. FAO shall circulate promptly the information provided under paragraphs 5, 6, 7, 8 and 9 of this Article to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information promptly on rcquest individually to' any global, regional or subregional fisheries organization.

11. The Parties shall exchange information relating to the implementation of this Agreement, including through FAO and other appropriate global, regional and sub regional fisheries organizations.

Article VII. Cooperation with Developing Countries

The Parties shall cooperate, at a global, regional, sub regional or bilateral level, and, as appropriate, with the support of FAO and other international or regional organizations, to provide assistance, including technical assistance, to Parties that are developing countries in order to assist them in fulfilling their obligations under this Agreement.

Article VIII. Non-parties

1. The Parties shall encourage any State not party to this Agreement to accept this Agreement and shall encourage any non-Party to adopt laws and regulations consistent with the provisions of this Agreement.

2. The Parties shall cooperate in a manner consistent with this Agreement and with international law to the end that fishing vessels entitled to fly the flags of non-Parties do not engage in activities that undermine the effectiveness of international conservation and management measures.

3. The Parties shall exchange information amongst themselves, either directly or through FAO,.with respect to activities of fishing vessels flying the flags of non-Parties that undermine the effectiveness of international conservation and management measures.

Article IX. Settlement of Disputes

1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.

2. In the event that the dispute is not resolved through these consultations within a reasonable period of time, the Parties in question shall consult among themselves as soon as possible with a view to having the dispute settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

3. Any dispute of this character not so resolved shall, with the consent of all Parties to the dispute, be referred for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea upon entry into force of the 1982 United Nations Convention on the Law of the Sea or to arbitration. In the case of failure to reach agreement on referral to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration, the Parties shall continue, to consult and cooperate with a view to reaching settlement of the dispute in accordance with the rules of international law relating to the conservation of living marine resources.

Article X. Acceptance

1. This Agreement shall be open to acceptance by any Member or Associate Member of FAO, and to any non-member State that is a member of the United Nations, or of any of the specialized agencies of the United Nations or of the International Atomic Energy Agency.

2. Acceptance of this Agreement shall be effected by the deposit of an instrument of acceptance with the Director-General of FAO, hereinafter referred to as the Director- General.

3. The Director-General shall inform all Parties, all Members and Associate Members of FAO and the Secretary-General of the United Nations of all instruments of acceptance received.

4. When a regional economic integration organization becomes a Party to this Agreement, such regional economic integration organization shall, in accordance with the provisions of Article 11.7 of the FAO Constitution, as appropriate, notify such modifications or clarifications to its declaration of competence submitted under Article 11.5 of the FAO Constitution as may be necessary in light of its acceptance of this Agreement. Any Party to this Agreement may, at any time, request a regional economic integration organization that is a Party to this Agreement to provide information as to which, as between the regional economic integration organization and its Member States, is responsible for the implementation of any particular matter covered by this Agreement. The regional economic integration organization shall provide this information within a reasonable time.

Article XI. Entry into Force

1. This Agreement shall enter into force as from the date of receipt by the Director General of the twenty-fifth instrument of acceptance.

2. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such an organization.

Article XII. Reservations

Acceptance of this Agreement may be made subject to reservations which shall become effective only upon unanimous acceptance by all Parties to this Agreement. The Director-General shall notify forthwith all Parties of any reservation. Parties not having replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such acceptance, the State or regional economic integration organization making the reservation shall not become a Party to this Agreement.

Article XIII. Amendments

1. Any proposal by a Party for the amendment of this Agreement shall be communicated to the Director-General.

2. Any proposed amendment of this Agreement received by the Director-General from a Party shall be presented to a regular or special session of the Conference for approval and, if the amendment involves important technical changes or imposes additional obligations on the Parties, 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 Agreement shall be transmitted to the Parties by the Director-General 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 Agreement shall require the approval of the Conference and shall come into force as from the thirtieth day after acceptance by two-thirds of the Parties. Amendments involving new obligations for Parties, however, shall come into force in respect of each Party only on acceptance by it and as from the thirtieth day after such acceptance. Any amendment shall be deemed to involve new obligations for Parties unless the Conference, in approving the amendment, decides otherwise by consensus.

5. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General, who shall inform all Parties of the receipt of acceptance and the entry into force of amendments.

6. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such an organization.

Article XIV. Withdrawal

Any Party may withdraw from this Agreement at any time after the expiry of two years from the date upon which the Agreement entered into force with respect to that Party, by giving written notice of such withdrawal to the Director-General who shall immediately inform all the Parties and the Members and Associate Members of FAO of such withdrawal. Withdrawal shall become effective at the end of the calendar year following that in which the notice of withdrawal has been received by the Director-General.

Article XV. Duties of the Depositary

The Director-General shall be the Depositary of this Agreement. The Depositary shall:

(a) send certified copies of this Agreement to each Member and Associate Member of FAO and to such non-member States as may become party to this Agreement;

(b) arrange for the registration of this Agreement, upon its entry into force, with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;

(c) inform each Member and Associate Member of FAO and any non-member States as may become Party to this Agreement of:

(i) instruments of acceptance deposited in accordance with Article X;

(ii) the date of entry into force of this Agreement in accordance with Article XI;

(iii) proposals for and the entry into force of amendments to this Agreement in accordance with Article XIII;

(iv) withdrawals from this Agreement pursuant to Article XIV.

Article XVI. Authentic Texts

The Arabic, Chinese, English, French, and Spanish texts of this Agreement are equally authentic.

Annex 120

Energy Charter Treaty, 14 June 1994, 2080 UNTS

95

No. 36116

Multilateral

The Energy Charter Treaty (with annexes). Lisbon, 17 December 1994

Entry into force: *16 April 1998, in accordance with article 44 (see following page)*

Authentic texts: *English, French, German, Italian, Russian and Spanish*

Registration with the Secretariat of the United Nations: *Portugal, 30 September 1999*

Multilatéral

Le Traité sur la Charte de l'énergie (avec annexes). Lisbonne, 17 décembre 1994

Entrée cn vigueur : *16 avril 1998, conformément à l'article 44 (voir la page suivante)*

Textes autbentiques : *anglais, français, allemand, italien, russe et espagnol*

Enregistrement auprès du Secrétariat des Nations Unies : *Portugal, 30 septembre 1999*

Participant	Ratification, Acceptance (A) and Approval (AA)			
Austria	16	Dec	1997	
Azerbaijan	23	Dec	1997	
Bulgaria	15	Nov	1996	
Croatia	9	Dec	1997	
Cyprus	16	Jan	1998	
Czech Republic	17	Jun	1996	
Denmark	16	Dec	1997	
European Communities	16	Dec	1997	AA
Finland	16	Dec	1997	
Georgia	12	Jul	1995	
Germany	16	Dec	1997	
Greece	4	Sep	1997	
Italy with declarations	16	Dec	1997	
Kazakhstan	6	Aug	1996	
Kyrgyzstan	7	Jul	1997	
Latvia	15	Jan	1996	
Liechtenstein	12	Dec	1997	
Luxembourg	27	Nov	1997	
Netherlands	16	Dec	1997	A
Portugal	16	Dec	1997	
Republic of Moldova	22	Jun	1996	
Romania	12	Aug	1997	
Slovakia	16	Oct	1995	
Slovenia	10	Sep	1997	
Spain	16	Dec	1997	
Sweden	16	Dec	1997	

Participant	Ratification, Acceptance (A) and Approval (AA)
Switzerland	19 Sep 1996
Tajikistan	25 Jun 1997
Turkmenistan	17 Jul 1997
United Kingdom of Great Britain and Northern Ireland with declarations	16 Dec 1997
Uzbekistan	12 Mar 1996

Participant	**Ratification, Acceptation (A) et Approbation (AA)**			
Allemagne	16	déc	1997	
Autriche	16	déc	1997	
Azerbaïdjan	23	déc	1997	
Bulgarie	15	nov	1996	
Chypre	16	janv	1998	
Communautés européennes	16	déc	1997	AA
Croatie	9	déc	1997	
Danemark	16	déc	1997	
Espagne	16	déc	1997	
Finlande	16	déc	1997	
Grèce	4	sept	1997	
Géorgie	12	juil	1995	
Italie avec déclarations	16	déc	1997	
Kazakhstan	6	août	1996	
Kirghizistan	7	juil	1997	
Lettonie	15	janv	1996	
Liechtenstein	12	déc	1997	
Luxembourg	27	nov	1997	
Ouzbékistan	12	mars	1996	
Pays-Bas	16	déc	1997	A
Portugal	16	déc	1997	
Roumanie	12	août	1997	
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord avec déclarations	16	déc	1997	
République de Moldova	22	juin	1996	
République tchèque	17	juin	1996	

Participant	**Ratification, Acceptation (A) et Approbation (AA)**
Slovaquie	16 oct 1995
Slovénie	10 sept 1997
Suisse	19 sept 1996
Suède	16 déc 1997
Tadjikistan	25 juin 1997
Turkménistan	17 juil 1997

[ENGLISH TEXT — TEXTE ANGLAIS]

THE ENERGY CHARTER TREATY

PREAMBLE

The Contracting Parties to this Treaty,

Having regard to the Charter of Paris for a New Europe signed on 21 November 1990;

Having regard to the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991;

Recalling that all signatories to the Concluding Document of the Hague Conference undertook to pursue the objectives and principles of the European Energy Charter and implement and broaden their co-operation as soon as possible by negotiating in good faith an Energy Charter Treaty and Protocols, and desiring to place the commitments contained in that Charter on a secure and binding international legal basis;

Desiring also to establish the structural framework required to implement the principles enunciated in the European Energy Charter;

Wishing to implement the basic concept of the European Energy Charter initiative which is to catalyse economic growth by means of measures to liberalize investment and trade in energy;

Affirming that Contracting Parties attach the utmost importance to the effective implementation of full national treatment and most favoured nation treatment, and that these commitments will be applied to the Making of Investments pursuant to a supplementary treaty;

Having regard to the objective of progressive liberalization of international trade and to the principle of avoidance of discrimination in international trade as enunciated in the General Agreement on Tariffs and Trade and its Related Instruments and as otherwise provided for in this Treaty;

Determined progressively to remove technical, administrative and other barriers to trade in Energy Materials and Products and related equipment, technologies and services;

Looking to the eventual membership in the General Agreement on Tariffs and Trade of those Contracting Parties which are not currently parties thereto and concerned to provide interim trade arrangements which will assist those Contracting Parties and not impede their preparation for such membership;

Mindful of the rights and obligations of certain Contracting Parties which are also parties to the General Agreement on Tariffs and Trade and its Related Instruments;

Having regard to competition rules concerning mergers, monopolies, anti-competitive practices and abuse of dominant position;

Having regard also to the Treaty on the Non-Proliferation of Nuclear Weapons, the Nuclear Suppliers Guidelines and other international nuclear non-proliferation obligations or understandings;

Recognizing the necessity for the most efficient exploration, production, conversion, storage, transport, distribution and use of energy;

Recalling the United Nations Framework Convention on Climate Change, the Convention on Long-Range Transboundary Air Pollution and its protocols, and other international environmental agreements with energy-related aspects; and

Recognizing the increasingly urgent need for measures to protect the environment, including the decommissioning of energy installations and waste disposal, and for internationally-agreed objectives and criteria for these purposes,

Have agreed as follows:

PART I - DEFINITIONS AND PURPOSE

Article 1 - Definitions

As used in this Treaty:

(1) "Charter" means the European Energy Charter adopted in the Concluding Document of the Hague Conference on the European Energy Charter signed at The Hague on 17 December 1991; signature of the Concluding Docnment is considered to be signature of the Charter.

(2) "Contracting Party" means a state or Regional Economic Integration Organization which has consented to be bound by this Treaty and for which the Treaty is in force.

(3) "Regional Economic Integration Organization" means an organization constituted by states to which they have transferred competence over certain matters a number of which are governed by this Treaty, including the authority to take decisions binding on them in respect of those matters.

(4) "Energy Materials and Products", based on the Harmonized System of the Customs Co-operation Council and the Combined Nomenclature of the European Communities, means the items included in Annex EM.

(5) "Economic Activity in the Energy Sector" means an economic activity concerning the exploration, extraction, refining, production, storage, land transport, transmission, distribution, trade, marketing, or sale of Energy Materials and Products except those included in Annex NI, or concerning the distribution of heat to multiple premises.

(6) "Investment" means every kind of asset, owned or controlled directly or indirectly by an Investor and includes:

(a) tangible and intangible, and movable and immovable, property, and any property rights such as leases, mortgages, liens, and pledges;

(b) a company or business enterprise, or shares, stock, or other forms of equity participation in a company or business enterprise, and bonds and other debt of a company or business enterprise;

(c) claims to money and claims to performance pursuant to contract having an economic value and associated with an Investment;

(d) Intellectual Property;

(e) Returns;

(f) any right conferred by law or contract or by virtue of any licences and permits granted pursuant to law to undertake any Economic Activity in the Energy Sector.

A change in the form in which assets are invested does not affect their character as investments and the term "Investment" includes all investments, whether existing at or made after the later of the date of entry into force of this Treaty for the Contracting Party of the Investor making the investment and that for the Contracting Party in the Area of which the investment is made (hereinafter referred to as the "Effective Date") provided that the Treaty shall only apply to matters affecting such investments after the Effective Date.

"Investment" refers to any investment associated with an Economic Activity in the Energy Sector and to investments or classes of investments designated by a Contracting Party in its Area as "Charter efficiency projects" and so notified to the Secretariat.

(7) "Investor" means:

(a) with respect to a Contracting Party:

(i) a natural person having the citizenship or nationality of or who is permanently residing in that Contracting Party in accordance with its applicable law;

(ii) a company or other organization organized in accordance with the law applicable in that Contracting Party;

(b) with respect to a "third state", a natural person, company or other organization which fulfils, mutatis mutandis, the conditions specified in subparagraph (a) for a Contracting Party.

(8) "Make Investments" or "Making of Investments" means establishing new Investments, acquiring all or part of existing Investments or moving into different fields of Investment activity.

(9) "Returns" means the amounts derived from or associated with an Investment, irrespective of the form in which they are paid, including profits, dividends, interest, capital gains, royalty payments, management, technical assistance or other fees and payments in kind.

(10) "Area" means with respect to a state that is a Contracting Party:

(a) the territory under its sovereignty, it being understood that territory includes land, internal waters and the territorial sea; and

(b) subject to and in accordance with the international law of the sea: the sea, sea-bed and its subsoil with regard to which that Contracting Party exercises sovereign rights and jurisdiction.

With respect to a Regional Economic Integration Organization which is a Contracting Party, Area means the Areas of the member states of such Organization, under the provisions contained in the agreement establishing that Organization.

(11) (a) "GATT" means "GATT 1947" or "GATT 1994", or both of them where both are applicable.

(b) "GATT 1947" means the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of

the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified.

(c) "GATT 1994" means the General Agreement on Tariffs and Trade as specified in Annex 1A of the Agreement Establishing the World Trade Organization, as subsequently rectified, amended or modified.

A party to the Agreement Establishing the World Trade Organization is considered to be a party to GATT 1994.

(d) "Related Instruments" means, as appropriate:

(i) agreements, arrangements or other legal instruments, including decisions, declarations and understandings, concluded under the auspices of GATT 1947 as subsequently rectified, amended or modified; or

(ii) the Agreement Establishing the World Trade Organization including its Annex 1 (except GATT 1994), its Annexes 2, 3 and 4, and the decisions, declarations and understandings related thereto, as subsequently rectified, amended or modified.

(12) "Intellectual Property" includes copyrights and related rights, trademarks, geographical indications, industrial designs, patents, layout designs of integrated circuits and the protection of undisclosed information.

(13)(a) "Energy Charter Protocol" or "Protocol" means a treaty, the negotiation of which is authorized and the text of which is adopted by the Charter Conference, which is entered into by two or more Contracting Parties in order to complement, supplement, extend or amplify the provisions of this Treaty with respect to any specific sector or category of activity within the scope of this Treaty, or to areas of co-operation pursuant to Title III of the Charter.

(b) "Energy Charter Declaration" or "Declaration" means a non-binding instrument, the negotiation of which is authorized and the text of which is approved by the Charter Conference, which is entered into by two or more Contracting Parties to complement or supplement the provisions of this Treaty.

(14) "Freely Convertible Currency" means a currency which is widely traded in international foreign exchange markets and widely used in international transactions.

Article 2 - Purpose of the Treaty

This Treaty establishes a legal framework in order to promote long-term co-operation in the energy field, based on complementarities and mutual benefits, in accordance with the objectives and principles of the Charter.

PART II - COMMERCE

Article 3 - International Markets

The Contracting Parties shall work to promote access to international markets on commercial terms, and generally to develop an open and competitive market, for Energy Materials and Products.

Article 4 - Non-Derogation from GATT and Related Instruments

Nothing in this Treaty shall derogate, as between particular Contracting Parties which are parties to the GATT, from the provisions of the GATT and Related Instruments as they are applied between those Contracting Parties.

Article 5 - Trade-Related Investment Measures

(1) A Contracting Party shall not apply any trade-related investment measure that is inconsistent with the provisions of article III or XI of the GATT; this shall be without prejudice to the Contracting Party's rights and obligations under the GATT and Related Instruments and Article 29.

(2) Such measures include any investment measure which is mandatory or enforceable under domestic law or under any administrative ruling, or compliance with which is necessary to obtain an advantage, and which requires:

(a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production; or

(b) that an enterprise's purchase or use of imported products be limited to an amount related to the volume or value of local products that it exports;

or which restricts:

(c) the importation by an enterprise of products used in or related to its local production, generally or to an amount related to the volume or value of local production that it exports;

(d) the importation by an enterprise of products used in or related to its local production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprise; or

(e) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production.

(3) Nothing in paragraph (1) shall be construed to prevent a Contracting Party from applying the trade-related investment measures described in subparagraphs (2)(a) and (c) as a condition of eligibility for export promotion, foreign aid, government procurement or preferential tariff or quota programmes.

(4) Notwithstanding paragraph (1), a Contracting Party may temporarily continue to maintain trade-related investment measures which were in effect more than 180 days before its signature of this Treaty, subject to the notification and phase-out provisions set out in Annex TRM.

Article 6 - Competition

(1) Each Contracting Party shall work to alleviate market distortions and barriers to competition in Economic Activity in the Energy Sector.

(2) Each Contracting Party shall ensure that within its jurisdiction it has and enforces such laws as are necessary and appropriate to address unilateral and concerted anti-competitive conduct in Economic Activity in the Energy Sector.

(3) Contracting Parties with experience in applying competition rules shall give full consideration to providing, upon request and within available resources, technical assistance on the development and implementation of competition rules to other Contracting Parties.

(4) Contracting Parties may co-operate in the enforcement of their competition rules by consulting and exchanging information.

(5) If a Contracting Party considers that any specified anti-competitive conduct carried out within the Area of another Contracting Party is adversely affecting an important interest relevant to the purposes identified in this Article, the Contracting Party may notify the other Contracting Party and may request that its competition authorities initiate appropriate enforcement action. The notifying Contracting Party shall include in such notification sufficient information to permit the notified Contracting Party to identify the anti-competitive conduct that is the subject of the notification and shall include an offer of such further information and co-operation as the notifying Contracting Party is able to provide. The notified Contracting Party or, as the case may be, the relevant competition authorities may consult with the competition authorities of the notifying Contracting Party and shall accord full consideration to the request of the notifying Contracting Party in deciding whether or not to initiate enforcement action with respect to the alleged anti-competitive conduct identified in the notification. The notified Contracting Party shall inform the notifying Contracting Party of its decision or the decision of the relevant competition authorities and may if it wishes inform the notifying Contracting Party of the grounds for the decision. If enforcement action is initiated, the notified Contracting Party shall advise the notifying Contracting Party of its outcome and, to the extent possible, of any significant interim development.

(6) Nothing in this Article shall require the provision of information by a Contracting Party contrary to its laws regarding disclosure of information, confidentiality or business secrecy.

(7) The procedures set forth in paragraph (5) and Article 27(I) shall be the exclusive means within this Treaty of resolving any disputes that may arise over the implementation or interpretation of this Article.

Article 7 - Transit

(1) Each Contracting Party shall take the necessary measures to facilitate the Transit of Energy Materials and Products consistent with the principle of freedom of transit and without distinction as to the origin, destination or ownership of such Energy Materials and Products or discrimination as to pricing on the basis of such distinctions, and without imposing any unreasonable delays, restrictions or charges.

(2) Contracting Parties shall encourage relevant entities to co-operate in:

(a) modernizing Energy Transport Facilities necessary to the Transit of Energy Materials and Products;

(b) the development and operation of Energy Transport Facilities serving the Areas of more than one Contracting Party;

(c) measures to mitigate the effects of interruptions in the supply of Energy Materials and Products;

(d) facilitating the interconnection of Energy Transport Facilities.

(3) Each Contracting Party undertakes that its provisions relating to transport of Energy Materials and Products and the use of Energy Transport Facilities shall treat Energy Materials and Products in Transit in no less favourable a manner than its provisions treat such materials and products originating in or destined for its own Area, unless an existing international agreement provides otherwise.

(4) In the event that Transit of Energy Materials and Products cannot be achieved on commercial terms by means of Energy Transport Facilities the Contracting Parties shall not place obstacles in the way of new capacity being established, except as may be otherwise provided in applicable legislation which is consistent with paragraph (1).

(5) A Contracting Party through whose Area Energy Materials and Products may transit shall not be obliged to

(a) permit the construction or modification of Energy Transport Facilities; or

(b) permit new or additional Transit through existing Energy Transport Facilities,

which it demonstrates to the other Contracting Parties concerned would endanger the security or efficiency of its energy systems, including the security of supply.

Contracting Parties shall, subject to paragraphs (6) and (7), secure established flows of Energy Materials and Products to, from or between the Areas of other Contracting Parties.

(6) A Contracting Party through whose Area Energy Materials and Products transit shall not, in the event of a dispute over any matter arising from that Transit, interrupt or reduce, permit any entity subject to its control to interrupt or reduce, or require any entity subject to its jurisdiction to interrupt or reduce the existing flow of Energy Materials and Products prior to the conclusion of the dispute resolution procedures set out in paragraph (7), except where this is specifically provided for in a contract or other agreement governing such Transit or permitted in accordance with the conciliator's decision.

(7) The following provisions shall apply to a dispute described in paragraph (6), but only following the exhaustion of all relevant contractual or other dispute resolution remedies previously agreed between the Contracting Parties party to the dispute or between any entity referred to in paragraph (6) and an entity of another Contracting Party party to the dispute:

(a) A Contracting Party party to the dispute may refer it to the Secretary-General by a notification summarizing the matters in dispute. The Secretary-General shall notify all Contracting Parties of any such referral.

(b) Within 30 days of receipt of such a notification, the Secretary-General, in consultation with the parties to the dispute and the other Contracting Parties concerned, shall appoint a conciliator. Such a conciliator shall have experience in the matters subject to dispute and shall not be a national or citizen of or permanently resident in a party to the dispute or one of the other Contracting Parties concerned.

(c) The conciliator shall seek the agreement of the parties to the dispute to a resolution thereof or upon a procedure to achieve such resolution. If within 90 days of his appointment he has failed to secure such agreement, he shall recommend a resolution to the dispute or a procedure to achieve such resolution and shall decide the interim tariffs and other terms and conditions to be observed for Transit from a date which he shall specify until the dispute is resolved.

(d) The Contracting Parties undertake to observe and ensure that the entities under their control or jurisdiction observe any interim decision under subparagraph (c) on tariffs, terms and conditions for 12 months following the conciliator's decision or until resolution of the dispute, whichever is earlier.

(e) Notwithstanding subparagraph (b) the Secretary-General may elect not to appoint a conciliator if in his judgement the dispute concerns Transit that is or has been the subject of the dispute resolution procedures set out in subparagraphs (a) to (d) and those proceedings have not resulted in a resolution of the dispute.

(f) The Charter Conference shall adopt standard provisions concerning the conduct of conciliation and the compensation of conciliators.

(8) Nothing in this Article shall derogate from a Contracting Party's rights and obligations under international law including customary international law, existing bilateral or multilateral agreements, including rules concerning submarine cables and pipelines.

(9) This Article shall not be so interpreted as to oblige any Contracting Party which does not have a certain type of Energy Transport Facilities used for Transit to take any measure under this Article with respect to that type of Energy Transport Facilities. Such a Contracting Party is, however, obliged to comply with paragraph (4).

(10) For the purposes of this Article:

(a) "Transit" means

(i) the carriage through the Area of a Contracting Party, or to or from port facilities in its Area for loading or unloading, of Energy Materials and Products originating in the Area of another state and destined for the Area of a third state, so long as either the other state or the third state is a Contracting Party; or

(ii) the carriage through the Area of a Contracting Party of Energy Materials and Products originating in the Area of another Contracting Party and destined for the Area of that other Contracting Party, unless the two Contracting Parties concerned decide otherwise and record their decision by a joint entry in Annex N. The two Contracting Parties may delete their listing in Annex N by delivering a joint written notification of their intentions to the Secretariat, which shall transmit that notification to all other Contracting Parties. The deletion shall take effect four weeks after such former notification.

(b) "Energy Transport Facilities" consist of high-pressure gas transmission pipelines, high-voltage electricity transmission grids and lines, crude oil transmission pipelines, coal slurry pipelines, oil product pipelines, and other fixed facilities specifically for handling Energy Materials and Products.

Article 8 - Transfer of Technology

(1) The Contracting Parties agree to promote access to and transfer of energy technology on a commercial and non-discriminatory basis to assist effective trade in Energy Materials and Products and Investment and to implement the objectives of the Charter subject to their laws and regulations, and to the protection of Intellectual Property rights.

(2) Accordingly, to the extcnt necessary to give effect to paragraph (1) the Contracting Parties shall eliminate existing and create no new obstacles to the transfer of technology in the field of Energy Materials and Products and related equipment and services, subject to non-proliferation and other international obligations.

Article 9 - Access to Capital

(1) The Contracting Parties acknowledge the importance of open capital markets in encouraging the flow of capital to finance trade in Energy Materials and Products and for the making of and assisting with regard to Investments in Economic Activity in the Energy Sector in the Areas of other Contracting Parties, particularly those with economies in transition. Each Contracting Party shall accordingly endeavour to promote conditions for access to its capital market by companies and nationals of other Contracting Parties, for the purpose of financing trade in Energy Materials and Products and for the purpose of Investment in Economic Activity in the Energy Sector in the Areas of those other Contracting Parties, on a basis no less favourable than that which it accords in like circumstances to its own companies and nationals or companies and nationals of any other Contracting Party or any third state, whichever is the most favourable.

(2) A Contracting Party may adopt and maintain programmes providing for access to public loans, grants, guarantees or insurance for facilitating trade or Investment abroad. It shall make such facilities available, consistent with the objectives, constraints and criteria of such programmes (including any objectives, constraints or criteria relating to the place of business of an applicant for any such facility or the place of delivery of goods or services supplied with the support of any such facility) for Investments in the Economic Activity in the Energy Sector of other Contracting Parties or for financing trade in Energy Materials and Products with other Contracting Parties.

(3) Contracting Parties shall, in implementing programmes in Economic Activity in the Energy Sector to improve the economic stability and investment climates of the Contracting Parties, seek as appropriate to encourage the operations and take advantage of the expertise of relevant international financial institutions.

(4) Nothing in this Article shall prevent:

(a) financial institutions from applying their own lending or underwriting practices based on market principles and prudential considerations; or

(b) a Contracting Party from taking measures:

(i) for prudential reasons, including the protection of Investors, consumers, depositors, policy-holders or persons to whom a fiduciary duty is owed by a financial service supplier; or

(ii) to ensure the integrity and stability of its financial system and capital markets.

PART III - INVESTMENT PROMOTION AND PROTECTION

Article 10 - Promotion, Protection and Treatment of Investments

(1) Each Contracting Party shall, in accordance with the provisions of this Treaty, encourage and create stable, equitable, favourable and transparent conditions for Investors of other Contracting Parties to make Investments in its Area. Such conditions shall include a commitment to accord at all times to Investments of Investors of other Contracting Parties fair and equitable treatment.

Such Investments shall also enjoy the most constant protection and security and no Contracting Party shall in any way impair by unreasonable or discriminatory measures their management, maintenance, use, enjoyment or disposal. In no case shall such Investments be accorded treatment less favourable than that required by international law, including treaty obligations.

Each Contracting Party shall observe any obligations it has entered into with an Investor or an Investment of an Investor of any other Contracting Party.

(2) Each Contracting Party shall endeavour to accord to Investors of other Contracting Parties, as regards the Making of Investments in its Area, the Treatment described in paragraph (3).

(3) For the purposes of this Article, "Treatment" means treatment accorded by a Contracting Party which is no less favourable than that which it accords to its own Investors or to Investors of any other Contracting Party or any third state, whichever is the most favourable.

(4) A supplementary treaty shall, subject to conditions to be laid down therein, oblige each party thereto to accord to Investors of other parties, as regards the Making of Investments in its Area, the Treatment described in paragraph (3). That treaty shall be open for signature by the states and Regional Economic Integration Organizations which have signed or acceded to this Treaty.

Negotiations towards the supplementary treaty shall commence not later than I January 1995, with a view to concluding it by 1 January 1998.

(5) Each Contracting Party shall, as regards the Making of Investments in its Area, endeavour to:

(a) limit to the minimum the exceptions to the Treatment described in paragraph (3);

(b) progressively remove existing restrictions affecting Investors of other Contracting Parties.

(6)(a) A Contracting Party may, as regards the Making of Investments in its Area, at any time declare voluntarily to the Charter Conference, through the Secretariat, its intention not to introduce new exceptions to the Treatment described in paragraph (3).

(b) A Contracting Party may, furthermore, at any time make a voluntary commitment to accord to Investors of other Contracting Parties, as regards the Making of Investments in

some or all Economic Activities in the Energy Sector in its Area, the Treatment described in paragraph (3).

Such commitments shall be notified to the Secretariat and listed in Annex VC and shall be binding under this Treaty.

(7) Each Contracting Party shall accord to Investments in its Area of Investors of other Contracting Parties, and their related activities including management, maintenance, use, enjoyment or disposal, treatment no less favourable than that which it accords to Investments of its own Investors or of the Investors of any other Contracting Party or any third state and their related activities including management, maintenance, use, enjoyment or disposal, whichever is the most favourable.

(8) The modalities of application of paragraph (7) in relation to programmes under which a Contracting Party provides grants or other financial assistance, or enters into contracts, for energy technology research and development, shall be reserved for the supplementary treaty described in paragraph (4). Each Contracting Party shall through the Secretariat keep the Charter Conference informed of the modalities it applies to the programmes described in this paragraph.

(9) Each state or Regional Economic Integration Organization which signs or accedes to this Treaty shall, on the date it signs the Treaty or deposits its instrument of accession, submit to the Secretariat a report summarizing all laws, regulations or other measures relevant to:

(a) exceptions to paragraph (2); or

(b) the programmes referred to in paragraph (8).

A Contracting Party shall keep its report up to date by promptly submitting amendments to the Secretariat. The Charter Conference shall review these reports periodically.

In respect of subparagraph (a) the report may designate parts of the energy sector in which a Contracting Party accords to Investors of other Contracting Parties the Treatment described in paragraph (3).

In respect of subparagraph (b) the review by the Charter Conference may consider the effects of such programmes on competition and Investments.

(10) Notwithstanding any other provision of this Article, the treatment described in paragraphs (3) and (7) shall not apply to the protection of Intellectual Property; instead, the treatment shall be as specified in the corresponding provisions of the applicable international agreements for the protection of Intellectual Property rights to which the respective Contracting Parties are parties.

(11) For the purposes of Article 26, the application by a Contracting Party of a trade-related investment measure as described in Article 5(1) and (2) to an Investment of an Investor of another Contracting Party existing at the time of such application shall, subject to Article 5(3) and (4), be considered a breach of an obligation of the former Contracting Party under this Part.

(12) Each Contracting Party shall ensure that its domestic law provides effective means for the assertion of claims and the enforcement of rights with respect to Investments, investment agreements, and investment authorizations.

Article 11 - Key Personnel

(1) A Contracting Party shall, subject to its laws and regulations relating to the entry, stay and work of natural persons, examine in good faith requests by Investors of another Contracting Party, and key personnel who are employed by such Investors or by Investments of such Investors, to enter and remain temporarily in its Area to engage in activities connected with the making or the development, management, maintenance, use, enjoyment or disposal of relevant Investments, including the provision of advice or key technical services.

(2) A Contracting Party shall permit Investors of another Contracting Party which have Investments in its Area, and Investments of such Investors, to employ any key person of the Investor's or the Investment's choice regardless of nationality and citizenship provided that such key person has been permitted to enter, stay and work in the Area of the former Contracting Party and that the employment concerned conforms to the terms, conditions and time limits of the permission granted to such key person.

Article 12 - Compensation for Losses

(1) Except where Article 13 applies, an Investor of any Contracting Party which suffers a loss with respect to any Investment in the Area of another Contracting Party owing to war or other armed conflict, state of national emergency, civil disturbance, or other similar event in that Area, shall be accorded by the latter Contracting Party, as regards restitution, indemnification, compensation or other settlement, treatment which is the most favourable of that which that Contracting Party accords to any other Investor, whether its own Investor, the Investor of any other Contracting Party, or the Investor of any third state.

(2) Without prejudice to paragraph (1), an Investor of a Contracting Party which, in any of the situations referred to in that paragraph, suffers a loss in the Area of another Contracting Party resulting from

(a) requisitioning of its Investment or part thereof by the latter's forces or authorities; or

(b) destruction of its Investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation,

shall be accorded restitution or compensation which in either case shall be prompt, adequate and effective.

Article 13 - Expropriation

(1) Investments of Investors of a Contracting Party in the Area of any other Contracting Party shall not be nationalized, expropriated or subjected to a measure or measures having effect equivalent to nationalization or expropriation (hereinafter referred to as "Expropriation") except where such Expropriation is:

(a) for a purpose which is in the public interest;

(b) not discriminatory;

(c) carried out under due process of law; and

(d) accompanied by the payment of prompt, adequate and effective compensation.

Such compensation shall amount to the fair market value of the Investment expropriated at the time immediately before the Expropriation or impending Expropriation became known in such a way as to affect the value of the Investment (hereinafter referred to as the "Valuation Date").

Such fair market value shall at the request of the Investor be expressed in a Freely Convertible Currency on the basis of the market rate of exchange existing for that currency on the Valuation Date. Compensation shall also include interest at a commercial rate established on a market basis from the date of Expropriation until the date of payment.

(2) The Investor affected shall have a right to prompt review, under the law of the Contracting Party making the Expropriation, by a judicial or other competent and independent authority of that Contracting Party, of its case, of the valuation of its Investment, and of the payment of compensation, in accordance with the principles set out in paragraph (1).

(3) For the avoidance of doubt, Expropriation shall include situations where a Contracting Party expropriates the assets of a company or enterprise in its Area in which an Investor of any other Contracting Party has an Investment, including through the ownership of shares.

Article 14 - Transfers Related to Investments

(1) Each Contracting Party shall with respect to Investments in its Area of Investors of any other Contracting Party guarantee the freedom of transfer into and out of its Area, including the transfer of:

(a) The initial capital plus any additional capital for the maintenance and development of an Investment;

(b) Returns;

(c) Payments under a contract, including amortization of principal and accrued interest payments pursuant to a loan agreement;

(d) Unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment;

(e) Proceeds from the sale or liquidation of all or any part of an Investment;

(f) Payments arising out of the settlement of a dispute;

(g) Payments of compensation pursuant to Articles 12 and 13.

(2) Transfers under paragraph (1) shall be effected without delay and (except in case of a Return in kind) in a Freely Convertible Currency.

(3) Transfers shall be made at the market rate of exchange existing on the date of transfer with respect to spot transactions in the currency to be transferred. In the absence of a market for foreign exchange, the rate to be used will be the most recent rate applied to inward investments or the most recent exchange rate for conversion of currencies into Special Drawing Rights, whichever is more favourable to the Investor.

(4) Notwithstanding paragraphs (1) to (3), a Contracting Party may protect the rights of creditors, or ensure compliance with laws on the issuing, trading and dealing in securities and the satisfaction of judgements in civil, administrative and criminal adjudicatory proceedings, through the equitable, non-discriminatory, and good faith application of its laws and regulations.

(5) Notwithstanding paragraph (2), Contracting Parties which are states that were constituent parts of the former Union of Soviet Socialist Republics may provide in agreements concluded between them that transfers of payments shall be made in the currencies of such Contracting Parties, provided that such agreements do not treat Investments in their Areas of Investors of other Contracting Parties less favourably than either Investments of Investors of the Contracting Parties which have entered into such agreements or Investments of Investors of any third state.

(6) Notwithstanding subparagraph (I)(b), a Contracting Party may restrict the transfer of a Return in kind in circumstances where the Contracting Party is permitted under Article 29(2)(a) or the GATT and Related Instruments to restrict or prohibit the exportation or the sale for export of the product constituting the Return in kind; provided that a Contracting Party shall permit transfers of Returns in kind to be effected as authorized or specified in an investment agreement, investment authorization, or other written agreement between the Contracting Party and either an Investor of another Contracting Party or its Investment.

Article 15 - Subrogation

(1) If a Contracting Party or its designated agency (hereinafter referred to as the "Indemnifying Party") makes a payment under an indemnity or guarantee given in respect of an Investment of an Investor (hereinafter referred to as the "Party Indemnified") in the Area of another Contracting Party (hereinafter referred to as the "Host Party"), the Host Party shall recognize:

(a) The assignment to the Indemnifying Party of all the rights and claims in respect of such Investment; and

(b) The right of the Indemnifying Party to exercise all such rights and enforce such claims by virtue of subrogation.

(2) The Indemnifying Party shall be entitled in all circumstances to:

(a) The same treatment in respect of the rights and claims acquired by it by virtue of the assignment referred to in paragraph (1); and

(b) The same payments due pursuant to those rights and claims,

as the Party Indemnified was entitled to receive by virtue of this Treaty in respect of the Investment concerned.

(3) In any proceeding under Article 26, a Contracting Party shall not assert as a defence, counterclaim, right of set-off or for any other reason, that indemnification or other compensation for all or part of the alleged damages has been received or will be received pursuant to an insurance or guarantee contract.

Article 16 - Relation to other Agreements

Where two or more Contracting Parties have entered into a prior international agreement, or enter into a subsequent international agreement, whose terms in either case concern the subject matter of Part III or V of this Treaty,

(1) nothing in Part III or V of this Treaty shall be construed to derogate from any provision of such terms of the other agreement or from any right to dispute resolution with respect thereto under that agreement; and

(2) nothing in such terms of the other agreement shall be construed to derogate from any provision of Part III or V of this Treaty or from any right to dispute resolution with respect thereto under this Treaty,

where any such provision is more favourable to the Investor or Investment.

Article 17 - Non-Application of Part III in Certain Circumstances

Each Contracting Party reserves the right to deny the advantages of this Part to:

(1) a legal entity if citizens or nationals of a third state own or control such entity and if that entity has no substantial business activities in the Area of the Contracting Party in which it is organized; or

(2) an Investment, if the denying Contracting Party establishes that such Investment is an Investment of an Investor of a third state with or as to which the denying Contracting Party:

(a) does not maintain a diplomatic relationship; or

(b) adopts or maintains measures that:

(i) prohibit transactions with Investors of that state; or

(ii) would be violated or circumvented if the benefits of this Part were accorded to Investors of that state or to their Investments.

PART IV - MISCELLANEOUS PROVISIONS

Article 18 - Sovereignty over Energy Resources

(1) The Contracting Parties recognize state sovereignty and sovereign rights over energy resources. They reaffirm that these must be exercised in accordance with and subject to the rules of international law.

(2) Without affecting the objectives of promoting access to energy resources, and exploration and development thereof on a commercial basis, the Treaty shall in no way prejudice the rules in Contracting Parties governing the system of property ownership of energy resources.

(3) Each state continues to hold in particular the rights to decide the geographical areas within its Area to be made available for exploration and development of its energy resources, the optimalization of their recovery and the rate at which they may be depleted or otherwise exploited, to specify and enjoy any taxes, royalties or other financial pay-

ments payable by virtue of such exploration and exploitation, and to regulate the environmental and safety aspects of such exploration, development and reclamation within its Area, and to participate in such exploration and exploitation, inter alia, through direct participation by the government or through state enterprises.

(4) The Contracting Parties undertake to facilitate access to energy resources, inter alia, by allocating in a non-discriminatory manner on the basis of published criteria authorizations, licences, concessions and contracts to prospect and explore for or to exploit or extract energy resources.

Article 19 - Environmental Aspects

(1) In pursuit of sustainable development and taking into account its obligations under those international agreements concerning the environment to which it is party, each Contracting Party shall strive to minimize in an economically efficient manner harmful Environmental Impacts occurring either within or outside its Area from all operations within the Energy Cycle in its Area, taking proper account of safety. In doing so each Contracting Party shall act in a Cost-Effective manner. In its policies and actions each Contracting Party shall strive to take precautionary measures to prevent or minimize environmental degradation. The Contracting Parties agree that the polluter in the Areas of Contracting Parties, should, in principle, bear the cost of pollution, including transboundary pollution, with due regard to the public interest and without distorting Investment in the Energy Cycle or international trade. Contracting Parties shall accordingly:

(a) take account of environmental considerations throughout the formulation and implementation of their energy policies;

(b) promote market-oriented price formation and a fuller reflection of environmental costs and benefits throughout the Energy Cycle;

(c) having regard to Article 34(4), encourage co-operation in the attainment of the environmental objectives of the Charter and co-operation in the field of international environmental standards for the Energy Cycle, taking into account differences in adverse effects and abatement costs between Contracting Parties;

(d) have particular regard to Improving Energy Efficiency, to developing and using renewable energy sources, to promoting the use of cleaner fuels and to employing technologies and technological means that reduce pollution;

(e) promote the collection and sharing among Contracting Parties of information on environmentally sound and economically efficient energy policies and Cost-Effective practices and technologies;

(f) promote public awareness of the Environmental Impacts of energy systems, of the scope for the prevention or abatement of their adverse Environmental Impacts, and of the costs associated with various prevention or abatement measures;

(g) promote and co-operate in the research, development and application of energy efficient and environmentally sound technologies, practices and processes which will minimize harmful Environmental Impacts of all aspects of the Energy Cycle in an economically efficient manner;

(h) encourage favourable conditions for the transfer and dissemination of such technologies consistent with the adequate and effective protection of Intellectual Property rights;

(i) promote the transparent assessment at an early stage and prior to decision, and subsequent monitoring, of Environmental Impacts of environmentally significant energy investment projects;

(j) promote international awareness and information exchange on Contracting Parties' relevant environmental programmes and standards and on the implementation of those programmes and standards;

(k) participate, upon request, and within their available resources, in the development and implementation of appropriate environmental programmes in the Contracting Parties.

(2) At the request of one or more Contracting Parties, disputes concerning the application or interpretation of provisions of this Article shall, to the extent that arrangements for the consideration of such disputes do not exist in other appropriate international fora, be reviewed by the Charter Conference aiming at a solution.

(3) For the purposes of this Article:

(a) "Energy Cycle" means the entire energy chain, including activities related to prospecting for, exploration, production, conversion, storage, transport, distribution and consumption of the various forms of energy, and the treatment and disposal of wastes, as well as the decommissioning, cessation or closure of these activities, minimizing harmful Environmental Impacts;

(b) "Environmental Impact" means any effect caused by a given 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 interactions among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors;

(c) "Improving Energy Efficiency" means acting to maintain the same unit of output (of a good or service) without reducing the quality or performance of the output, while reducing the amount of energy required to produce that output;

(d) "Cost-Effective" means to achieve a defined objective at the lowest cost or to achieve the greatest benefit at a given cost.

Article 20 - Transparency

(1) Laws, regulations, judicial decisions and administrative rulings of general application which affect trade in Energy Materials and Products are, in accordance with Article 29(2)(a), among the measures subject to the transparency disciplines of the GATT and relevant Related Instruments.

(2) Laws, regulations, judicial decisions and administrative rulings of general application made effective by any Contracting Party, and agreements in force between Contracting Parties, which affect other matters covered by this Treaty shall also be published promptly in such a manner as to enable Contracting Parties and Investors to become acquainted with them. The provisions of this paragraph shall not require any Contracting Party to disclose confidential information which would impede law enforcement or otherwise be contrary

to the public interest or would prejudice the legitimate commercial interests of any Investor.

(3) Each Contracting Party shall designate one or more enquiry points to which requests for information about the above mentioned laws, regulations, judicial decisions and administrative rulings may be addressed and shall communicate promptly such designation to the Secretariat which shall make it available on request.

Article 21 - Taxation

(1) Except as otherwise provided in this Article, nothing in this Treaty shall create rights or impose obligations with respect to Taxation Measures of the Contracting Parties. In the event of any inconsistency between this Article and any other provision of the Treaty, this Article shall prevail to the extent of the inconsistency.

(2) Article 7(3) shall apply to Taxation Measures other than those on income or on capital, except that such provision shall not apply to:

(a) an advantage accorded by a Contracting Party pursuant to the tax provisions of any convention, agreement or arrangement described in subparagraph (7)(a)(ii); or

(b) any Taxation Measure aimed at ensuring the effective collection of taxes, except where the measure of a Contracting Party arbitrarily discriminates against Energy Materials and Products originating in, or destined for the Area of another Contracting Party or arbitrarily restricts benefits accorded under Article 7(3).

(3) Article 10(2) and (7) shall apply to Taxation Measures of the Contracting Parties other than those on income or on capital, except that such provisions shall not apply to:

(a) impose most favoured nation obligations with respect to advantages accorded by a Contracting Party pursuant to the tax provisions of any convention, agreement or arrangement described in subparagraph (7)(a)(ii) or resulting from membership of any Regional Economic Integration Organization; or

(b) any Taxation Measure aimed at ensuring the effective collection of taxes, except where the measure arbitrarily discriminates against an Investor of another Contracting Party or arbitrarily restricts benefits accorded under the Investment provisions of this Treaty.

(4) Article 29(2) to (6) shall apply to Taxation Measures other than those on income or on capital.

(5)(a) Article 13 shall apply to taxes.

(b) Whenever an issue arises under Article 13, to the extent it pertains to whether a tax constitutes an expropriation or whether a tax alleged to constitute an expropriation is discriminatory, the following provisions shall apply:

(i) The Investor or the Contracting Party alleging expropriation shall refer the issue of whether the tax is an expropriation or whether the tax is discriminatory to the relevant Competent Tax Authority. Failing such referral by the Investor or the Contracting Party, bodies called upon to settle disputes pursuant to Article 26(2)(c) or 27(2) shall make a referral to the relevant Competent Tax Authorities;

(ii) The Competent Tax Authorities shall, within a period of six months of such referral, strive to resolve the issues so referred. Where non-discrimination issues are concerned, the Competent Tax Authorities shall apply the non-discrimination provisions of the relevant tax convention or, if there is no non-discrimination provision in the relevant tax convention applicable to the tax or no such tax convention is in force between the Contracting Parties concerned, they shall apply the non-discrimination principles under the Model Tax Convention on Income and Capital of the Organisation for Economic Co-operation and Development;

(iii) Bodies called upon to settle disputes pursuant to Article 26(2)(c) or 27(2) may take into account any conclusions arrived at by the Competent Tax Authorities regarding whether the tax is an expropriation. Such bodies shall take into account any conclusions arrived at within the six-month period prescribed in subparagraph (b)(ii) by the Competent Tax Authorities regarding whether the tax is discriminatory. Such bodies may also take into account any conclusions arrived at by the Competent Tax Authorities after the expiry of the six-month period;

(iv) Under no circumstances shall involvement of the Competent Tax Authorities, beyond the end of the six-month period referred to in subparagraph (b)(ii), lead to a delay of proceedings under Articles 26 and 27.

(6) For the avoidance of doubt, Article 14 shall not limit the right of a Contracting Party to impose or collect a tax by withholding or other means.

(7)For the purposes of this Article:

(a) The term "Taxation Measure" includes:

(i) any provision relating to taxes of the domestic law of the Contracting Party or of a political subdivision thereof or a local authority therein; and

(ii) any provision relating to taxes of any convention for the avoidance of double taxation or of any other international agreement or arrangement by which the Contracting Party is bound.

(b) There shall be regarded as taxes on income or on capital all taxes imposed on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of property, taxes on estates, inheritances and gifts, or substantially similar taxes, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

(c) A "Competent Tax Authority" means the competent authority pursuant to a double taxation agreement in force between the Contracting Parties or, when no such agreement is in force, the minister or ministry responsible for taxes or their authorized representatives.

(d) For the avoidance of doubt, the terms "tax provisions" and "taxes" do not include customs duties.

Article 22 - State and Privileged Enterprises

(1) Each Contracting Party shall ensure that any state enterprise which it maintains or establishes shall conduct its activities in relation to the sale or provision of goods and ser-

vices in its Area in a manner consistent with the Contracting Party's obligations under Part III of this Treaty.

(2) No Contracting Party shall encourage or require such a state enterprise to conduct its activities in its Area in a manner inconsistent with the Contracting Party's obligations under other provisions of this Treaty.

(3) Each Contracting Party shall ensure that if it establishes or maintains an entity and entrusts the entity with regulatory, administrative or other governmental authority, such entity shall exercise that authority in a manner consistent with the Contracting Party's obligations under this Treaty.

(4) No Contracting Party shall encourage or require any entity to which it grants exclusive or special privileges to conduct its activities in its Area in a manner inconsistent with the Contracting Party's obligations under this Treaty.

(5) For the purposes of this Article, "entity" includes any enterprise, agency or other organization or individual.

Article 23 - Observance by Sub-National Authorities

(1) Each Contracting Party is fully responsible under this Treaty for the observance of all provisions of the Treaty, and shall take such reasonable measures as may be available to it to ensure such observance by regional and local governments and authorities within its Area.

(2) The dispute settlement provisions in Parts II, IV and V of this Treaty may be invoked in respect of measures affecting the observance of the Treaty by a Contracting Party which have been taken by regional or local governments or authorities within the Area of the Contracting Party.

Article 24 - Exceptions

(1) This Article shall not apply to Articles 12, 13 and 29.

(2) The provisions of this Treaty other than

(a) those referred to in paragraph (1); and

(b) with respect to subparagraph (i), Part III of the Treaty

shall not preclude any Contracting Party from adopting or enforcing any measure

(i) necessary to protect human, animal or plant life or health;

(ii) essential to the acquisition or distribution of Energy Materials and Products in conditions of short supply arising from causes outside the control of that Contracting Party, provided that any such measure shall be consistent with the principles that

(A) all other Contracting Parties are entitled to an equitable share of the international supply of such Energy Materials and Products; and

(B) any such measure that is inconsistent with this Treaty shall be discontinued as soon as the conditions giving rise to it have ceased to exist; or

(iii) designed to benefit Investors who are aboriginal people or socially or economically disadvantaged individuals or groups or their Investments and notified to the Secretariat as such, provided that such measure

(A) has no significant impact on that Contracting Party's economy; and

(B) docs not discriminate between Investors of any other Contracting Party and Investors of that Contracting Party not included among those for whom the measure is intended,

provided that no such measure shall constitute a disguised restriction on Economic Activity in the Energy Sector, or arbitrary or unjustifiable discrimination between Contracting Parties or between Investors or other interested persons of Contracting Parties. Such measures shall be duly motivated and shall not nullify or impair any benefit one or more other Contracting Parties may reasonably expect under this Treaty to an extent greater than is strictly necessary to the stated end.

(3) The provisions of this Treaty other than those referred to in paragraph (1) shall not be construed to prevent any Contracting Party from taking any measure which it considers necessary:

(a) for the protection of its essential security interests including those

(i) relating to the supply of Energy Materials and Products to a military establishment; or

(ii) taken in time of war, armed conflict or other emergency in international relations;

(b) relating to the implementation of national policies respecting the non-proliferation of nuclear weapons or other nuclear explosive devices or needed to fulfil its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, the Nuclear Suppliers Guidelines, and other international nuclear non-proliferation obligations or understandings; or

(c) for the maintenance of public order.

Such measure shall not constitute a disguised restriction on Transit.

(4) The provisions of this Treaty which accord most favoured nation treatment shall not oblige any Contracting Party to extend to the Investors of any other Contracting Party any preferential treatment:

(a) resulting from its membership of a free-trade area or customs union; or

(b)which is accorded by a bilateral or multilateral agreement concerning economic cooperation between states that were constituent parts of the former Union of Soviet Socialist Republics pending the establishment of their mutual economic relations on a definitive basis.

Article 25 - Economic Integration Agreements

(1) The provisions of this Treaty shall not be so construed as to oblige a Contracting Party which is party to an Economic Integration Agreement (hereinafter referred to as "EIA") to extend, by means of most favoured nation treatment, to another Contracting Party which is not a party to that EIA, any preferential treatment applicable between the parties to that EIA as a result of their being parties thereto.

(2) For the purposes of paragraph (1), "EIA" means an agreement substantially liberalizing, inter alia, trade and investment, by providing for the absence or elimination of substantially all discrimination between or among parties thereto through the elimination of existing discriminatory measures and/or the prohibition of new or more discriminatory measures, either at the entry into force of that agreement or on the basis of a reasonable time frame.

(3) This Article shall not affect the application of the GATT and Related Instruments according to Article 29.

PART V - DISPUTE SETTLEMENT

Article 26 - Settlement of Disputes between an Investor and a Contracting Party

(1) Disputes between a Contracting Party and an Investor of another Contracting Party relating to an Investment of the latter in the Area of the former, which concern an alleged breach of an obligation of the former under Part III shall, if possible, be settled amicably.

(2) If such disputes can not be settled according to the provisions of paragraph (1) within a period of three months from the date on which either party to the dispute requested amicable settlement, the Investor party to the dispute may choose to submit it for resolution:

(a) to the courts or administrative tribunals of the Contracting Party party to the dispute;

(b) in accordance with any applicable, previously agreed dispute settlement procedure; or

(c) in accordance with the following paragraphs of this Article.

(3)(a) Subject only to subparagraphs (b) and (c), each Contracting Party hereby gives its unconditional consent to the submission of a dispute to international arbitration or conciliation in accordance with the provisions of this Article.

(b)(i) The Contracting Parties listed in Annex ID do not give such unconditional consent where the Investor has previously submitted the dispute nnder subparagraph (2)(a) or (b).

(ii) For the sake of transparency, each Contracting Party that is listed in Annex ID shall provide a written statement of its policies, practices and conditions in this regard to the Secretariat no later than the date of the deposit of its instrument of ratification, acceptance or approval in accordance with Article 39 or the deposit of its instrument of accession in accordance with Article 41.

(c) A Contracting Party listed in Annex 1A does not give such unconditional consent with respect to a dispute arising under the last sentence of Article 10(1).

(4) In the event that an Investor chooses to submit the dispute for resolution under subparagraph (2)(c), the Investor shall further provide its consent in writing for the dispute to be submitted to:

(a)(i) The International Centre for Settlement of Investment Disputes, established pursuant to the Convention on the Settlement of Investment Disputes between States and Na-

tionals of other States opened for signature at Washington, 18 March 1965 (hereinafter referred to as the "ICSID Convention"), if the Contracting Party of the Investor and the Contracting Party party to the dispute are both parties to the ICSID Convention; or

(ii) The International Centre for Settlement of Investment Disputes, established pursuant to the Convention referred to in subparagraph (a)(i), under the rules governing the Additional Facility for the Administration of Proceedings by the Secretariat of the Centre (hereinafter referred to as the "Additional Facility Rules"), if the Contracting Party of the Investor or the Contracting Party party to the dispute, but not both, is a party to the ICSID Convention;

(b) a sole arbitrator or ad hoc arbitration tribunal established under the Arbitration Rules of the United Nations Commission on International Trade Law (hereinafter referred to as "UNCITRAL"); or

(c) an arbitral proceeding under the Arbitration Institute of the Stockholm Chamber of Commerce.

(5)(a) The consent given in paragraph (3) together with the written consent of the Investor given pursuant to paragraph (4) shall be considered to satisfy the requirement for:

(i) written consent of the parties to a dispute for purposes of Chapter II of the ICSID Convention and for purposes of the Additional Facility Rules;

(ii) an "agreement in writing" for purposes of article II of the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958 (hereinafter referred to as the "New York Convention"); and

(iii) "the parties to a contract [to] have agreed in writing" for the purposes of article 1 of the UNCITRAL Arbitration Rules.

(b) Any arbitration under this Article shall at the request of any party to the dispute be held in a state that is a party to the New York Convention. Claims submitted to arbitration hereunder shall be considered to arise out of a commercial relationship or transaction for the purposes of article I of that Convention.

(6) A tribunal established under paragraph (4) shall decide the issues in dispute in accordance with this Treaty and applicable rules and principles of international law.

(7) An Investor other than a natural person which has the nationality of a Contracting Party party to the dispute on the date of the consent in writing referred to in paragraph (4) and which, before a dispute between it and that Contracting Party arises, is controlled by Investors of another Contracting Party, shall for the purpose of article 25(2)(b) of the ICSID Convention be treated as a "national of another Contracting State" and shall for the purpose of article 1(6) of the Additional Facility Rules be treated as a "national of another State".

(8) The awards of arbitration, which may include an award of interest, shall be final and binding upon the parties to the dispute. An award of arbitration concerning a measure of a sub-national government or authority of the disputing Contracting Party shall provide that the Contracting Party may pay monetary damages in lieu of any other remedy granted. Each Contracting Party shall carry out without delay any such award and shall make provision for the effective enforcement in its Area of such awards.

Article 27 - Settlement of Disputes between Contracting Parties

(1) Contracting Parties shall endeavour to settle disputes concerning the application or interpretation of this Treaty through diplomatic channels.

(2) If a dispute has not been settled in accordance with paragraph (1) within a reasonable period of time, either party thereto may, except as otherwise provided in this Treaty or agreed in writing by the Contracting Parties, and except as concerns the application or interpretation of Article 6 or Article 19 or, for Contracting Parties listed in Annex IA, the last sentence of Article 10(1), upon written notice to the other party to the dispute submit the matter to an ad hoc tribunal under this Article.

(3) Such an ad hoc arbitral tribunal shall be constituted as follows:

(a) The Contracting Party instituting the proceedings shall appoint one member of the tribunal and inform the other Contracting Party to the dispute of its appointment within 30 days of receipt of the notice referred to in paragraph (2) by the other Contracting Party;

(b) Within 60 days of the receipt of the written notice referred to in paragraph (2) the other Contracting Party to the dispute shall appoint one member. If the appointment is not made within the time limit prescribed, the Contracting Party having instituted the proceedings may, within 90 days of the receipt of the written notice referred to in paragraph (2), request that the appointment be made in accordance with subparagraph (d);

(c) A third member, who may not be a national or citizen of a Contracting Party party to the dispute, shall be appointed by the Contracting Parties parties to the dispute. That member shall be the President of the tribunal. If, within 150 days of the receipt of the notice referred to in paragraph (2), the Contracting Parties are unable to agree on the appointment of a third member, that appointment shall be made, in accordance with subparagraph (d), at the request of either Contracting Party submitted within 180 days of the receipt of that notice;

(d) Appointments requested to be made in accordance with this paragraph shall be made by the Secretary-General of the Permanent Court of International Arbitration within 30 days of the receipt of a request to do so. If the Secretary-General is prevented from discharging this task, the appointments shall be made by the First Secretary of the Bureau. If the latter, in turn, is prevented from discharging this task, the appointments shall be made by the most senior Deputy;

(e) Appointments made in accordance with subparagraphs (a) to (d) shall be made with regard to the qualifications and experience, particularly in matters covered by this Treaty, of the members to be appointed;

(f) In the absence of an agreement to the contrary between the Contracting Parties, the Arbitration Rules of UNCITRAL shall govern, except to the extent modified by the Contracting Parties parties to the dispute or by the arbitrators. The tribunal shall take its decisions by a majority vote of its members;

(g) The tribunal shall decide the dispute in accordance with this Treaty and applicable rules and principles of international law;

(h) The arbitral award shall be final and binding upon the Contracting Parties parties to the dispute;

(i) Where, in making an award, a tribunal finds that a measure of a regional or local government or authority within the Area of a Contracting Party listed in Part I of Annex P is not in conformity with this Treaty, either party to the dispute may invoke the provisions of Part II of Annex P;

(j) The expenses of the tribunal, including the remuneration of its members, shall be borne in equal shares by the Contracting Parties parties to the dispute. The tribunal may, however, at its discretion direct that a higher proportion of the costs be paid by one of the Contracting Parties parties to the dispute;

(k) Unless the Contracting Parties parties to the dispute agree otherwise, the tribunal shall sit in The Hague, and use the premises and facilities of the Permanent Court of Arbitration;

(l) A copy of the award shall be deposited with the Secretariat which shall make it generally available.

Article 28 - Non-Application of Article 27 to Certain Disputes

A dispute between Contracting Parties with respect to the application or interpretation of Article 5 or 29 shall not be settled under Article 27 unless the Contracting Parties parties to the dispute so agree.

PART VI - TRANSITIONAL PROVISIONS

Article 29 - Interim Provisions on Trade-Related Matters

(1) The provisions of this Article shall apply to trade in Energy Materials and Products while any Contracting Party is not a party to the GATT and Related Instruments.

(2)(a) Trade in Energy Materials and Products between Contracting Parties at least one of which is not a party to the GATT or a relevant Related Instrument shall be governed, subject to subparagraphs (b) and (c) and to the exceptions and rules provided for in Annex G, by the provisions of GATT 1947 and Related Instruments, as applied on 1 March 1994 and practised with regard to Energy Materials and Products by parties to GATT 1947 among themselves, as if all Contracting Parties were parties to GATT 1947 and Related Instruments.

(b) Such trade of a Contracting Party which is a state that was a constituent part of the former Union of Soviet Socialist Republics may instead be governed, subject to the provisions of Annex TFU, by an agreement between two or more such states, until 1 December 1999 or the admission of that Contracting Party to the GATT, whichever is the earlier.

(c) As concerns trade between any two parties to the GATT, subparagraph (a) shall not apply if either of those parties is not a party to GATT 1947.

(3) Each signatory to this Treaty, and each state or Regional Economic Integration Organization acceding to this Treaty, shall on the date of its signature or of its deposit of its instrument of accession provide to the Secretariat a list of all tariff rates and other charges levied on Energy Materials and Products at the time of importation or exportation, notifying the level of such rates and charges applied on such date of signature or deposit. Any

changes to such rates or other charges shall be notified to the Secretariat, which shall inform the Contracting Parties of such changes.

(4) Each Contracting Party shall endeavour not to increase any tariff rate or other charge levied at the time of importation or exportation:

(a) in the case of the importation of Energy Materials and Products described in Part I of the Schedule relating to the Contracting Party referred to in article II of the GATT, above the level set forth in that Schedule, if the Contracting Party is a party to the GATT;

(b) in the case of the exportation of Energy Materials and Products, and that of their importation if the Contracting Party is not a party to the GATT, above the level most recently notified to the Secretariat, except as permitted by the provisions made applicable by subparagraph (2)(a).

(5) A Contracting Party may increase such tariff rate or other charge above the level referred to in paragraph (4) only if:

(a) in the case of a rate or other charge levied at the time of importation, such action is not inconsistent with the applicable provisions of the GATT other than those provisions of GATT 1947 and Related Instruments listed in Annex G and the corresponding provisions of GATT 1994 and Related Instruments; or

(b) it has, to the fullest extent practicable under its legislative procedures, notified the Secretariat of its proposal for such an increase, given other interested Contracting Parties reasonable opportunity for consultation with respect to its proposal, and accorded consideration to any representations from such Contracting Parties.

(6) Signatories undertake to commence negotiations not later than 1 January 1995 with a view to concluding by 1 January 1998, as appropriate in the light of any developments in the world trading system, a text of an amendment to this Treaty which shall, subject to conditions to be laid down therein, commit each Contracting Party not to increase such tariffs or charges beyond the level prescribed under that amendment.

(7) Annex D shall apply to disputes regarding compliance with provisions applicable to trade under this Article and, unless both Contracting Parties agree otherwise, to disputes regarding compliance with Article 5 between Contracting Parties at least one of which is not a party to the GATT, except that Annex D shall not apply to any dispute between Contracting Parties, the substance of which arises under an agreement that:

(a) has been notified in accordance with and meets the other requirements of subparagraph (2)(b) and Aunex TFU; or

(b) establishes a free-trade area or a customs union as described in article XXIV of the GATT.

Article 30 - Developments in International Trading Arrangements

Contracting Parties undertake that in the light of the results of the Uruguay Round of Multilateral Trade Negotiations embodied principally in the Final Act thereof done at Marrakesh, 15 April 1994, they will commence consideration not later than 1 July 1995 or the entry into force of this Treaty, whichever is the later, of appropriate amendments to this Treaty with a view to the adoption of any such amendments by the Charter Conference.

Article 31 - Energy-Related Equipment

The provisional Charter Conference shall at its first meeting commence examination of the inclusion of energy-related equipment in the trade provisions of this Treaty.

Article 32 - Transitional Arrangements

(1) In recognition of the need for time to adapt to the requirements of a market economy, a Contracting Party listed in Annex T may temporarily suspend full compliance with its obligations under one or more of the following provisions of this Treaty, subject to the conditions in paragraphs (3) to (6):

Article 6(2) and (5)

Article 7(4)

Article 9(1)

Article 10(7) - specific measures

Article 14(1)(d) - related only to transfer of unspent earnings

Article 20(3)

Article 22(1) and (3)

(2) Other Contracting Parties shall assist any Contracting Party which has suspended full compliance under paragraph (1) to achieve the conditions under which such suspension can be terminated. This assistance may be given in whatever form the other Contracting Parties consider most effective to respond to the needs notified under subparagraph (4)(c) including, where appropriate, through bilateral or multilateral arrangements.

(3) The applicable provisions, the stages towards full implementation of each, the measures to be taken and the date or, exceptionally, contingent event, by which each stage shall be completed and measure taken are listed in Annex T for each Contracting Party claiming transitional arrangements. Each such Contracting Party shall take the measure listed by the date indicated for the relevant provision and stage as set out in Annex T. Contracting Parties which have temporarily suspended full compliance under paragraph (1) undertake to comply fully with the relevant obligations by 1 July 2001. Should a Contracting Party find it necessary, due to exceptional circumstances, to request that the period of such temporary suspension be extended or that any further temporary suspension not previously listed in Annex T be introduced, the decision on a request to amend Annex T shall be made by the Charter Conference.

(4) A Contracting Party which has invoked transitional arrangements shall notify the Secretariat no less often than once every 12 months:

(a) of the implementation of any measures listed in its Annex T and of its general progress to full compliance;

(b) of the progress it expects to make during the next 12 months towards full compliance with its obligations, of any problem it foresees and of its proposals for dealing with that problem;

(c) of the need for technical assistance to facilitate completion of the stages set out in Annex T as necessary for the full implementation of this Treaty, or to deal with any problem notified pursuant to subparagraph (b) as well as to promote other necessary market-oriented reforms and modernization of its energy sector;

(d) of any possible need to make a request of the kind referred to in paragraph (3).

(5) The Secretariat shall:

(a) circulate to all Contracting Parties the notifications referred to in paragraph (4);

(b) circulate and actively promote, relying where appropriate on arrangements existing within other international organizations, the matching of needs for and offers of technical assistance referred to in paragraph (2) and subparagraph (4)(c);

(c) circulate to all Contracting Parties at the end of each six month period a summary of any notifications made under subparagraph (4)(a) or (d).

(6) The Charter Conference shall annually review the progress by Contracting Parties towards implementation of the provisions of this Article and the matching of needs and offers of technical assistance referred to in paragraph (2) and subparagraph (4)(c). In the course of that review it may decide to take appropriate action.

PART VII - STRUCTURE AND INSTITUTIONS

Article 33 - Energy Charter Protocols and Declarations

(1) The Charter Conference may authorize the negotiation of a number of Energy Charter Protocols or Declarations in order to pursue the objectives and principles of the Charter.

(2) Any signatory to the Charter may participate in such negotiation.

(3) A state or Regional Economic Integration Organization shall not become a party to a Protocol or Declaration unless it is, or becomes at the same time, a signatory to the Charter and a Contracting Party to this Treaty.

(4) Subject to paragraph (3) and subparagraph (6)(a), final provisions applying to a Protocol shall be defined in that Protocol.

(5) A Protocol shall apply only to the Contracting Parties which consent to be bound by it, and shall not derogate from the rights and obligations of those Contracting Parties not party to the Protocol.

(6)(a) A Protocol may assign duties to the Charter Conference and functions to the Secretariat, provided that no such assignment may be made by an amendment to a Protocol unless that amendment is approved by the Charter Conference, whose approval shall not be subject to any provisions of the Protocol which are authorized by subparagraph (b).

(b) A Protocol which provides for decisions thereunder to be taken by the Charter Conference may, subject to subparagraph (a), provide with respect to such decisions:

(i) for voting rules other than those contained in Article 36;

(ii) that only parties to the Protocol shall be considered to be Contracting Parties for the purposes of Article 36 or eligible to vote under the rules provided for in the Protocol.

Article 34 - Energy Charter Conference

(1) The Contracting Parties shall meet periodically in the Energy Charter Conference (referred to herein as the "Charter Conference") at which each Contracting Party shall be entitled to have one representative. Ordinary meetings shall be held at intervals determined by the Charter Conference.

(2) Extraordinary meetings of the Charter Conference may be held at such times as may be determined by the Charter Conference, or at the written request of any Contracting Party, provided that, within six weeks of the request being communicated to the Contracting Parties by the Secretariat, it is supported by at least one-third of the Contracting Parties.

(3) The functions of the Charter Conference shall be to:

(a) carry out the duties assigned to it by this Treaty and any Protocols;

(b) keep under review and facilitate the implementation of the principles of the Charter and of the provisions of this Treaty and the Protocols;

(c) facilitate in accordance with this Treaty and the Protocols the co-ordination of appropriate general measures to carry out the principles of the Charter;

(d) consider and adopt programmes of work to be carried out by the Secretariat;

(e) consider and approve the annual accounts and budget of the Secretariat;

(f) consider and approve or adopt the terms of any headquarters or other agreement, including privileges and immunities considered necessary for the Charter Conference and the Secretariat;

(g) encourage co-operative efforts aimed at facilitating and promoting market-oriented reforms and modernization of energy sectors in those countries of Central and Eastern Europe and the former Union of Soviet Socialist Republics undergoing economic transition;

(h) authorize and approve the terms of reference for the negotiation of Protocols, and consider and adopt the texts thereof and of amendments thereto;

(i) authorize the negotiation of Declarations, and approve their issuance;

(j) decide on accessions to this Treaty;

(k) authorize the negotiation of and consider and approve or adopt association agreements;

(l) consider and adopt texts of amendments to this Treaty;

(m) consider and approve modifications of and technical changes to the Annexes to this Treaty;

(n) appoint the Secretary-General and take all decisions necessary for the establishment and functioning of the Secretariat including the structure, staff levels and standard terms of employment of officials and employees.

(4) In the performance of its duties, the Charter Conference, through the Secretariat, shall co-operate with and make as full a use as possible, consistently with economy and efficiency, of the services and programmes of other institutions and organizations with established competence in matters related to the objectives of this Treaty.

(5) The Charter Conference may establish such subsidiary bodies as it considers appropriate for the performance of its duties.

(6) The Charter Conference shall consider and adopt rules of procedure and financial rules.

(7) In 1999 and thereafter at intervals (of not more than five years) to be determined by the Charter Conference, the Charter Conference shall thoroughly review the functions provided for in this Treaty in the light of the extent to which the provisions of the Treaty and Protocols have been implemented. At the conclusion of each review the Charter Conference may amend or abolish the functions specified in paragraph (3) and may discharge the Secretariat.

Article 35 - Secretariat

(1) In carrying out its duties, the Charter Conference shall have a Secretariat which shall be composed of a Secretary-General and such staff as are the minimum consistent with efficient performance.

(2) The Secretary-General shall be appointed by the Charter Conference. The first such appointment shall be for a maximum period of five years.

(3) In the performance of its duties the Secretariat shall be responsible to and report to the Charter Conference.

(4) The Secretariat shall provide the Charter Conference with all necessary assistance for the performance of its duties and shall carry out the functions assigned to it in this Treaty or in any Protocol and any other functions assigned to it by the Charter Conference.

(5) The Secretariat may enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions.

Article 36 - Voting

(1) Unanimity of the Contracting Parties Present and Voting at the meeting of the Charter Conference where such matters fall to be decided shall be required for decisions by the Charter Conference to:

(a) adopt amendments to this Treaty other than amendments to Articles 34 and 35 and Annex T;

(b) approve accessions to this Treaty under Article 41 by states or Regional Economic Integration Organizations which were not signatories to the Charter as of 16 June 1995;

(c) authorize the negotiation of and approve or adopt the text of association agreements;

(d) approve modifications to Annexes EM, NI, G and B;

(e) approve technical changes to the Annexes to this Treaty; and

(f) approve the Secretary-General's nominations of panelists under Annex D, paragraph (7).

The Contracting Parties shall make every effort to reach agreement by consensus on any other matter requiring their decision under this Treaty. If agreement cannot be reached by consensus, paragraphs (2) to (5) shall apply.

(2) Decisions on budgetary matters referred to in Article 34(3)(e) shall be taken by a qualified majority of Contracting Parties whose assessed contributions as specified in Annex B represent, in combination, at least three-fourths of the total assessed contributions specified therein.

(3) Decisions on matters referred to in Article 34(7) shall be taken by a three-fourths majority of the Contracting Parties.

(4) Except in cases specified in subparagraphs (1)(a) to (f), paragraphs (2) and (3), and subject to paragraph (6), decisions provided for in this Treaty shall be taken by a three-fourths majority of the Contracting Parties Present and Voting at the meeting of the Charter Conference at which such matters fall to be decided.

(5) For purposes of this Article, "Contracting Parties Present and Voting" means Contracting Parties present and casting affirmative or negative votes, provided that the Charter Conference may decide upon rules of procedure to enable such decisions to be taken by Contracting Parties by correspondence.

(6) Except as provided in paragraph (2), no decision referred to in this Article shall be valid unless it has the support of a simple majority of the Contracting Parties.

(7) A Regional Economic Integration Organization shall, when voting, have a number of votes equal to the number of its member states which are Contracting Parties to this Treaty; provided that such an Organization shall not exercise its right to vote if its member states exercise theirs, and vice versa.

(8) In the event of persistent arrears in a Contracting Party's discharge of financial obligations under this Treaty, the Charter Conference may suspend that Contracting Party's voting rights in whole or in part.

Article 37 - Funding Principles

(1) Each Contracting Party shall bear its own costs of representation at meetings of the Charter Conference and any subsidiary bodies.

(2) The cost of meetings of the Charter Conference and any subsidiary bodies shall be regarded as a cost of the Secretariat.

(3) The costs of the Secretariat shall be met by the Contracting Parties assessed according to their capacity to pay, determined as specified in Annex B, the provisions of which may be modified in accordance with Article 36(1)(d).

(4) A Protocol shall contain provisions to assure that any costs of the Secretariat arising from that Protocol are borne by the parties thereto.

(5) The Charter Conference may in addition accept voluntary contributions from one or more Contracting Parties or from other sources. Costs met from such contributions shall not be considered costs of the Secretariat for the purposes of paragraph (3).

PART VIII - FINAL PROVISIONS

Article 38 - Signature

This Treaty shall be open for signature at Lisbon from 17 December 1994 to 16 June 1995 by the states and Regional Economic Integration Organizations which have signed the Charter.

Article 39 - Ratification, Acceptance or Approval

This Treaty shall be subject to ratification, acceptance or approval by signatories. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

Article 40 - Application to Territories

(1) Any state or Regional Economic Integration Organization may at the time of signature, ratification, acceptance, approval or accession, by a declaration deposited with the Depositary, declare that the Treaty shall be binding upon it with respect to all the territories for the international relations of which it is responsible, or to one or more of them. Such declaration shall take effect at the time the Treaty enters into force for that Contracting Party.

(2) Any Contracting Party may at a later date, by a declaration deposited with the Depositary, bind itself under this Treaty with respect to other territory specified in the declaration. In respect of such territory the Treaty shall enter into force on the ninetieth day following the receipt by the Depositary of such declaration.

(3) Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification to the Depositary. The withdrawal shall, subject to the applicability of Article 47(3), become effective upon the expiry of one year after the date of receipt of such notification by the Depositary.

(4) The definition of "Area" in Article 1(10) shall be construed having regard to any declaration deposited under this Article.

Article 41 - Accession

This Treaty shall be open for accession, from the date on which the Treaty is closed for signature, by states and Regional Economic Integration Organizations which have signed the Charter, on terms to be approved by the Charter Conference. The instruments of accession shall be deposited with the Depositary.

Article 42 - Amendments

(1) Any Contracting Party may propose amendments to this Treaty.

(2) The text of any proposed amendment to this Treaty shall be communicated to the Contracting Parties by the Secretariat at least three months before the date on which it is proposed for adoption by the Charter Conference.

(3) Amendments to this Treaty, texts of which have been adopted by the Charter Conference, shall be communicated by the Secretariat to the Depositary which shall submit them to all Contracting Parties for ratification, acceptance or approval.

(4) Instruments of ratification, acceptance or approval of amendments to this Treaty shall be deposited with the Depositary. Amendments shall enter into force between Contracting Parties having ratified, accepted or approved them on the ninetieth day after deposit with the Depositary of instruments of ratification, acceptance or approval by at least three-fourths of the Contracting Parties. Thereafter the amendments shall enter into force for any other Contracting Party on the ninetieth day after that Contracting Party deposits its instrument of ratification, acceptance or approval of the amendments.

Article 43 - Association Agreements

(1) The Charter Conference may authorize the negotiation of association agreements with states or Regional Economic Integration Organizations, or with international organizations, in order to pursue the objectives and principles of the Charter and the provisions of this Treaty or one or more Protocols.

(2) The relationship established with and the rights enjoyed and obligations incurred by an associating state, Regional Economic Integration Organization, or international organization shall be appropriate to the particular circumstances of the association, and in each case shall be set out in the association agreement.

Article 44 - Entry into Force

(1) This Treaty shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance or approval thereof, or of accession thereto, by a state or Regional Economic Integration Organization which is a signatory to the Charter as of 16 June 1995.

(2) For each state or Regional Economic Integration Organization which ratifies, accepts or approves this Treaty or accedes thereto after the deposit of the thirtieth instrument of ratification, acceptance or approval, it shall enter into force on the ninetieth day after the date of deposit by such state or Regional Economic Integration Organization of its instrument of ratification, acceptance, approval or accession.

(3) For the purposes of paragraph (1), 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 45 - Provisional Application

(1) Each signatory agrees to apply this Treaty provisionally pending its entry into force for such signatory in accordance with Article 44, to the extent that such provisional application is not inconsistent with its constitution, laws or regulations.

(2)(a) Notwithstanding paragraph (1) any signatory may, when signing, deliver to the Depositary a declaration that it is not able to accept provisional application. The obligation contained in paragraph (1) shall not apply to a signatory making such a declaration. Any such signatory may at any time withdraw that declaration by written notification to the Depositary.

(b) Neither a signatory which makes a declaration in accordance with subparagraph (a) nor Investors of that signatory may claim the benefits of provisional application under paragraph (1).

(c) Notwithstanding subparagraph (a), any signatory making a declaration referred to in subparagraph (a) shall apply Part VII provisionally pending the entry into force of the Treaty for such signatory in accordance with Article 44, to the extent that such provisional application is not inconsistent with its laws or regulations.

(3)(a) Any signatory may terminate its provisional application of this Treaty by written notification to the Depositary of its intention not to become a Contracting Party to the Treaty.

Termination of provisional application for any signatory shall take effect upon the expiration of 60 days from the date on which such signatory's written notification is received by the Depositary.

(b) In the event that a signatory terminates provisional application under subparagraph (a), the obligation of the signatory under paragraph (1) to apply Parts III and V with respect to any Investments made in its Area during such provisional application by Investors of other signatories shall nevertheless remain in effect with respect to those Investments for twenty years following the effective date of termination, except as otherwise provided in subparagraph (c).

(c) Subparagraph (b) shall not apply to any signatory listed in Annex PA. A signatory shall be removed from the list in Annex PA effective upon delivery to the Depositary of its request therefor.

(4) Pending the entry into force of this Treaty the signatories shall meet periodically in the provisional Charter Conference, the first meeting of which shall be convened by the provisional Secretariat referred to in paragraph (5) not later than 180 days after the opening date for signature of the Treaty as specified in Article 38.

(5)The functions of the Secretariat shall be carried out on an interim basis by a provisional Secretariat until the entry into force of this Treaty pursuant to Article 44 and the establishment of a Secretariat.

(6) The signatories shall, in accordance with and subject to the provisions of paragraph (1) or subparagraph (2)(c) as appropriate, contribute to the costs of the provisional Secretariat as if the signatories were Contracting Parties under Article 37(3). Any modifications

made to Annex B by the signatories shall terminate upon the entry into force of this Treaty.

(7) A state or Regional Economic Integration Organization which, prior to this Treaty's entry into force, accedes to the Treaty in accordance with Article 41 shall, pending the Treaty's entry into force, have the rights and assume the obligations of a signatory under this Article.

Article 46 - Reservations

No reservations may be made to this Treaty.

Article 47 - Withdrawal

(1) At any time after five years from the date on which this Treaty has entered into force for a Contracting Party, that Contracting Party may give written notification to the Depositary of its withdrawal from the Treaty.

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

(3) The provisions of this Treaty shall continue to apply to Investments made in the Area of a Contracting Party by Investors of other Contracting Parties or in the Area of other Contracting Parties by Investors of that Contracting Party as of the date when that Contracting Party's withdrawal from the Treaty takes effect for a period of 20 years from such date.

(4) All Protocols to which a Contracting Party is party shall cease to be in force for that Contracting Party on the effective date of its withdrawal from this Treaty.

Article 48 - Status of Annexes and Decisions

The Annexes to this Treaty and the Decisions set out in Annex 2 to the Final Act of the European Energy Charter Conference signed at Lisbon on 17 December 1994 are integral parts of the Treaty.

Article 49 - Depositary

The Government of the Portuguese Republic shall be the Depositary of this Treaty.

Article 50 - Authentic Texts

In witness whereof the undersigned, being duly authorized to that effect, have signed this Treaty in English, French, German, Italian, Russian and Spanish, of which every text is equally authentic, in one original, which will be deposited with the Government of the Portuguese Republic. Done at Lisbon on the seventeenth day of December in the year one thousand nine hundred and ninety-four.

ANNEXES TO THE ENERGY CHARTER TREATY[1]

1. ANNEX EM
ENERGY MATERIALS AND PRODUCTS
(IN ACCORDANCE WITH ARTICLE 1 (4))

2. ANNEX N1
NON-APPLICABLE ENERGY MATERIALS AND PRODUCTS FOR DEFINITION OF "ECONOMIC ACTIVITY IN THE ENERGY SECTOR
(IN ACCORDANCE WITH ARTICLE 1(5))

3. ANNEX TRM
NOTIFICATION AND PHASE-OUT (TRIMS)
(IN ACCORDANCE WITH ARTICLE 5 (4))

4. ANNEX N
LIST OF CONTRACTING PARTIES REQUIRING AT LEAST 3 SEPARATE AREAS TO BE INVOLVED IN A TRANSIT (IN ACCORDANCE WITH ARTICLE 7(10)(A))

5. ANNEX VC
LIST OF CONTRACTING PARTIES WHICH HAVE MADE VOLUNTARY BINDING COMMITMENTS IN RESPECT OF ARTICLE 10(3)
(IN ACCORDANCE WITH ARTICLE 10(6))

6. ANNEX ID
LIST OF CONTRACTING PARTIES NOT ALLOWING AN INVESTOR TO RESUBMIT THE SAME DISPUTE TO INTERNATIONAL ARBITRATION AT A LATER STAGE UNDER ARTICLE 26 (IN ACCORDANCE WITH ARTICLE 26(3)(B)(I))

7. ANNEX IA
LIST OF CONTRACTING PARTIES NOT ALLOWING AN INVESTOR OR CONTRACTING PARTY TO SUBMIT A DISPUTE CONCERNING THE LAST SENTENCE OF ARTICLE 10(1) TO INTERNATIONAL ARBITRATION
(IN ACCORDANCE WITH ARTICLES 26(3)(C) AND 27(2))

8. ANNEX P
SPECIAL SUB-NATIONAL DISPUTE PROCEDURE
(IN ACCORDANCE WITH ARTICLE 27(3)(1))

1. Not published.

9. ANNEX G
EXCEPTIONS AND RULES GOVERNING THE APPLICATION OF THE PROVISIONS OF THE GATT AND RELATED INSTRUMENTS
(IN ACCORDANCE WITH ARTICLE 29(2)(A))

10.ANNEX TFU
PROVISIONS REGARDING TRADE AGREEMENTS BETWEEN STATES WHICH WERE CONSTITUENT PARTS OF THE FORMER UNION OF SOVIET SOCIALIST REPUBLICS
(IN ACCORDANCE WITH ARTICLE 29(2)(B))

11. ANNEX D
INTERIM PROVISIONS FOR TRADE DISPUTE SETTLEMENT
(IN ACCORDANCE WITH ARTICLE 29 (7))

12. ANNEX B
FORMULA FOR ALLOCATING CHARTER COSTS
(IN ACCORDANCE WITH ARTICLE 37(3))

13. ANNEX PA
LIST OF SIGNATORIES WHICH DO NOT ACCEPT THE PROVISIONAL APPLICATION OBLIGATION OF ARTICLE 45(3)(B)
(IN ACCORDANCE WITH ARTICLE 45(3)(C))

14. ANNEX T
CONTRACTING PARTIES' TRANSITIONAL MEASURES
(IN ACCORDANCE WITH ARTICLE 32 (1))

ANNEX EM
ENERGY MATERIALS AND PRODUCTS (IN ACCORDANCE WITH ARTICLE 1(4))

Nuclear Energy:	26.12	Uranium or thorium ores and concentrates.
	26.12.10	Uranium ores and concentrates.
	26.12.20	Thorium ores and concentrates.
	28.44	Radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes) and their compounds; mixtures and residues containing these products.

	28.44.10	Natural uranium and its compounds.
	28.44.20	Uranium enriched in U235 and its compounds; plutonium and its compounds.
	28.44.30	Uranium depleted in U235 and its compounds; thorium and its compounds.
	28.44.40	Radioactive elements and isotopes and radioactive compounds other than 28.44.10, 28.44.20 or 28.44.30.
	28.44.50	Spent (irradiated) fuel elements (cartridges) of nuclear reactors.
	28.44.10	Heavy water (deuterium oxide).
Coal, Natural, Gas, Petroleum fuels manufactured fom coal. and Petroleum Products, Electrical Energy	27.01	Coal, briquettes, ovoids and similar solid
	27.02	Lignite, whether or not agglomerated excluding jet.
	27.03	Peat (including peat litter), whether or not agglomerated.
	27.04	Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon.
	27.05	Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons.
	27.06	Tar distilled from coal, from lignite or from peat, and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars.

27.07	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents (e.g., benzole, toluote, xylole, naphtalene, other aromatic hydrocarbon mixtures, phenols, creosote oils and others).
27.08	Pitch and pitch coke, obtained from coal tar or from other mineral tars.
27.09	Petroleum oils and oils obtained from bituminous minerals, crude.
27.10	Petroleum oils and oils obtained from bituminous minerals, other than crude.
27.11	Liquified petroleum gases and other gaseous hydrocarbons
	natural gas
	propane
	butanes
	ethylene, propylene, butylene and butadiene (27.11.14)
	other
	In gaseous state:
	natural gas
	other
27.13	Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous minerals.
27.14	Bitumen and asphalt, natural; bituminous or oil shale and tar sands; asphaltites and asphaltic rocks.
27.15	Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (e.g., bituminous mastics, cut-backs).

	27.16	Electrical energy.
Other Energy		
	44.01.10	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms.
	44.02	Charcoal (including charcoal from shells or nuts), whether or not agglomerated.

ANNEX NI
NON-APPLICABLE ENERGY MATERIALS AND PRODUCTS FOR DEFINITIONS OF "ECONOMIC ACTIVITY IN THE ENERGY SECTOR" (IN ACCORDANCE WITH ARTICLE 1(5))

27.07	Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents (e.g., benzole, toluole, xylole, naphtalene, other aromatic hydrocarbon mixtures, phenols, creosote oils and others).
44.01.10	Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms. Charcoal (including charcoal from shells or nuts), whether or not agglomerated.
44.02	Charcoal (including charcoal from shells or nuts), whether or not agglomerated.

ANNEX TRM
NOTIFICATION AND PHASE-OUT (TRIMS) (IN ACCORDANCE WITH ARTICLE 5(4))

1) Each Contracting Party shall notify to the Secretariat all trade-related investment measures which it applies that are not in conformity with the provisions of Article 5, within:

(a) 90 days after the entry into force of this Treaty if the Contracting Party is a party to the GATT; or

(b) 12 months after the entry into force of this Treaty if the Contracting Party is not a party to the GATT.

Such trade-related investment measures of general or specific application shall be notified along with their principal features.

(2) In the case of trade-related investment measures applied under discretionary authority, each specific application shall be notified. Information that would prejudice the legitimate commercial interests of particular enterprises need not be disclosed.

(3) Each Contracting Party shall eliminate all trade-related investment measures which are notified under paragraph (1) within:

(a) two years from the date of entry into force of this Treaty if the Contracting Party is a party to the GATT; or

(b) three years from the date of entry into force of this Treaty if the Contracting Party is not a party to the GATT.

(4) During the applicable period referred to in paragraph (3) a Contracting Party shall not modify the terms of any trade-related investment measure which it notifies under paragraph (1) from

those prevailing at the date of entry into force of this Treaty so as to increase the degree of inconsistency with the provisions of Article 5 of this Treaty.

(5) Notwithstanding the provisions of paragraph (4), a Contracting Party, in order not to disadvantage established enterprises which are subject to a trade-related investment measure notified under paragraph (1), may apply during the phase-out period the same trade-related investment measure to a new Investment where:

(a) the products of such Investment are like products to those of the established enterprises; and

(b) such application is necessary to avoid distorting the conditions of competition between the new Investment and the established enterprises.

Any trade-related investment measure so applied to a new Investment shall be notified to the Secretariat. The terms of such a trade-related investment measure shall be equivalent in their competitive effect to those applicable to the established enterprises, and it shall be terminated at the same time.

(6) Where a state or Regional Economic Integration Organization accedes to this Treaty after the Treaty has entered into force:

(a) the notification referred to in paragraphs (1) and (2) shall be made by the later of the applicable date in paragraph (1) or the date of deposit of the instrument of accession; and

(b) the end of the phase-out period shall be the later of the applicable date in paragraph (3) or the date on which the Treaty enters into force for that state or Regional Economic Integration Organization.

4. Aunex N

List of Contracting Parties Requiring at least 3 separate Areas to be involved in a Transit
(In accordance with Article 7(10)(a))

1.Canada and United States of America

ANNEX VC
LIST OF CONTRACTING PARTIES WHICH HAVE MADE VOLUNTARY BINDING COMMITMENTS
IN RESPECT OF ARTICLE 10(3)
(IN ACCORDANCE WITH ARTICLE 10(6))

ANNEX ID

LIST OF CONTRACTING PARTIES NOT ALLOWING AN INVESTOR TO RESUBMIT THE SAME DISPUTE TO INTERNATIONAL ARBITRATION AT A LATER STAGE UNDER ARTICLE 26
(IN ACCORDANCE WITH ARTICLE 26(3)(B)(I))

1.Australia
2.Azerbaijan
3.Bulgaria
4.Canada
5.Croatia
6.Cyprus
7.The Czech Republic
8.European Communities
9.Finland
10.Greece
11.Hungary
12.Ireland
13.Italy
14.Japan
15.Kazakhstan
16.Norway
17.Poland
18.Portugal
19.Romania
20.The Russian Federation
21.Slovenia
22.Spain
23.Sweden
24.United States of America

7. Annex IA List of Contracting Parties Not Allowing an Investor or Contracting Party to Submit a Dispute Concerning the last Sentence of Article 10(1) to International Arbitration (In accordance with Articles 26(3)(c) and 27(2))

1.Australia

2.Canada

3.Hungary

4.Norway

ANNEX P
SPECIAL SUB-NATIONAL DISPUTE PROCEDURE (IN ACCORDANCE WITH ARTICLE 27(3)(I))

Part I

1.Canada

2.Australia

Part II

(1) Where, in making an award, the tribunal finds that a measure of a regional or local government or authority of a Contracting Party (hereinafter referred to as the "Responsible Party") is not in conformity with a provision of this Treaty, the Responsible Party shall take such reasonable measures as may be available to it to ensure observance of the Treaty in respect of the measure.

(2) The Responsible Party shall, within 30 days from the date the award is made, provide to the Secretariat written notice of its intentions as to ensuring observance of the Treaty in respect of the measure. The Secretariat shall present the notification to the Charter Conference at the earliest practicable opportunity, and no later than the meeting of the Charter Conference following receipt of the notice. If it is impracticable to ensure observance immediately, the Responsible Party shall have a reasonable period of time in which to do so. The reasonable period of time shall be agreed by both parties to the dispute. In the event that such agreement is not reached, the Responsible Party shall propose a reasonable period for approval by the Charter Conference.

(3) Where the Responsible Party fails, within the reasonable period of time, to ensure observance in respect of the measure, it shall at the request of the other Contracting Party party to the dispute (hereinafter referred to as the "Injured Party") endeavour to agree with the Injured Party on appropriate compensation as a mutually satisfactory resolution of the dispute.

(4) If no satisfactory compensation has been agreed within 20 days of the request of the Injured Party, the Injured Party may with the authorization of the Charter Conference suspend such of its obligations to the Responsible Party under the Treaty as it considers equivalent to those denied by the measure in question, until such time as the Contracting Parties have reached agreement on a resolution of their dispute or the non-conforming measure has been brought into conformity with the Treaty.

(5) In considering what obligations to suspend, the Injured Party shall apply the following principles and procedures:

(a) The Injured Party should first seek to suspend obligations with respect to the same Part of the Treaty as that in which the tribunal has found a violation.

(b) If the Injured Party considers that it is not practicable or effective to suspend obligations with respect to the same Part of the Treaty, it may seek to suspend obligations in other Parts of the Treaty. If the Injured Party decides to request authorization to suspend obligations under this subparagraph, it shall state the reasons therefor in its request to the Charter Conference for authorization.

(6) On written request of the Responsible Party, delivered to the Injured Party and to the President of the tribunal that rendered the award, the tribunal shall determine whether the level of obligations suspended by the Injured Party is excessive, and if so, to what extent. If the tribunal cannot be reconstituted, such determination shall be made by one or more arbitrators appointed by the Secretary-General. Determinations pursuant to this paragraph shall be completed within 60 days of the request to the tribunal or the appointment by the Secretary-General. Obligations shall not be suspended pending the determination, which shall be final and binding.

(7) In suspending any obligations to a Responsible Party, an Injured Party shall make every effort not to affect adversely the rights under the Treaty of any other Contracting Party.

ANNEX G
EXCEPTIONS AND RULES GOVERNING THE APPLICATION OF THE PROVISIONS OF THE GATT AND RELATED INSTRUMENTS (IN ACCORDANCE WITH ARTICLE 29(2)(A))

(1) The following provisions of GATT 1947 and Related Instruments shall not be applicable under Article 29(2)(a):

(a) General Agreement on Tariffs and Trade

II - Schedules of Concessions (and the Schedules to the General Agreement on Tariffs and Trade)

IV - Special Provisions relating to Cinematographic Films

XV- Exchange Arrangements

XVIII - Governmental Assistance to Economic Development

XXII - Consultation

XXIII - Nullification or Impairment

XXV - Joint Action by the Contracting Parties

XXVI - Acceptance. Entry into Force and Registration

XXVII - Withholding or Withdrawal of Concessions

XXVIII - Modification of Schedules

XXVIII - bis Tariff Negotiations

XXIX - The relation of this Agreement to the Havana Charter

XXX - Amendments

XXXI - Withdrawal

XXXII - Contracting Parties

XXXIII - Accession

XXXV - Non-application of the Agreement between particular Contracting Parties

XXXVI - Principles and Objectives

XXXVII - Commitments

XXXVIII - Joint Action

Annex H - Relating to Article XXVI

Annex I - Notes and Supplementary Provisions (related to above GATT articles)

Safeguard Action for Development Purposes

Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance.

(b) Related Instruments

(i) Agreement on Technical Barriers to Trade (Standards Code)

Preamble (paragraphs 1, 8, 9)

1.3 General provisions

2.6.4 Preparation, adoption and application of technical regulations and standards by central government bodies

10.6 Information about technical regulations, standards and certification systems

11 Technical assistance to other Parties

12 Special and differential treatment of developing countries

13 The Committee on Technical Barriers to Trade

14 Consultation and dispute settlement

15 Final provisions (other than 15.5 and 15.13)

Annex 2 - Technical Expert Groups

Annex 3 - Panels

(ii) Agreement on Government Procurement

(iii) Agreement on Interpretation and Application of Articles VI, XVI and XXIII (Subsidies and Countervailing Measures)

10 Export subsidies on certain primary products

12 Consultations

13 Conciliation, dispute settlement and authorized counter measures

14 Developing countries

16 Committee on Subsidies and Countervailing Measures

17 Conciliation

18 Dispute settlement

19.2 Acceptance and accession

19.4 Entry into force

19.5(a) National legislation

19.6 Review

19.7 Amendments

19.8 Withdrawal

19.9 Non-application of this Agreement between particular signatories

19.11 Secretariat

19.12 Deposit

19.13 Registration

(iv) Agreement on Implementation of Article VII (Customs Valuation)

1.2(b)(iv) Transaction value

11.1 Determination of customs value

14 Application of Annexes (second sentence)

18 Institutions (Committee on Customs Valuation)

19 Consultation

20 Dispute settlement

21 Special and differential treatment of developing countries

22 Acceptanee and accession

24 Entry into force

25.1 National legislation

26 Review

27 Amendments

28 Withdrawal

29 Secretariat

30 Deposit

31 Registration

Annex II Technical Committee on Customs Valuation

Annex III Ad Hoc Panels

Protocol to the Agreement on Implementation of Article VII (except I.7 and I.8; with necessary conforming introductory language)

(v) Agreement on Import Licensing Procedures

1.4 General provisions (last sentence)

2.2 Automatic import licensing (footnote 2)

4 Institutions, consultation and dispute settlement

5 Final provisions (except paragraph 2)

(vi) Agreement on Implementation of Article VI (Antidumping Code)

13 Developing Countries

14 Committee on Anti-Dumping Practices

15 Consultation, Conciliation and Dispute Settlement

16 Final Provisions (except paragraphs 1 and 3)

(vii) Arrangement Regarding Bovine Meat

(viii) International Dairy Arrangement

(ix) Agreement on Trade in Civil Aircraft

(x) Declaration on Trade Measures Taken for Balance-of-Payments Purposes.

(c)All other provisions in the GATT or Related Instruments which relate to:

(i) governmental assistance to economic development and the treatment of developing countries, except for paragraphs (1) to (4) of the Decision of 28 November 1979 (L/4903) on Differential and more Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries;

(ii) the establishment or operation of specialist committees and other subsidiary institutions;

(iii) signature, accession, entry into force, withdrawal, deposit and registration.

(d) All agreements, arrangements, decisions, understandings or other joint action pursuant to the provisions listed in subparagraphs (a) to (c).

(2) Contracting Parties shall apply the provisions of the "Declaration on Trade Measures Taken for Balance-of-Payments Purposes" to measures taken by those Contracting Parties which are not parties to the GATT, to the extent practicable in the context of the other provisions of this Treaty.

(3) With respect to notifications required by the provisions made applicable by Article 29(2)(a):

(a) Contracting Parties which are not parties to the GATT or a Related Instrument shall make their notifications to the Secretariat. The Secretariat shall circulate copies of the notifications to all Contracting Parties. Notifications to the Secretariat shall be in one of the authentic languages of this Treaty. The accompanying documents may be solely in the language of the Contracting Party;

(b) such requirements shall not apply to Contracting Parties to this Treaty which are also parties to the GATT and Related Instruments, which contain their own notification requirements.

(4) Trade in nuclear materials may be governed by agreements referred to in the Declarations related to this paragraph contained in the Final Act of the European Energy Charter Conference.

ANNEX TFU
PROVISIONS REGARDING TRADE AGREEMENTS BETWEEN STATES WHICH WERE CONSTITUENT PARTS OF THE FORMER UNION OF SOVIET SOCIALIST REPUBLICS
(IN ACCORDANCE WITH ARTICLE 29(2)(B))

(1) Any agreement referred to in Article 29(2)(b) shall be notified in writing to the Secretariat by or on behalf of all of the parties to such agreement which sign or accede to this Treaty:

(a) in respect of an agreement in force as of a date three months after the date on which the first of such parties signs or deposits its instrument of accession to the Treaty, no later than six months after such date of signature or deposit; and

(b) in respect of an agreement which enters into force on a date subsequent to the date referred to in subparagraph (a), sufficiently in advance of its entry into force for other states or Regional Economic Integration Organizations which have signed or acceded to the Treaty (hereinafter referred to as the "Interested Parties") to have a reasonable opportunity to review the agreement and make representations concerning it to the parties thereto and to the Charter Conference prior to such entry into force.

(2) The notification shall include:

(a) copies of the original texts of the agreement in all languages in which it has been signed;

(b) a description, by reference to the items included in Annex EM, of the specific Energy Materials and Products to which it applies;

(c) an explanation, separately for each relevant provision of the GATT and Related Instruments made applicable by Article 29(2)(a), of the circumstances which make it impossible or impracticable for the parties to the agreement to conform fully with that provision;

(d) the specific measures to be adopted by each party to the agreement to address the circumstances referred to in subparagraph (c); and

(e) a description of the parties' programmes for achieving a progressive reduction and ultimate elimination of the agreement's non-conforming provisions.

(3) Parties to an agreement notified in accordance with paragraph (1) shall afford to the Interested Parties a reasonable opportunity to consult with them with respect to such agreement, and shall accord consideration to their representations. Upon the request of any of the Interested Parties, the agreement shall be considered by the Charter Conference, which may adopt recommendations with respect thereto.

(4) The Charter Conference shall periodically review the implementation of agreements notified pursuant to paragraph (1) and the progress having been made towards the elimination of provisions thereof that do not conform with provisions of the GATT and Related Instruments made applicable by Article 29(2)(a). Upon the request of any of the Interested Parties, the Charter Conference may adopt recommendations with respect to such an agreement.

(5) An agreement described in Article 29(2)(b) may in case of exceptional urgency be allowed to enter into force without the notification and consultation provided for in subparagraph (1)(b), paragraphs (2) and (3), provided that such notification takes place and the opportunity for such consultation is afforded promptly. In such a case the parties to the agreement shall nevertheless notify its text in accordance with subparagraph (2)(a) promptly upon its entry into force.

(6)Contracting Parties which are or become parties to an agreement described in Article 29(2)(b) undertake to limit the non-conformities thereof with the provisions of the GATT and Related Instruments made applicable by Article 29(2)(a) to those necessary to address the particular circumstances and to implement such an agreement so as least to deviate from those provisions.

They shall make every effort to take remedial action in light of representations from the Interested Parties and of any recommendations of the Charter Conference.

ANNEX D
INTERIM PROVISIONS FOR TRADE DISPUTE SETTLEMENT (IN ACCORDANCE WITH ARTICLE 29(7))

(I)(a) In their relations with one another, Contracting Parties shall make every effort through co-operation and consultations to arrive at a mutually satisfactory resolution of any dispute about existing measures that might materially affect compliance with the provisions applicable to trade under Article 5 or 29.

(b) A Contracting Party may make a written request to any other Contracting Party for consultations regarding any existing measure of the other Contracting Party that it considers might affect materially compliance with provisions applicable to trade under Article 5 or 29. A Contracting Party which requests consultations shall to the fullest extent possible indicate the measure complained of and specify the provisions of Article 5 or 29 and of the GATT and Related Instruments that it considers relevant. Requests to consult pursuant to this paragraph shall be notified to the Secretariat, which shall periodically inform the Contracting Parties of pending consultations that have been notified.

(c)A Contracting Party shall treat any confidential or proprietary information identified as such and contained in or received in response to a written request, or received in the course of consultations, in the same manner in which it is treated by the Contracting Party providing the information.

(d)In seeking to resolve matters considered by a Contracting Party to affect compliance with provisions applicable to trade under Article 5 or 29 as between itself and another Contracting Party, the Contracting Parties participating in consultations or other dispute settlement shall make every effort to avoid a resolution that adversely affects the trade of any other Contracting Party.

(2)(a) If, within 60 days from the receipt of the request for consultation referred to in subparagraph (1)(b), the Contracting Parties have not resolved their dispute or agreed to resolve it by conciliation, mediation, arbitration or other method, either Contracting Party may deliver to the Secretariat a written request for the establishment of a panel in accordance with subparagraphs (b) to (f). In its request the requesting Contracting Party shall

state the substance of the dispute and indicate which provisions of Article 5 or 29 and of the GATT and Related Instruments are considered relevant. The Secretariat shall promptly deliver copies of the request to all Contracting Parties.

(b)The interests of other Contracting Parties shall be taken into account during the resolution of a dispute. Any other Contracting Party having a substantial interest in a matter shall have the right to be heard by the panel and to make written submissions to it, provided that both the disputing Contracting Parties and the Secretariat have received written notice of its interest no later than the date of establishment of the panel, as determined in accordance with subparagraph (c).

(c)A panel shall be deemed to be established 45 days after the receipt of the written request of a Contracting Party by the Secretariat pursuant to subparagraph (a).

(d)A panel shall be composed of three members who shall be chosen by the Secretary-General from the roster described in paragraph (7). Except where the disputing Contracting Parties agree otherwise, the members of a panel shall not be citizens of Contracting Parties which either are party to the dispute or have notified their interest in accordance with subparagraph (b), or citizens of states members of a Regional Economic Integration Organization which either is party to the dispute or has notified its interest in accordance with subparagraph (b).

(e)The disputing Contracting Parties shall respond within ten working days to the nominations of panel members and shall not oppose nominations except for compelling reasons.

(f)Panel members shall serve in their individual capacities and shall neither seek nor take instruction from any government or other body. Each Contracting Party undertakes to respect these principles and not to seek to influence panel members in the performance of their tasks.

Panel members shall be selected with a view to ensuring their independence, and that a sufficient diversity of backgrounds and breadth of experience are reflected in a panel.

(g)The Secretariat shall promptly notify all Contracting Parties that a panel has been constituted.

(3)(a)The Charter Conference shall adopt rules of procedure for panel proceedings consistent with this Annex. Rules of procedure shall be as close as possible to those of the GATT and Related Instruments. A panel shall also have the right to adopt additional rules of procedure not inconsistent with the rules of procedure adopted by the Charter Conference or with this Annex.

In a proceeding before a panel each disputing Contracting Party and any other Contracting Party which has notified its interest in accordance with subparagraph (2)(b), shall have the right to at least one hearing before the panel and to provide a written submission.

Disputing Contracting Parties shall also have the right to provide a written rebuttal. A panel may grant a request by any other Contracting Party which has notified its interest in accordance with subparagraph (2)(b) for access to any written submission made to the panel, with the consent of the Contracting Party which has made it.

The proceedings of a panel shall be confidential. A panel shall make an objective assessment of the matters before it, including the facts of the dispute and the compliance of

measures with the provisions applicable to trade under Article 5 or 29. In exercising its functions, a panel shall consult with the disputing Contracting Parties and give them adequate opportunity to arrive at a mutually satisfactory solution. Unless otherwise agreed by the disputing Contracting Parties, a panel shall base its decision on the arguments and submissions of the disputing Contracting Parties. Panels shall be guided by the interpretations given to the GATT and Related Instruments within the framework of the GATT, and shall not question the compatibility with Article 5 or 29 of practices applied by any Contracting Party which is a party to the GATT to other parties to the GATT to which it applies the GATT and which have not been taken by those other parties to dispute resolution under the GATT.

Unless otherwise agreed by the disputing Contracting Parties, all procedures involving a panel, including the issuance of its final report, should be completed within 180 days of the date of establishment of the panel; however, a failure to complete all procedures within this period shall not affect the validity of a final report.

(b)A panel shall determine its jurisdiction; such determination shall be final and binding. Any objection by a disputing Contracting Party that a dispute is not within the jurisdiction of the panel shall be considered by the panel, which shall decide whether to deal with the objection as a preliminary question or to join it to the merits of the dispute.

(c)In the event of two or more requests for establishment of a panel in relation to disputes that are substantively similar, the Secretary-General may with the consent of all the disputing Contracting Parties appoint a single panel.

(4)(a)After having considered rebuttal arguments, a panel shall submit to the disputing Contracting Parties the descriptive sections of its draft written report, including a statement of the facts and a summary of the arguments made by the disputing Contracting Parties. The disputing Contracting Parties shall be afforded an opportunity to submit written comments on the descriptive sections within a period set by the panel.

Following the date set for receipt of comments from the Contracting Parties, the panel shall issue to the disputing Contracting Parties an interim written report, including both the descriptive sections and the panel's proposed findings and conclusions. Within a period set by the panel a disputing Contracting Party may submit to the panel a written request that the panel review specific aspects of the interim report before issuing a final report. Before issuing a final report the panel may, in its discretion, meet with the disputing Contracting Parties to consider the issues raised in such a request.

The final report shall include descriptive sections (including a statement of the facts and a summary of the arguments made by the disputing Contracting Parties), the panel's findings and conclusions, and a discussion of arguments made on specific aspects of the interim report at the stage of its review. The final report shall deal with every substantial issue raised before the panel and necessary to the resolution of the dispute and shall state the reasons for the panel's conclusions.

A panel shall issue its final report by providing it promptly to the Secretariat and to the disputing Contracting Parties. The Secretariat shall at the earliest practicable opportunity distribute the final report, together with any written views that a disputing Contracting Party desires to have appended, to all Contracting Parties.

(b)Where a panel concludes that a measure introduced or maintained by a Contracting Party does not comply with a provision of Article 5 or 29 or with a provision of the GATT or a Related Instrument that applies under Article 29, the panel may recommend in its final report that the Contracting Party alter or abandon the measure or conduct so as to be in compliance with that provision.

(c)Panel reports shall be adopted by the Charter Conference. In order to provide sufficient time for the Charter Conference to consider panel reports, a report shall not be adopted by the Charter Conference until at least 30 days after it has been provided to all Contracting Parties by the Secretariat. Contracting Parties having objections to a panel report shall give written reasons for their objections to the Secretariat at least 10 days prior to the date on which the report is to be considered for adoption by the Charter Conference, and the Secretariat shall promptly provide them to all Contracting Parties. The disputing Contracting Parties and Contracting Parties which notified their interest in accordance with subparagraph (2)(b) shall have the right to participate fully in the consideration of the panel report on that dispute by the Charter Conference, and their views shall be fully recorded.

(d)In order to ensure effective resolution of disputes to the benefit of all Contracting Parties, prompt compliance with rulings and recommendations of a final panel report that has been adopted by the Charter Conference is essential. A Contracting Party which is subject to a ruling or recommendation of a final panel report that has been adopted by the Charter Conference shall inform the Charter Conference of its intentions regarding compliance with such ruling or recommendation. In the event that immediate compliance is impracticable, the Contracting Party concerned shall explain its reasons for non-compliance to the Charter Conference and, in light of this explanation, shall have a reasonable period of time to effect compliance. The aim of dispute resolution is the modification or removal of inconsistent measures.

(5)(a)Where a Contracting Party has failed within a reasonable period of time to comply with a ruling or recommendation of a final panel report that has been adopted by the Charter Conference, a Contracting Party to the dispute injured by such non-compliance may deliver to the non-complying Contracting Party a written request that the non-complying Contracting Party enter into negotiations with a view to agreeing upon mutually acceptable compensation. If so requested the non-complying Contracting Party shall promptly enter into such negotiations.

(b)If the non-complying Contracting Party refuses to negotiate, or if the Contracting Parties have not reached agreement within 30 days after delivery of the request for negotiations, the injured Contracting Party may make a written request for authorization of the Charter Conference to suspend obligations owed by it to the non- complying Contracting Party under Article 5 or 29.

(c)The Charter Conference may authorize the injured Contracting Party to suspend such of its obligations to the non-complying Contracting Party, under provisions of Article 5 or 29 or under provisions of the GATT or Related Instruments that apply under Article 29, as the injured Contracting Party considers equivalent in the circumstances.

(d)The suspension of obligations shall be temporary and shall be applied only until such time as the measure found to be inconsistent with Article 5 or 29 has been removed, or until a mutually satisfactory solution is reached.

(6)(a)Before suspending such obligations the injured Contracting Party shall inform the non-complying Contracting Party of the nature and level of its proposed suspension. If the non-complying Contracting Party delivers to the Secretary-General a written objection to the level of suspension of obligations proposed by the injured Contracting Party, the objection shall be referred to arbitration as provided below. The proposed suspension of obligations shall be stayed until the arbitration has been completed and the determination of the arbitral panel has become final and binding in accordance with subparagraph (e).

(b)The Secretary-General shall establish an arbitral panel in accordance with subparagraphs (2)(d) to (f), which if practicable shall be the same panel which made the ruling or recommendation referred to in subparagraph (4)(d), to examine the level of obligations that the injured Contracting Party proposes to suspend. Unless the Charter Conference decides otherwise the rules of procedure for panel proceedings shall be adopted in accordance with subparagraph (3)(a).

(c)The arbitral panel shall determine whether the level of obligations proposed to be suspended by the injured Contracting Party is excessive in relation to the injury it experienced, and if so, to what extent. It shall not review the nature of the obligations suspended, except insofar as this is inseparable from the determination of the level of suspended obligations.

(d)The arbitral panel shall deliver its written determination to the injured and the non-complying Contracting Parties and to the Secretariat within 60 days of the establishment of the panel or within such other period as may be agreed by the injured and the non-complying Contracting Parties. The Secretariat shall present the determination to the Charter Conference at the earliest practicable opportunity, and no later than the meeting of the Charter Conference following receipt of the determination.

(e)The determination of the arbitral panel shall become final and binding 30 days after the date of its presentation to the Charter Conference, and any level of suspension of benefits allowed thereby may thereupon be put into effect by the injured Contracting Party in such manner as that Contracting Party considers equivalent in the circumstances, unless prior to the expiration of the 30 days period the Charter Conference decides otherwise.

(f)In suspending any obligations to a non-complying Contracting Party, an injured Contracting Party shall make every effort not to affect adversely the trade of any other Contracting Party.

(7)Each Contracting Party may designate two individuals who shall, in the case of Contracting Parties which are also party to the GATT, if they are willing and able to serve as panelists under this Annex, be panelists currently nominated for the purpose of GATT dispute panels.

The Secretary-General may also designate, with the approval of the Charter Conference, not more than ten individuals, who are willing and able to serve as panellists for purposes of dispute resolution in accordance with paragraphs (2) to (4). The Charter Conference may in addition decide to designate for the same purposes up to 20 individu-

als, who serve on dispute settlement rosters of other international bodies, who are willing and able to serve as panelists. The names of all of the individuals so designated shall constitute the dispute settlement roster. Individuals shall be designated strictly on the basis of objectivity, reliability and sound judgement and, to the greatest extent possible, shall have expertise in international trade and energy matters, in particular as relates to provisions applicable under Article 29. In fulfilling any function under this Annex, designees shall not be affiliated with or take instructions from any Contracting Party. Designees shall serve for renewable terms of five years and until their successors have been designated. A designee whose term expires shall continue to fulfil any function for which that individual has been chosen under this Annex. In the case of death, resignation or incapacity of a designee, the Contracting Party or the Secretary-General, whichever designated said designee, shall have the right to designate another individual to serve for the remainder of that designee's term, the designation by the Secretary-General being subject to approval of the Charter Conference.

(8)Notwithstanding the provisions contained in this Annex, Contracting Parties are encouraged to consult throughout the dispute resolution proceeding with a view to settling their dispute.

(9)The Charter Conference may appoint or designate other bodies or fora to perform any of the functions delegated in this Annex to the Secretariat and the Secretary-General.

ANNEX B
FORMULA FOR ALLOCATING CHARTER COSTS
(IN ACCORDANCE WITH ARTICLE 37(3))

(1)Contributions payable by Contracting Parties shall be determined by the Secretariat annually on the basis of their percentage contributions required under the latest available United Nations Regular Budget Scale of Assessment (supplemented by information on theoretical contributions for any Contracting Parties which are not UN members).

(2)The contributions shall be adjusted as necessary to ensure that the total of all Contracting Parties' contributions is 100%.

ANNEX PA
LIST OF SIGNATORIES WHICH DO NOT ACCEPT THE PROVISIONAL APPLICATION OBLIGATION OF ARTICLE 45(3)(B)
(IN ACCORDANCE WITH ARTICLE 45(3)(C))

1.The Czech Republic

2.Germany

3.Hungary

4.Lithuania

5.Poland

ANNEX T - CONTRACTING PARTIES' TRANSITIONAL MEASURES
(IN ACCORDANCE WITH ARTICLE 32(1))

List of Contracting Parties entitled to transitional arrangements

Albania	Latvia
Armenia	Lithuania
Azerbaijan	Moldova
Belarus	Poland
Bulgaria	Romania
Croatia	The Russian Federation
The Czech Republic	Slovakia
Estonia	Slovenia
Georgia	Tajikistan
Hungary	Turkmenistan
Kazakhstan	Ukraine
Kyrgyzstan	Uzbekistan

List of provisions subject to transitional arrangements

Provision	*Page*	*Provision*	*Page*
Article 6(2)	98	Article 10(7)84	116
Article 6(5)	104	Article 14(1)(d)	117
Article 7(4)	110	Article 20(3)	119
Article 9(1)	114	Article 22(3)	124

ARTICLE 6(2)

"Each Contracting Party shall ensure that within its jurisdiction it has and enforces such laws as are necessary and appropriate to address unilateral and concerted anti-competitive conduct in Economic Activity in the Energy Sector."

COUNTRY: ALBANIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

There is no law on protection of competition in Albania. The law No 7746 of 28 July 1993 on Hydrocarbons and the law No 7796 of 17 February 1994 on Minerals do not include such provisions. There is no law on electricity which is in the stage of preparation. This law is planned to be submitted to the Parliament by the end of 1996. In these laws Albania intends to include provisions on anti-competitive conduct.

PHASE-OUT

1 January 1998.

COUNTRY: ARMENIA

SECTORAll energy sectors.

LEVEL OF GOVERNMENT

National.DESCRIPTION

At present a state monopoly exists in Armenia in most energy sectors. There is no law on

protection of competition, thus the rules of competition are not yet being implemented. There

are no laws on energy. The draft laws on energy are planned to be submitted to the Parliament in 1994. The laws are envisaged to include provisions on anti-competitive behaviour, which would be harmonized with the EC legislation on competition.

PHASE-OUT

31 December 1997.

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The anti-monopoly legislation is at the stage of elaboration .

PHASE OUT

1 January 2000.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Anti-monopoly legislation is at the stage of elaboration.

PHASE-OUT

1 January 2000.

COUNTRY: GEORGIA

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

National .DESCRIPTION

Laws on de-monopolization are at present at the stage of elaboration in Georgia and that is why the State has so far the monopoly for practically all energy sources and energy resources, which restricts the possibility of competition in the energy and fuel complex.

PHASE-OUT

1 January 1999.

COUNTRY: KAZAKHSTAN

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

National DESCRIPTION

The law on Development of Competition and Restriction of Monopolistic Activities (No 656 of 11 June 1991) has been adopted, but is of a general nature. It is necessary to develop the

legislation further, in particular by means of adopting relevant amendments or adopting a new law. PHASE-OUT

1 January 1998.

COUNTRY: KYRGYZSTAN

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

National DESCRIPTION

The law on Anti-monopoly Policies has already been adopted. The transitional period is needed to adapt provisions of this law to the energy sector which is now strictly regulated by the state. PHASE-OUT

1 July 2001.

COUNTRY: MOLDOVA

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

National. DESCRIPTION

The law on Restriction of Monopolistic Activities and Development of Competition of 29 January 1992 provides an organizational and legal basis for the development of competition, and of measures to prevent, limit and restrict monopolistic activities; it is oriented towards implementing market economy conditions. This law, however, does not provide for concrete measures of anti-competitive conduct in the energy sector, nor does it cover completely the requirements of Article 6.

In 1995 drafts of a law on Competition and a State Programme of De-monopolization of the Economy will be submitted to the Parliament. The draft law on Energy which will be also submitted to the Parliament in 1995 will cover issues on de-monopolization and development of competition in the energy sector.

PHASE-OUT

1 January 1998.

COUNTRY: ROMANIA

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

National. DESCRIPTION

The rules of competition are not yet implemented in Romania. The draft law on Protection of Competition has been submitted to the Parliament and is scheduled to be adopted during 1994.The draft contains provisions with respect to anti-competitive behaviour, harmonized with the EC's law on Competition.

PHASE OUT

31 December 1996.

COUNTRY: THE RUSSIAN FEDERATION

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

The Federation.

DESCRIPTION

A comprehensive framework of anti-monopoly legislation has been created in the Russian Federation but other legal and organizational measures to prevent, limit or suppress monopolistic activities and unfair competition will have to be adopted and in particular in the energy sector.

PHASE-OUT

1 July 2001.

COUNTRY: SLOVENIA

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

National. DESCRIPTION

Law on Protection of Competition adopted in 1993 and published in Official Journal No 18/93 treats anti-competitive conduct generally. The existing law also provides for conditions for the establishment of competition authorities. At present the main competition authority is the Office of Protection of Competition in the Ministry of Economic Relations and Development.

With regard to importance of energy sector a separate law in this respect is foreseen and thus more time for full compliance is needed.

PHASE-OUT

1 January 1998.

COUNTRY: TAJIKISTAN

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

National. DESCRIPTION

In 1993 Tajikistan passed the law on De-monopolization and Competition. However, due to the difficult economic situation in Tajikistan, the jurisdiction of the law has been temporarily suspended.

PHASE-OUT

31 December 1997.

COUNTRY: TURKMENISTAN

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

National. DESCRIPTION

Under the Ruling of the President of Turkmenistan No 1532 of 21 October 1993 the Committee on Restricting Monopolistic Activities has been established and is acting now, the function of which is to protect enterprises and other entities from monopoly conduct and practices and to promote the formation of market principles on the basis of the development of competition and entrepreneurship.

Further development of legislation and regulations is needed which would regulate anti- monopoly conduct of enterprises in the Economic Activity in the Energy Sector.

PHASE-OUT

1 July 2001.

COUNTRY: UZBEKISTAN

SECTOR All energy sectors.

LEVEL OF GOVERNMENT

National. DESCRIPTION

The law on Restricting Monopoly Activities has been adopted in Uzbekistan and has been in force since July 1992. However, the law (as is specified in article 1, paragraph 3) does not extend to the activities of enterprises in the energy sector.

PHASE-OUT

1 July 2001.

ARTICLE 6(5)

"If a Contracting Party considers that any specified anti-competitive conduct carried out within the Area of another Contracting Party is adversely affecting an important interest relevant to the purposes identified in this Article, the Contracting Party may notify the other Contracting Party and may request that its competition authorities initiate appropriate enforcement action. The notifying Contracting Party shall include in such notification sufficient information to permit the notified Contracting Party to identify the anti- competitive conduct that is the subject of the notification and shall include an offer of such further information and co-operation as that Contracting Party is able to provide. The notified Contracting Party or, as the case may be, the relevant competition authorities may consult with the competition authorities of the notifying Contracting Party and shall accord full consideration to the request of the notifying Contracting Party in deciding whether or not to initiate enforcement action with respect to the alleged anti-competitive conduct identified in the notification. The notified Contracting Party shall inform the notifying Contracting Party of its decision or the decision of the relevant competition authorities and may if it wishes inform the notifying Contracting Party of the grounds for the decision. If enforcement action is initiated, the notified Contracting Party shall advise the notifying Contracting Party of its outcome and, to the extent possible, of any significant interim development."

COUNTRY: ALBANIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In Albania there are no established institutions to enforce the competition rules. Such institutions will be provided for in the law on the Protection of Competition which is planned to be finalized in 1996.

PHASE-OUT

1 January 1999.

COUNTRY: ARMENIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Institutions to enforce the provisions of this paragraph have not been established in Armenia.

The laws on Energy and Protection of Competition are planned to include provisions to establish such institutions.

PHASE-OUT

31 December 1997.

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Anti-monopoly authorities shall be established after the adoption of anti-monopoly legislation.

PHASE-OUT

1 January 2000.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Anti-monopoly authorities shall be established after the adoption of anti-monopoly legislation.

PHASE-OUT

1 January 2000.

COUNTRY: GEORGIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Laws on de-monopolization are at present at the stage of elaboration in Georgia and that is why there are no competition authorities established yet.

PHASE-OUT

1 January 1999.

COUNTRY: KAZAKHSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

An Anti-monopoly Committee has been established in Kazakhstan, but its activity needs improvement, both from legislative and organizational points of view, in order to elaborate an effective mechanism handling the complaints on anti-competitive conduct.

PHASE-OUT

1 January 1998.

COUNTRY: KYRGYZSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

There is no mechanism in Kyrgyzstan to control the anti-competitive conduct and the relevant legislation. It is necessary to establish relevant anti-monopoly authorities.

PHASE-OUT

1 July 2001.

COUNTRY: MOLDOVA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The Ministry of Economy is responsible for the control of competitive conduct in Moldova.

Relevant amendments have been made to the law on Breach of Administrative Rules, which envisage some penalties for violating rules of competition by monopoly enterprises.

The draft law on Competition which is now at the stage of elaboration will have provisions on the enforcement of competition rules.

PHASE-OUT

1 January 1998.

COUNTRY: ROMANIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Institutions to enforce the provisions of this paragraph have not been established in Romania.

The Institutions charged with the enforcement of competition rules are provided for in the draft law on Protection of Competition which is scheduled to be adopted during 1994.

The draft also provides a period of nine months for enforcement, starting with the date of its publication.

According to the Europe Agreement establishing an association between Romania and the European Communities, Romania was granted a period of five years to implement competition rules.

PHASE OUT

1 January 1998.

COUNTRY: TAJIKISTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Tajikistan has adopted laws on De-monopolization and Competition, but institutions to enforce competition rules are in the stage of development.

PHASE-OUT

31 December 1997.

COUNTRY: UZBEKISTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The law on Restricting Monopoly Activities has been adopted in Uzbekistan and has been in force since July 1992. However, the law (as is specified in article I, paragraph 3) does not extend to the activities of the enterprises in the energy sector.

PHASE-OUT

1 July 2001.

ARTICLE 7(4)

"In the event that Transit of Energy Materials and Products cannot be achieved on commercial terms by means of Energy Transport Facilities the Contracting Parties shall not place obstacles in the way of new capacity being established, except as may be otherwise provided in applicable legislation which is consistent with paragraph (1)."

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

It is necessary to adopt a set of laws on energy, including licensing procedures regulating transit.

During a transition period it is envisaged to build and modernize power transmission lines, as well as generating capacities with the aim of bringing their technical level to the world requirements and adjusting to conditions of a market economy.

PHASE OUT

31 December 1999.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Laws on energy, land and other subjects are being worked out at present, and until their final adoption, uncertainty remains as to the conditions for establishing new transport capacities for energy carriers in the territory of Belarus.

PHASE-OUT

31 December 1998.

COUNTRY: BULGARIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Bulgaria has no laws regulating Transit of Energy Materials and Products. An overall restructuring is ongoing in the energy sector, including development of institutional framework, legislation and regulation.

PHASE-OUT

The transitional period of 7 years is necessary to bring the legislation concerning the Transit of Energy Materials and Products in full compliance with this provision.

1 July 2001.

COUNTRY: GEORGIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

It is necessary to prepare a set of laws on the matter. At present there are substantially different conditions for the transport and transit of various energy sources in Georgia (electric power, natural gas, oil products, coal).

PHASE-OUT

1 January 1999.

COUNTRY: HUNGARY

SECTOR

Electricity industry.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

According to the current legislation establishment and operation of high-voltage transmission lines is a state monopoly. The creation of the new legal and regulatory framework for establishment, operation and ownership of high-voltage transmission lines is under preparation.

The Ministry of Industry and Trade has already taken the initiative to put forward a new Act on Electricity Power, that will have its impact also on the Civil Code and on the Act on Concession. Compliance can be achieved after entering in force of the new law on Electricity and related regulatory decrees.

PHASE-OUT

31 December 1996.

COUNTRY: POLAND

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Polish law on Energy, being in the final stage of coordination, stipulates for creating new legal regulations similar to those applied by free market countries (licenses to generate, transmit, distribute and trade in energy carriers). Until it is adopted by the Parliament a temporary suspension of obligations under this paragraph is required.

PHASE-OUT

31 December 1995.

Article 9(1)

"The Contracting Parties acknowledge the importance of open capital markets in encouraging the flow of capital to finance trade in Energy Materials and Products and for the making of and assisting with regard to Investments in Economic Activity in the Energy Sector in the Areas of other Contracting Parties, particularly those with economies in transition. Each Contracting Party shall accordingly endeavour to promote conditions for access to its capital market by companies and nationals of other Contracting Parties, for the purpose of financing trade in Energy Materials and Products and for the purpose of Investment in Economic Activity in the Energy Sector in the Areas of those other Contracting Parties, on a basis no less favourable than that which it accords in like circumstances to its own companies and nationals or companies and nationals of any other Contracting Party or any third state, whichever is the most favourable."

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Relevant legislation is at the stage of elaboration.

PHASE-OUT

1 January 2000.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Relevant legislation is at the stage of elaboration.

PHASE-OUT

1 January 2000.

COUNTRY: GEORGIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Relevant legislation is at the stage of preparation.

PHASE-OUT

1 January 1997.

COUNTRY: KAZAKHSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The bill on Foreign Investments is at the stage of authorization approval with the aim to adopt it by the Parliament in autumn 1994.

PHASE-OUT

I July 2001.

COUNTRY: KYRGYZSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Relevant legislation is currently under preparation.

PHASE-OUT

1 July 2001.

Article 10(7)Specific Measures

"Each Contracting Party shall accord to Investments in its Area of Investors of another Contracting Party, and their related activities including management, maintenance, use, enjoyment or disposal, treatment no less favourable than that which it accords to Investments of its own Investors or of the Investors of any other Contracting Party or any third state and their related activities including management, maintenance, use, enjoyment or disposal, whichever is the most favourable".

COUNTRY: BULGARIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreign persons may not acquire property rights over land. A company with more than fifty per cent of foreign person's share may not acquire property right over agricultural land;

Foreigners and foreign legal persons may not acquire property rights over land except by way of inheritance according to the law. In this case they have to make it over;

A foreign person may acquire property rights over buildings, but without property rights over the land;

Foreign persons or companies with foreign controlling participation must obtain a permit before performing the following activities:

exploration, development and extraction of natural resources from the territorial sea, continental shelf or exclusive economic zone;

acquisition of real estate in geographic regions designated by the Council of Ministers.

The permits are issued by the Council of Ministers or by a body authorized by the Council of Ministers.

PHASE-OUT

1 July 2001.

Article 14(1)(d)

"Each Contracting Party shall with respect to Investments in its Area of Investors of any other Contracting Party guarantee the freedom of transfer into and out of its Area, including the transfer of:

unspent earnings and other remuneration of personnel engaged from abroad in connection with that Investment;"

COUNTRY: BULGARIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Foreign nationals employed by companies with more than 50 per cent of foreign participation, or by a foreign person registered as sole trader or a branch or a representative office of a foreign company in Bulgaria, receiving their salary in Bulgarian leva, may purchase foreign currency not exceeding 70 per cent of their salary, including social security payments.

PHASE-OUT

1 July 2001.

COUNTRY: HUNGARY

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

According to the Act on Investments of Foreigners in Hungary, article 33, foreign top managers, executive managers, members of the Supervisory Board and foreign employees may transfer their income up to 50 per cent of their after tax earnings derived from the company of their employment through the bank of their company.

PHASE-OUT

The phase out of this particular restriction depends on the progress Hungary is able to make in the implementation of the foreign exchange liberalization programme whose final target is the full convertibility of the Forint. This restriction does not create barriers to foreign investors.

Phase-out is based on stipulations of Article 32.

1 July 2001.

Article 20(3)

"Each Contracting Party shall designate one or more enquiry points to which requests for information about the above mentioned laws, regulations, judicial decisions and administrative rulings may be addressed and shall communicate promptly such designation to the Secretariat which shall make it available on request."

COUNTRY: ARMENIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In Armenia there are no official enquiry points yet to which requests for information about the relevant laws and other regulations could be addressed. There is no information centre either.

There is a plan to establish such a centre in 1994-1995. Technical assistance is required.

PHASE-OUT

31 December 1996.

COUNTRY: AZERBAIJAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

There are no official enquiry points so far in Azerbaijan to which requests for information about relevant laws and regulations could be addressed. At present such information is concentrated in various organizations.

PHASE OUT

31 December 1997.

COUNTRY: BELARUS

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Official enquiry offices which could give information on laws, regulations, judicial decisions and administrative rulings do not exist yet in Belarus. As far as the judicial decisions and administrative rulings are concerned there is no practice of their publishing.

PHASE-OUT

31 December 1998.

COUNTRY: KAZAKHSTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

The process of establishing enquiry points has begun. As far as the judicial decisions and administrative rulings are concerned they are not published in Kazakhstan (except for some decisions made by the Supreme Court), because they are not considered to be sources of law.

To change the existing practice will require a long transitional period.

PHASE-OUT

1 July 2001.

COUNTRY: MOLDOVA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

It is necessary to establish enquiry points.

PHASE-OUT

31 December 1995.

COUNTRY: THE RUSSIAN FEDERATION

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

The Federation and the Republics constituting Federation.

DESCRIPTION

No official enquiry points exist in the Russian Federation as of now to which requests for information about relevant laws and other regulation acts could be addressed. As far as the judicial decisions and administrative rulings are concerned they are not considered to be sources of law.

PHASE-OUT

31 December 2000.

COUNTRY: SLOVENIA

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In Slovenia there are no official enquiry points yet to which requests for information about relevant laws and other regulatory acts could be addressed. At present such information is available in various ministries. The Law on Foreign Investments which is under preparation foresees establishment of such an enquiry point.

PHASE-OUT

1 January 1998.

COUNTRY: TAJIKISTAN

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

There are no enquiry points yet in Tajikistan to which requests for information about relevant laws and other regulations could be addressed. It is only a question of having available funding.

PHASE-OUT

31 December 1997.

COUNTRY: UKRAINE

SECTOR

All energy sectors.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

Improvement of the present transparency of laws up to the level of international practice is required. Ukraine will have to establish enquiry points providing information about laws, regulations, judicial decisions and administrative rulings and standards of general application.

PHASE-OUT

1 January 1998.

ARTICLE 22(3)

"Each Contracting Party shall ensure that if it establishes or maintains a state entity and entrusts the entity with regulatory, administrative or other governmental authority, such entity shall exercise that authority in a manner consistent with the Contracting Party's obligations under this Treaty".

COUNTRY: THE CZECH REPUBLIC

SECTOR

Uranium and nuclear industries.

LEVEL OF GOVERNMENT

National.

DESCRIPTION

In order to deplete uranium ore reserves that are stocked by Administration of State Material Reserves, no imports of uranium ore and concentrates, including uranium fuel bundles containing uranium of non-Czech origin, will be licensed.

PHASE-OUT

1 July 2001.

Decisions with Respect to the Energy Charter Treaty

The European Energy Charter Conference has adopted the following Decisions:

1.With respect to the Treaty as a whole

In the event of a conflict between the treaty concerning Spitsbergen of 9 February 1920 (the Svalbard Treaty) and the Energy Charter Treaty, the treaty concerning Spitsbergen shall prevail to the extent of the conflict, without prejudice to the positions of the Contracting Parties in respect of the Svalbard Treaty. In the event of such conflict or a dispute as to whether there is such conflict or as to its extent, Article 16 and Part V of the Energy Charter Treaty shall not apply.

2.With respect to Article 10(7)

The Russian Federation may require that companies with foreign participation obtain legislative approval for the leasing of federally-owned property, provided that the Russian Federation shall ensure without exception that this process is not applied in a manner which discriminates among Investments of Investors of other Contracting Parties.

3.With respect to Article 14(*)

(1)The term "freedom of transfer" in Article 14(1) does not preclude a Contracting Party (hereinafter referred to as the "Limiting Party") from applying restrictions on movement of capital by its own Investors, provided that: (a)such restrictions shall not impair the rights granted under Article 14(1) to Investors of other Contracting Parties with respect to their Investments;

(b)such restrictions do not affect Current Transactions; and

(c)the Contracting Party ensures that Investments in its Area of the Investors of all other Contracting Parties are accorded, with respect to transfers, treatment no less favourable than that which it accords to Investments of Investors of any other Contracting Party or of any third state, whichever is the most favourable.

(2)This Decision shall be subject to examination by the Charter Conference five years after entry into force of the Treaty, but not later than the date envisaged in Article 32(3).

(3)No Contracting Party shall be eligible to apply such restrictions unless it is a Contracting Party which is a state that was a constituent part of the former Union of Soviet Socialist Republics, which has notified the provisional Secretariat in writing no later than 1 July 1995 that it elects to be eligible to apply restrictions in accordance with this Decision.

(4)For the avoidance of doubt, nothing in this Decision shall derogate, as concerns Article 16, from the rights hereunder of a Contracting Party, its Investors or their Investments, or from the obligations of a Contracting Party.

(5)For the purposes of this Decision:

"Current Transactions" are current payments connected with the movement of goods, services or persons that are made in accordance with normal international practice, and do not include arrangements which materially constitute a combination of a current payment

and a capital transaction, such as deferrals of payments and advances which is meant to circumvent respective legislation of the Limiting Party in the field.

4.With respect to Article 14(2)

Without prejudice to the requirements of Article 14 and its other international obligations, Romania shall endeavour during the transition to full convertibility of its national currency to take appropriate steps to improve the efficiency of its procedures for the transfers of Investment Returns and shall in any case guarantee such transfers in a Freely Convertible Currency without restriction or a delay exceeding six months. Romania shall ensure that Investments in its Area of the Investors of all other Contracting Parties are accorded, with respect to transfers, treatment no less favourable than that which it accords to Investments of Investors of any other Contracting Party or of any third state, whichever is the most favourable.

5.With respect to Articles 24(4)(a) and 25

An Investment of an Investor referred to in Article 1(7)(a)(ii), of a Contracting Party which is not party to an EIA or a member of a free-trade area or a customs union, shall be entitled to treatment accorded under such EIA, free-trade area or customs union, provided that the Investment:

(a)has its registered office, central administration or principal place of business in the Area of a party to that EIA or member of that free-trade area or customs union; or

(b)in case it only has its registered office in that Area, has an effeetive and continuous link with the economy of one of the parties to that EIA or member of that free-trade area or customs union.

*This Decision has been drafted in the understanding that Contracting Parties which intend to avail themselves of it and which also have entered into Partnership and Cooperation Agreements with the European Communities and their Member States containing an article disapplying those Agreements in favour of the Treaty, will exchange letters of understanding which have the legal effect of making Article 16 of the Treaty applicable between them in relation to this Decision. The exchange of letters shall be completed in good time prior to signature.

[For the signatures, see p. 613 of this volume.]

Annex 121

Convention on Co-operation for the Protection and Sustainable Use of the River Danube, 29 June 1994, OJ L 342

CONVENTION

on cooperation for the protection and sustainable use of the river Danube

(Convention for the protection of the Danube)

TABLE OF CONTENTS

PREAMBLE

The Contracting Parties,

DETERMINED by the strong intention to intensify their water management cooperation in the field of water protection and water use;

CONCERNED over the occurrence and threats of adverse effects, in the short or long term, of changes in conditions of watercourses within the river Danube basin on the environment, economies and well-being of the Danubian States;

EMPHASIZING the urgent need for strengthened domestic and international measures to prevent, control and reduce significant adverse transboundary impact from the release of hazardous substances and of nutrients into the aquatic environment within the Danube basin with due attention also given to the Black Sea;

COMMENDING the measures already taken on the domestic initiative of Danubian countries and on the bilateral and multilateral level of their cooperation as well as the efforts already undertaken within the CSCE process, by the United Nations Economic Commission for Europe and by the European Community to promote the cooperation, on bilateral and multilateral levels, for the prevention and control of transboundary pollution, sustainable water management, rational use and conservation of water resources;

REFERRING in particular to the Convention on the protection and use of transboundary watercourses and international lakes of 17 March 1992 as well as the existing bi- and multilateral cooperation among Danubian States, which will be continued and duly taken into account by the cooperation of all Danubian States, as well as pointing to the Convention on the protection of the Black Sea against pollution of 21 April 1992;

STRIVING at a lasting improvement and protection of the river Danube and of the waters within its catchment area in particular in the transboundary context and at sustainable water management taking duly into account the interests of the Danubian States in the field of water use and at the same time contributing to the protection of the marine environment of the Black Sea,

HAVE AGREED AS FOLLOWS:

PART I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Convention:

(a) 'Danubian States' mean sovereign States sharing a considerable part of the hydrological catchment area of the river Danube. A considerable part is assumed to be a share exceeding 2 000 km^2 of the total hydrological catchment area;

(b) 'catchment area' of the river Danube means the hydrological river basin as far as it is shared by the Contracting Parties;

(c) 'transboundary impact' means any significant adverse effect on the riverine environment resulting from a change in the conditions of waters caused by human activity and stretching out beyond an area under the jurisdiction of a Contracting Party. Such changes may affect life and property, safety of facilities and the aquatic ecosystems concerned;

(d) 'hazardous substances' means substances which have toxic, carcinogenic, mutagenic, teratogenic or bioaccumulative effects, in particular those being persistent and having significant adverse impact on living organisms;

(e) 'substances hazardous to water' means substances the hazard potential of which to water resources is extraordinarily high so that their handling requires special preventive and protective measures;

(f) 'point and non-point sources of water pollution' means the sources of pollutants and nutrients the input of which to waters is caused either by locally determined discharges (point source) or by diffuse effects being widespread over the catchment areas (non-point sources);

(g) 'water balance' means the relationship characterizing the natural water environment of an entire river basin as to its components (precipitation, evaporation, surface and undergound run-off). In addition a component of current manmade effects originating from water use and influencing water quantity is included;

(h) 'connecting data' means summarized data derived from upstream water balances as far as being relevant as an input necessary for the elaboration of downstream water balances and of a general water balance for the river Danube. To this extent connecting data cover the components of the water balance for all significant transboundary waters within the catchment area of the river Danube. Connecting data refer to cross sections of transboundary waters where they mark, cross or are located on boundaries between the Contracting Parties;

(i) 'International Commission' means the organization established by Article 18 of this Convention.

Article 2

Objectives and principles of cooperation

1. The Contracting Parties shall strive at achieving the goals of a sustainable and equitable water management, including the conservation, improvement and the rational use of surface waters and ground water in the catchment area as far as possible. Moreover the Contracting Parties shall make all efforts to control the hazards originating from accidents involving substances hazardous to water, floods and ice-hazards of the river Danube. Moreover they shall endeavour to contribute to reducing the pollution loads of the Black Sea from sources in the catchment area.

2. The Contracting Parties pursuant to the provisions of this Convention shall cooperate on fundamental water management issues and take all appropriate legal, administrative and technical measures, to at least maintain and improve the current environmental and water quality conditions of the river Danube and of the waters in its catchment area and to prevent and reduce as far as possible adverse impacts and changes occurring or likely to be caused.

3. To this end the Contracting Parties, taking into account the urgency of water pollution abatement measures and of rational, sustainable water use, shall set priorities as appropriate and shall strengthen, harmonize and coordinate measures taken and planned to be taken at the domestic and international level throughout the Danube basin aiming at sustainable development and environmental protection of the river Danube. This objective in particular is directed to ensure the sustainable use of water resources for municipal, industrial and agricultural purposes as well as the conservation and restoration of ecosystems and to cover also other requirements occurring as to public health.

4. The polluter pays principle and the precautionary principle constitute a basis for all measures aiming at the protection of the river Danube and of the waters within its catchment area.

5. Water management cooperation shall be oriented on sustainable water management, that means on the criteria of a stable, environmentally sound development, which are at the same time directed to:

— maintain the overall quality of life,

— maintain continuing access to natural resources,

— avoid lasting environmental damage and protect ecosystems,

— exercise preventive approach.

6. The application of this Convention by no means shall cause any significant direct or indirect increase of impacts to the riverine environment.

7. Each Contracting Party has the right to adopt and implement measures being more stringent than those resulting from the provisions of this Convention.

Article 3

Scope

1. This Convention applies to the catchment area of the Danube River as definied under Article 1 (b).

2. This Convention shall apply in particular to the following planned activities and ongoing measures as far as they cause or are likely to cause transboundary impacts:

(a) the discharge of waste waters, the input of nutrients and hazardous substances both from point and non-point sources as well as heat discharge;

(b) planned activities and measures in the field of water construction works, in particular regulation as well as run-off and storage level control of water courses, flood control and lice-hazards abatement, as well as the effect of facilities situated in or aside the watercourse on its hydraulic regime;

(c) other planned activities and measures for the purposes of water use, such as water power utilization, water transfer and withdrawal;

(d) the operation of the existing hydrotechnical constructions e.g. reservoirs and water power plants; measures to prevent environmental impact, including deterioration in the hydrological conditions, erosion, abrasion, inundation and sediment flow; measures to protect the ecosystems;

(e) the handling of substances hazardous to water and the precautionary prevention of accidents.

3. This Convention is applicable to issues of fishery and inland navigation as far as problems of water protection against pollution caused by these activities are concerned.

Article 4

Forms of cooperation

The forms of cooperation under this Convention as a rule are the following:

(a) consultations and joint activities in the framework of the International Commission pursuant to the provisions of this Convention;

(b) exchange of information on bi- and multilateral agreement, legal regulations and on measure in the field of water management; exchange of legal documents and directives and of other publications; other forms for the exchange of information and experiences.

PART II

MULTILATERAL COOPERATION

Article 5

Prevention, control and reduction of transboundary impact

1. The Contracting Parties shall develop, adopt and implement relevant legal, administrative and technical measures as well as provide for the domestic preconditions and basis required in order to ensure efficient water quality protection and sustainable water use and thereby also to prevent, control and reduce transboundary impact.

2. To this end the Contracting Parties shall separately or jointly take in particular the measures indicated below:

(a) record conditions of natural water resources within the river Danube catchment area applying agreed quantity and quality parameters including the methodology concerned;

(b) adopt legal provisions providing for requirements including time limits to be met by waste water discharges;

(c) adopt legal provisions for the handling of substances hazardous to water;

(d) adopt legal provisions for reducing inputs of nutrients or hazardous substances from non-point sources, especially for the application of nutrients as well as of plant protection agents and pesticides in agriculture;

(e) with the aim of harmonizing these regulations at a high level of protection as well as for the harmonized implementation of corresponding measures the Contracting Parties shall take into account results and proposals put forward by the International Commission;

(f) the Contracting Parties shall cooperate and take appropriate measures to avoid the transboundary impacts of wastes and hazardous substances in particular originating from transport.

Article 6

Specific water resources protection measures

The Contracting Parties shall take appropriate measures aiming at the prevention or reduction of transboundary impacts and at a sustainable and equitable use of water resources as well as at the conservation of ecological resources, especially:

(a) enumerate groundwater resources subject to long-term protection as well as protection zones valuable for existing or future drinking water supply purposes;

(b) prevent the pollution of groundwater resources, especially those in a long-term perspective reserved for drinking water supply, in particular caused by nitrates, plant protection agents and pesticides as well as other hazardous substances;

(c) minimize by preventive and control measures the risks of accidental pollution;

(d) take into account possible influences on the water quality resulting from planned activities and ongoing measures pursuant to Article 3 (2);

(e) evaluate the importance of different biotope elements for the riverine ecology and propose measures for improving the acquatic and littoral ecological conditions.

Article 7

Emission limitation: water quality objectives and criteria

1. The Contracting Parties taking into account the proposals from the International Commission shall set emission limits applicable to individual industrial sectors or industries in terms of pollution loads and concentrations and based in the best possible way on low- and non-waste technologies at source. Where hazardous substances are discharged, the emission limits shall be based on the best available techniques for the abatement at source and/or for waste water purification. For municipal waste water, emission limits shall be based on the application of at least biological or an equivalent level of treatment.

2. Supplementary provisions for preventing or reducing the release of hazardous substances and nutrients shall be developed by the Contracting Parties for non-point sources, in particular where the main sources are originating from agriculture, taking into account the best environmental practice.

3. For the purpose of paragraphs 1 and 2 Annex II to this Convention contains a list of industrial sectors and industries as well as an additional list of hazardous substances and groups of substances, the discharge of which from point and non-point sources shall be prevented or considerably reduced. The updating of Annex II lies with the International Commission.

4. The Contracting Parties in addition shall, where appropriate, define water quality objectives and apply water quality criteria for the purpose of preventing, controlling and reducing transboundary impact. General guidance for this is given in Annex III, which shall be applied and specified by the Contracting Parties both, at the domestic level and jointly, where appropriate.

5. Aiming at an efficient limitation of the emissions in areas under their jurisdiction the Contracting Parties shall ensure necessary preconditions and implementation.

They shall ensure that:

(a) the domestic regulations for emission limitation and their level of standards imposed are harmonized step by step with the emission limitation pursuant to this Convention;

(b) waste water discharges without exception are based on a permit imposed by the competent authorities in advance and for a limited period of validity;

(c) regulations and permits for prevention and control measures in case of new or modernized industrial facilities, in particular where hazardous substances are involved, are oriented on the best available techniques and are implemented with high priority;

(d) more stringent provisions than the standards — in individual cases even prohibition — are imposed, where the character of the receiving water and of its ecosystem so requires in connection with paragraph 4;

(e) competent authorities survey that activities likely to cause transboundary impacts are carried out in compliance with the permits and provisions imposed;

(f) environmental impact assessment in line with supranational and international regulations or other procedures for evaluation and assessment of environmental effects are applied;

(g) when planning, licensing and implementing activities and measures as referred to in Article 3 (2) and in Article 16 (2) the competent authorities take into account risks of accidents involving substances hazardous to water by imposing preventive measures and by ordering rules of conduct for post-accident response measures.

Article 8

Emission inventories, action programmes and progress reviews

1. The Contracting Parties shall undertake periodically inventories of the relevant point and non-point sources of pollution within the catchment are of river Danube including the prevention and abatement measures already taken for the respective discharges as well as on the actual efficiency of these measures, taking duly into account Article 5 (2) (a).

2. Based on that the Contracting Parties shall in stages establish a list of further prevention and abatement measures to be taken step by step as far as this is necessary for reaching the objectives of this Convention.

3. The inventory of emissions and the list of measures to be taken form the basis for developing joint action programmes to be developed by the Contracting Parties

taking into account priorities set in terms of urgency and efficiency. These action programmes in particular shall be aimed at the reduction of pollution loads and concentrations both from industrial and municipal point sources as well as from non-point sources. They shall *inter alia* contain the prevention and abatement measures including the timing and cost estimates.

4. In addition the Contracting Parties shall monitor the progress made in the implementation of the joint action programmes by establishing periodical progress reviews. These reviews shall contain both, the protection measures implemented and the progress made as to the riverine conditions in the light of the actual assessment.

Article 9

Monitoring programmes

On the basis of their domestic activities, the Contracting Parties shall cooperate in the field of monitoring and assessment.

1. For this aim, they shall:

— harmonize or make comparable their monitoring and assessment methods as applied on their domestic levels, in particular in the field of river quality, emission control, flood forecast and water belance, with a view to achieving comparable results to be introduced into the joint monitoring and assessment activities,

— develop concerted or joint monitoring systems applying stationary or mobile measurement devices, communication and data processing facilities,

— elaborate and implement joint programmes for monitoring the riverine conditions in the Danube catchment area concerning both water quality and quantity, sediments and riverine ecosystems, as a basis for the assessment of transboundary impacts such as transboundary pollution and changes of the riverine regimes as well as of water balances, flood and ice-hazards,

— develop joint or harmonized methods for monitoring and assessment of waste water discharges including processing, evaluation and documentation of data taking into account the branch-specific approach of emission limitation (Annex II, Part 1),

— elaborate inventories on relevant point sources including the pollutants discharged (emission inventories) and estimate the water pollution from non-point sources taking into account Annex II, Part 2; review these documents according to the actual state.

2. In particular they shall agree upon monitoring points, river quality characteristics and pollution parameters regularly to be evaluated for the river Danube with a sufficient frequency taking into account the ecological and hydrological character of the watercourse concerned as well as typical emissions of pollutants discharged within the respective catchment area.

3. The Contracting Parties shall establish, on the basis of a harmonized methodology, domestic water balances, as well as the general water balance of the river Danube basin. As an input for this purpose the Contracting Parties to the extent necessary shall provide connecting data which are sufficiently comparable through the application of the harmonized methology. On the same data base water balances can also be compiled for the main tributaries of the river Danube.

4. They shall periodically assess the quality conditions of the river Danube and the progress made by their measures taken aiming at the prevention, control and reduction of transboundary impacts. The results will be presented to the public by appropriate publications.

Article 10

Obligations of reporting

The Contracting Parties shall report to the International Commission on basic issues required for the Commission to comply with its tasks. These reports shall in particular involve:

(a) reports and documents being foreseen in this Convention or requested by the Commission;

(b) information on the existence, conclusion, amendment or withdrawal of bilateral and multilateral agreements and treaties regulating the protection and water management of the river Danube and of waters within its catchment area or being relevant for questions concerned;

(c) information on their respective laws, ordinances and other general regulations, regulating the protection and water management of the river Danube and of waters within its catchment area or being relevant for questions concerned;

(d) communication, at the latest within an agreed delay after the International Commission has taken its decision, on the way, the time-frame and the financial expenses for implementing action-oriented decisions at the domestic level, such as recommendations, programmes and measures;

(e) designation of competent institutions to be addressed for cooperation in the framework of this Convention by the International Commission or by other Contracting Parties;

(f) communication on planned activities, which for reason of their character are likely to cause transboundary impacts.

Article 11

Consultations

1. Having had a prior exchange of information the Contracting Parties involved shall at the request of one or several Contracting Parties concerned enter into consultations on planned activities as referred to in Article 3 (2), which are likely to cause transboundary impacts, as far as this exchange of information and these consultations are not yet covered by bilateral or other international cooperation. The consultations are carried out as a rule within the framework of the International Commission, with the aim of achieving a solution.

2. Prior to a decision on planned activities the competent authorities — with the exception of pending danger — shall wait for the results of the consultations unless they are not finalized one year after their commencement at the latest.

Article 12

Exchange of information

1. As determined by the International Commission the Contracting Parties shall exchange reasonably available data, *inter alia*, on:

(a) the general conditions of the riverine environment within the catchment area of the river Danube;

(b) experience gained in the application and operation of best available techniques 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) regulations for waste water discharges;

(f) accidents involving substances hazardous to water.

2. In order to harmonize emission limits, the Contracting Parties shall undertake the exchange of information on their regulations.

3. If a Contracting Party is requested by any other Contracting 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 Contracting Parties shall facilitate the exchange of best available techniques, particularly through the promotion of: the commercial exchange of available techniques, direct industrial contacts and cooperation, including joint ventures; the exchange of information and experience; and the provision of technical assistance. The Contracting Parties shall also undertake joint training programmes and the organization of relevant seminars and meetings.

5. The provisions of this Convention shall not affect the rights or the obligations of Contracting Parties in accordance with their domestic laws, regulations, administrative provisions or accepted legal practices and applicable international regulations to protect information related to personal data, intellectual property including industrial and commercial secrecy, or national security.

6. 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 13

Protection of information supplied

Insofar as pursuant to this Convention industrial and commercial secrets or other confidential pieces of information are transmitted in conformity with domestic laws, the receiving Contracting Parties shall observe the secrecy of this information by not using it for any other purposes than those stipulated in this Convention, publishing it, or making it available to third parties. In case any one Contracting Party feels unable to comply with this obligation regarding confidential information that has been transmitted to it, it shall inform the transmitting Contracting Party about it without any delay and retransmit the transmitted information. Personal data shall be transmitted to Contracting Parties in conformity with the domestic law of the transmitting Contracting Party. The receiver shall use personal data only for the purpose indicated and under the conditions specified by the transmitting side.

Article 14

Information to the public

1. The Contracting Parties shall ensure that their competent authorities are required to make information concerning the state or the quality of riverine environment in the Danube basin available to any natural or legal person, with payment of reasonable charges, in response to any reasonable request, without that person having to prove an interest, as soon as possible.

2. The information referred to in paragraph 1 of this Article, which is held by public authorities, may be given in written, visual, oral or data-based form.

3. The provisions of this Article shall not affect the right of Contracting Parties, in accordance with their domestic legal systems and applicable international regulations, to provide for a request for such information to be refused where it affects:

(a) the confidentiality of the proceedings of public authorities, international relations and national defence;

(b) public security;

(c) matters which are or have been *sub judice* or under enquiry including disciplinary enquiries, or whihch are the subject of preliminary proceedings;

(d) commercial and industrial confidentiality as well as intellectual property;

(e) the confidentiality of personal data and/or files;

(f) material supplied by a third party without that party being under a legal obligation to do so;

(g) material, the disclosure of which would make it more likely that the environment to which such material related would be damaged.

4. A public authority shall respond to a person requesting information as soon as possible. The reasons for a refusal to provide the information requested must be given in writing.

Article 15

Research and development

1. To further the aims of this Convention, the Contracting Parties shall establish complementary or joint programmes of scientific or technical research and, in accordance with a procedure to be regulated by the International Commission, transmit to the Commission:

(a) the results of such complementary, joint or other relevant research, the access to which is open for public authorities;

(b) relevant parts of other programmes of scientific and technical research.

2. In so doing, the Contracting Parties shall have regard to the work carried out or supported, in these fields, by the appropriate international organizations and agencies.

Article 16

Communication, warning and alarm systems, emergency plans

1. The Contracting Parties shall provide for coordinated or joint communication, warning and alarm systems in the basin-wide context to the extent this is necessary to supplement the systems established and operated at a bilateral level. They shall consult on ways and means of harmonizing domestic communication, warning and alarm systems and emergency plans.

2. The Contracting Parties shall in the framework of the International Commission inform each other about competent authorities or points of contact designated for this purpose in case of emergency events such as accidental pollution, other critical water conditions, floods and ice-hazards. Accordingly the competent authorities shall cooperate to establish joint emergency plans, where necessary, supplementary to existing plans on the bilateral level.

3. If a competent authority identifies a sudden increase of hazardous substances in the river Danube or in waters within its catchment area or receives note of a disaster or of an accident likely to cause serious impact on the water quality of the river Danube and to affect downstream Danubian States this authority shall immediately inform the contact points designated and the International Commission according to the procedure introduced by the Commission.

4. In order to control and reduce the risks originating from floods including ice-hazards, the competent authorities shall immediately inform the downstream Danubian States likely to be affected and the International Commission on the occurrence and run-off of floods as well as on forecasts of ice-hazards.

Article 17

Mutual assistance

1. In the interest of enhanced cooperation and to facilitate compliance with obligations of this Convention;

in particular where a critical situation of riverine conditions should arise, Contracting Parties shall provide mutual assistance upon the request of other Contracting Parties.

2. The International Commission shall elaborate 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 Contracting Party requesting assistance, including, where necessary, the facilitation of border-crossing formalities;

(c) arrangements for compensating the assisting Contracting Party and/or its personnel, as well as for transit through territories of third Contracting Parties, where necessary;

(d) methods of reimbursing assistance services.

PART III

INTERNATIONAL COMMISSION

Article 18

Establishment, tasks and competences

1. With a view to implementing the objectives and provisions of this Convention the International Commission for the Protection of the river Danube, referred to in this Convention as International Commission, shall be established. The Contracting Parties shall cooperate in the framework of the International Commission. For implementing the obligations of the Contracting Parties pursuant to Articles 1 to 18, the International Commission elaborates proposals and recommendations addressed to the Contracting Parties.

2. The structure and the procedures of the International Commission as well as its competences are stipulated in detail in Annex IV to this Convention constituting the Statute of the Commission.

3. In addition to affairs explicitly entrusted to it the International Commission is competent to deal with all other affairs the Commission is entrusted with by mandate from the Contracting Parties in the framework of Article 3 of this Convention.

4. The implementation of decisions taken by the International Commission is supported through the obligations of the Contracting Parties for reporting to the Commission pursuant to Article 10 as well as through the provisions of this Convention concerning the domestic basis and implementation of the multilateral cooperation.

5. The International Commission reviews experience acquired implementing this Convention and as appropriate submits proposals to the Contracting Parties concerning amendments or additions to this Convention or prepares the basis for elaborating further regulations on the protection and water management of the river Danube and of waters within its catchment area.

6. The International Commission decides on the cooperation with international and national organizations or with other bodies, which are engaged or interested in the protection and water management of the river Danube and of waters within its catchment area or in general questions of water protections and water management. This cooperation is directed to enhancing coordination and to avoiding duplication.

Article 19

Transition concerning the Bucharest Declaration

Works as performed by the Contracting Parties in the framework of the Declaration on the cooperation of the Danubian countries on problems of the Danubian water management, in particular for the protection of the river Danube against pollution, signed on 13 December 1985 (Bucharest Declaration), by the working groups on water quality, flood information and forecast and water balance are transferred to the framework of this Convention.

PART IV

PROCEDURAL AND FINAL CLAUSES

Article 20

Validity of the Annexes

Subject to Article 23, the Annexes I to V form integral of this Convention.

Article 21

Existing and supplementary agreements

The Contracting Parties on the basis of equality and reciprocity shall adapt existing bilateral or multilateral agreements or other arrangements, where necessary to eliminate contradictions with basic principles of this Convention, and shall enter into supplementary agreements or other arrangements where appropriate.

Article 22

Conference of the Parties

1. The Contracting Parties shall meet upon recommendation by the International Commission.

2. At such meetings the Contracting Parties shall in particular review policy issues concerning the implementation of this Convention upon the report of the International Commission and shall adopt appropriate recommendations or decisions.

3. The Contracting Party whose head of delegation acts as president of the International Commission shall also play the part of the chairperson of such meetings.

4. The conference of the Parties is competent to pass recommendations or decisions provided that after regular invitation the delegations from at least three quarters of all Contracting Parties are present. Unless otherwise provided in this Convention, the conference of the Parties shall make every effort to reach agreement by consensus. Should consensus not be attainable, the chairperson shall declare that all efforts at reaching agreement by consensus have been exhausted. After such an announcement a recommendation or decision shall be adopted by a four-fifths majority of the Contracting Parties present and voting.

5. The decision shall become binding on the first day of the 11th month following the date of its adoption for all Contracting Parties that voted for it and have not within that period notified the Executive Secretary in writing that they are unable to accept the decision. However, such notification may be withdrawn at any time; the withdrawal shall become effective upon receipt by the Executive Secretary. Such a decision shall become binding on any other Contracting Party which has notified the Executive Secretary in writing that it is able to accept the decision from the moment of the receipt of that notification or on the first day of the 11th month following the date of the adoption of the decision, whichever is later.

6. If, however, the recommendation or decision would have financial implications, the recommendation or decision shall be adopted only by consensus.

Article 23

Amendments to the Convention

The Convention shall be amended as follows:

1. Any Contracting Party may propose an amendment to this Convention. The text of the proposed amendment together with the proposal to convene a conference of the Parties shall be communicated to the Contracting Parties by the depositary in writing.

2. If at least three quarters of the Contracting Parties support the proposal to convene a conference of the Parties, the depositary shall convene the conference of the Parties within six months at the seat of the International Commission.

3. The adoption of an amendment at the conference of the Contracting Parties requires consensus.

4. The adopted amendment shall be submitted by the depositary government to the Contracting Parties for ratification, acceptance or approval. Ratification, acceptance or approval of the amendment shall be notified to the depositary government in writing.

5. The amendment shall enter into force for those Contracting Parties which have ratified, accepted or approved it on the 30th day after receipt by the depositary government of notification of its ratification, acceptance or approval by at least four fifths of the Contracting Parties. Thereafter the amendment shall enter into force for any other Contracting Party on the 30th day after that Contracting Party has deposited its instrument of ratification, acceptance or approval of the amendment.

6. Annexes I, II and III may be amended by the International Commission in accordance with Article 5 of its Statute.

Article 24

Settlement of disputes

1. If a dispute arises between two or more Contracting 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, if appropriate with assistance by the International Commission.

2. (a) If the parties to the dispute are not able to settle the dispute in accordance with paragraph 1 of this Article within a reasonable time but not more than 12 months after the International Commission has been notified about the dispute by a party to the dispute, the dispute shall be submitted for compulsory decision to one of the following means of peaceful settlement:

— the International Court of Justice,

— arbitration in accordance with Annex V to this Convention.

(b) when ratifying, accepting, approving or acceding to this Convention or at any time thereafter a Contracting 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 means of dispute settlement referred to in subparagraph (a) of this paragraph;

(c) if the parties to the dispute have accepted both means of dispute settlement referred to in subparagraph (a) of this paragraph the dispute shall be submitted to the International Curt of Justice, unless the parties agree otherwise;

(d) if the parties to the dispute have not accepted the same means of dispute settlement referred to in subparagraph (a) of this paragraph, the dispute shall be submitted to the arbitration;

(e) a Contracting Party which has not made a declaration in accordance with subparagraph (b) of this paragraph or whose declaration is no longer in force is considered to have accepted the arbitration.

Article 25

Signature

This Convention shall be open for signature by the Danubian States fully entitled to the rights and privileges of membership in the United Nations according to the UN Charter as well as by the European Community and any other regional economic integration organization, to which such States as their members have transferred competence over matters governed by this Convention at Sofia on 29 June 1994.

Article 26

Ratification, Acceptance or approval

This Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of Romania which shall act as the depositary of this Convention.

Article 27

Entry into force

This Convention shall enter into force on the 90th day following the date of deposit of the ninth instrument of ratification, acceptance, approval or accession. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the ninth instrument of ratification, acceptance, approval or accession, this Convention shall enter into force on the 90th day after deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

Article 28

Accession, participation

1. A State or regional economic integration organization as referred to in Article 25 of this Convention, which has not signed this Convention may accede to this Convention. The instrument of accession shall be deposited with the depositary.

2. Contracting Parties may unanimously invite any other State or regional economic integration organization to accede to this Convention or to participate in it with a consultative status.

Article 29

Withdrawal

At any time after five 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 written notification to the depositary. Any such

withdrawal shall take effect one year after the date of the receipt of the notification by the depositary.

Article 30

Functions of the depositary

The depositary government shall perform the functions of depositary of this Convention, in particular, the depositary shall inform the Contracting Parties:

(a) of the deposit of indtruments of ratification, acceptance, approval or accession, of withdrawel or of any other information, declarations and instruments as are provided for in this Convention;

(b) of the date of the entry into force of this Convention.

Article 31

Authentic texts, depositary

The original of this Convention, of which the English and German texts shall be equally authentic, shall be deposited with the Government of Romania which shall send certified copies thereof to the Contracting Parties.

In witness whereof the undersigned, being duly authorized by their respective Governments, have signed the Convention on cooperation for the protection and sustainable use of the river Danube (Convention for the protection of the Danube).

Done at Sofia, 29 June 1994.

ANNEX I

PART 1

Best available techniques

1. The use of the best available techniques shall emphasize the use of non-waste technology, if available.

2. The term 'best available techniques' means the latest stage of development (state of the art) of processes, of facilities or of 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 techniques in general or individual cases, special consideration shall be 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 techniques;

   (d) time limits for installation in both new and existing plants;

   (e) the nature and volume of the discharges and emissions concerned.

3. It therefore follows that what are 'best available techniques' for a particular process will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

4. If the reduction of discharges and emissions resulting from the use of best available techniques does not lead to environmentally acceptable results, additional measures have to be applied.

5. The term 'techniques' includes both the technology used and the way the installation is designed, built, maintained, operated and dismantled.

PART 2

Best environmental practice

1. Best environmental practice means the application of the most appropriate combination of sectoral environmental control strategies and measures.

2. In determining what combination of measures constitute best environmental practice, in general or individual cases, particular consideration should be given to:

   — the precautionary principle,

   — the environmental hazard of the product and its production, use and ultimate disposal (principle of responsibility),

   — the substitution by less polluting activities or substances and saving resources including energy (principle of minimizing),

   — the scale of use,

   — the potential environmental benefit or penalty of substitute materials or activities,

   — advance and changes in scientific knowledge and understanding,

   — time limits for implementation,

   — social and economic implication.

3. It therefore follows that best environmental practice for a particular source of impacts will change with time in the light of technological advances, economic and social factors, as well as changes in scientific knowledge and understanding.

4. If the reduction of impacts resulting from the use of best environmental practice does not lead to environmentally acceptable results, additional measures have to be applied and best environmental practice redefined.

ANNEX II

INDUSTRIAL SECTORS AND HAZARDOUS SUBSTANCES

PART 1

List of industrial sectors and industries

1. *In the heat generation, energy, and mining sectors:*
   (a) treatment of flue gases and exhaust air, slags, condensates from combustion plants;
   (b) cooling systems;
   (c) coal preparation, ore preparation;
   (d) upgrading of coal and recovery of coal by-products, briquetting;
   (e) manufacture of woody lignite, activated carbon, soot.
2. *In the stone and earth industry, the building materials, glass and ceramics sectors:*
   (a) manufacture of fibrous cement and fibrous cement products;
   (b) manufacture and processing of glass, glass fibres, mineral fibres;
   (c) manufacture of ceramic products.
3. *In the metals sector:*
   (a) metal working and processing: electroplating shops, pickling plants, anodic oxidation plants, burnishing plants, hot galvanizing plants, hardening shops, printed circuit board manufacture, battery manufacture, enamelling works, mechanical workshops, slide polishing shops;
   (b) manufacture of iron and steel, including foundries;
   (c) manufacture of non-ferrous metals, including foundries;
   (d) manufacture of ferro-alloys.
4. *In the inorganic chemistry sector:*
   (a) manufacture of basic chemicals;
   (b) manufacture of mineral acids, bases, salts;
   (c) manufacture of alkalis, alkali lyes and chlorine using alkali chloride electrolysis;
   (d) manufacture of mineral fertilizers (excluding potash fertilizers), phosphoric acid salts, phosphates for feedstuffs;
   (e) manufacture of sodium carbonate;
   (f) manufacture of corundum;
   (g) manufacture of inorganic pigments, mineral pigments;
   (h) manufacture of semi-conductors, rectifiers, photoelectric cells;
   (i) manufacture of explosives, including pyrotechnics;
   (j) manufacture of highly disperse oxides;
   (k) manufacture of barium compounds.
5. *In the organic chemistry sector:*
   (a) manufacture of basic chemicals;
   (b) manufacture of dyes, pigments, paints;
   (c) manufacture and processing of man-made fibres;

(d) manufacture and processing of plastics, rubber, caoutchouc;

(e) manufacture of organic halogen compounds;

(f) manufacture of organic explosives, solid fuels;

(g) manufacture of auxiliaries for leather, papermaking and textile production;

(h) manufacture of pharmaceuticals;

(i) manufacture of biocides;

(j) manufacture of raw materials for washing and cleaning agents;

(k) manufacture of cosmetics;

(l) manufacture of gelatins, hide glue, adhesives.

6. *In the mineral oil and synthetic oils sectors:*

(a) mineral-oil processing, manufacture and refining of mineral oil products, manufacture of hydrocarbons;

(b) recovery of oil from oil-in-water mixtures, demulsification plants, recovery and treatment of waste oil;

(c) manufacture of synthetic oils.

7. *In the printing plant, reproshop, surface treatment and plastic-sheet manufacturing sectors, as well as other forms of processing resins and plastics:*

(a) manufacture of printing and graphic products, reproshops;

(b) printing laboratories and film laboratories;

(c) manufacture of foils, vision and sound carriers;

(d) manufacture of coated and impregnated materials.

8. *In the wood, pulp and paper sectors:*

(a) manufacture of pulp, paper and cardboard;

(b) manufacture and coating of wood fibre board.

9. *In the textile, leather and fur sectors:*

(a) textile manufacture, textile finishing;

(b) leather manufacture, leather finishing, leather substitute manufacture, fur finishing;

(c) dry cleaning, laundries, polishing cloth washings, woolen material washings.

10. *Other sectors:*

(a) recycling, treatment, storage, loading, unloading and depositing of waste and residual materials: storage, loading, unloading and transfer of chemicals;

(b) medical and scientific research and development, hospitals, doctors' practices, radiology instituties, laboratories, testing rooms;

(c) industrial cleaning businesses, cleaning of industrial containers;

(d) vehicle workshops, vehicle washing facilities;

(e) water treatment;

(f) painting and varnishing businesses;

(g) manufacture and processing of plant and animal extracts;

(h) manufacture and processing of microorganisms and viruses with *in vitro* recombined nucleic acids;

(i) Industrial sectors applying radioactive substances (nuclear industry).

PART 2

Guiding list of hazardous substances and groups of substances

A. *Priority groups of substances*

(a) heavy metals and their compounds;

(b) organohalogen compounds;

(c) organic compounds of phosphorus and tin;

(d) plant protection agents, pesticides (fungicides, herbicides, insecticides, algicides) and chemicals used for the preservation of wood, cellulose, paper, hides and textiles etc.;

(e) oils and hydrocarbons of petroleum origin;

(f) other organic compounds especially harmful to the aquatic environment;

(g) inorganic nitrogen and phosphorus compounds;

(h) radioactive substances, including wastes.

B. *Single hazardous substances*

As there are considerable differences as to the hazardous character of the substances contained in certain groups it is necessary also to emphasize some single substances, which in practice can play a priority role.

Substances	*CAS number*	*Substances*	*CAS number*
1. Mercury	7439976	21. Trifluralin	1582098
2. Cadmium	7440439	22. Endosulfan	115297
3. Copper	7440508	23. Simazine	122349
4. Zinc	n.a.	24. Atrazine	1912249
5. Lead	7439921	25. Tributyltin compounds	—
6. Arsenic	7440382	26. Triphenyltin compounds	—
7. Chromium	n.a.	27. Azinphos-ethyl	2642719
8. Nickel	7440020	28. Azinphos-methyl	86500
9. Boron	n.a.	29. Fenitrothion	122145
10. Cobalt	n.a.	30. Fenthion	55389
11. Selenium	7782492	31. Malathion	121755
12. Silver	n.a.	32. Parathion	56382
13. Drins	—	33. Parathion-methyl	298000
14. HCH	608731	34. Dichlorvos	62737
15. DDT	50293	35. Trichloroethylene	79016
16. Pentachlorophenol	87865	36. Tetrachloroethylene	127184
17. Hexachlorobenzene	118741	37. Trichlorbenzene	—
18. Hexachlorobutadiene	87683	38. Dichloroethane 1.2	107062
19. Carbontetrachloride	56235	39. Trichloroethane	71556
20. Chloroform	67663	40. Dioxins	n.a.

ANNEX III

General guidance on water quality objectives and criteria [1]

Water quality objectives and criteria developed for specific reaches of the river Danube and for surface waters within its catchment area shall:

(a) take into account the option of maintaining and, where necessary, improving the existing water quality;

(b) aim at the reduction of average pollution loads and concentrations (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, zones for the protection of bank-filtered water and wetlands;

(e) be based on the application of biological 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 additional protective measures may be required in individual cases.

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[1] Water quality objectives and criteria as a rule are individually developed and in particular adjusted to the prevailing conditions as to the ecosystems, the water resources and their utilization. Therefore in the framework of this Convention only general guidelines are addressed to the Contracting Parties.

ANNEX IV

STATUTE OF THE INTERNATIONAL COMMISSION FOR THE PROTECTION OF THE RIVER DANUBE

Structures and procedures of the International Commission supplementary to Article 18 shall be established as follows:

Article 1

Composition

1. The International Commission consists of delegations nominated by the Contracting Parties. Each Contracting Party nominates five delegates at most, including the head of delegation and his deputy.

2. In addition each delegation may take the number of experts necessary for dealing with special questions, whose names are communicated to the Secretariat of the International Commission.

Article 2

Presidency

1. The Chair of the International Commission is held by the Contracting Parties in turn by alphabetical order (in English) for one year. The delegation looking after the chair nominates one of its members to become president of the International Commission.

2. The president as a rule does not take the floor on behalf of his delegation within the meetings of the International Commission.

3. Further details concerning the presidency are determined by the International Commission and included in its rules of procedure.

Article 3

Meetings

1. The International Commission convenes an ordinary meeting at least once a year on invitation of the president at a place to be determined by him.

2. Extraordinary meetings are to be convened by the president on the request of at least three delegations.

3. Consultations of the heads of delegation may be held intermediately to the meetings of the Commission.

4. The president proposes the agenda items, which include reports by the standing working group and its expert groups. Each delegation has the right to propose those agenda items which it likes to see dealt with. The order of sequence for the agenda items is determined in the International Commission by majority vote.

Article 4

Taking decisions

1. Each delegation has one vote.

2. Notwithstanding the provisions of paragraph 1 of this Article, the European Community, within the areas of its competence, is entitled to a number of votes equal to the number of its Member States which are Contracting Parties to this Convention. This organization shall not exercise its right to vote in cases where its Member States exercise theirs and conversely.

3. The International Commission constitutes a quorum with the presence of the delegations of at least two thirds of the Contracting Parties.

4. Written procedures may take place under conditions to be determined by the rules of procedure of the International Commission.

Article 5

Adopting decisions

1. Decisions and recommendations shall be adopted by consensus of the delegations to the International Commission. Should consensus not be attainable, the President of the Commission shall declare that all efforts at reaching agreement by consensus have been exhausted. Unless otherwise provided in the Convention, the Commission shall in this case adopt decisions or recommendations by a four-fifths majority vote of the delegations present and voting.

2. The decision shall become binding on the first day of the 11th month following the date of its adoption for all Contracting Parties that voted for it and have not within that period notified the executive secretary in writing that they are unable to accept the decision. However, such notification may be withdrawn at any time; the withdrawal shall become effective upon receipt by the executive secretary. Such a decision shall become binding on any other Contracting Party which has notified the executive secretary in writing that it is able to accept the decision from the moment of the receipt of that notification or on the first day of the 11th month following the date of the adoption of the decision, whichever is later.

Article 6

Expert bodies

1. The International Commission establishes a standing working group. For certain fields of work and for specific problems there are introduced standing or *ad hoc* expert groups.

2. The standing working group and the expert groups consist of delegates and experts nominated by the delegations to the Commission.

3. The standing working group is attended by delegates from all Contracting Parties. The International Commission nominates its chairman and determines the maximum number of delegates. The Commission also determines the number of experts participating in the expert groups.

Article 7

Secretariat

1. A permanent secretariat is hereby established.

2. The permanent secretariat shall have its headquarters in Vienna.

3. The International Commission shall appoint an executive secretary and make provisions for the appointment of such other personnel as may be necessary. The Commission shall determine the duties of the executive secretary's post and the terms and conditions upon which it is to be held.

4. The executive secretary shall perform the functions that are necessary for the administration of this convention and for the work of the International Commission as well as the other tasks entrusted to the executive secretary by the Commission in accordance with its rules of procedure and its financial regulations.

Article 8

Entrusting special experts

In the framework of its assessments, the evaluation of results gained and for the analysis of special questions the International Commission may entrust particularly qualified persons, scientific institutions or other facilities.

Article 9

Reports

The International Commission submits to the Contracting Parties an annual report on its activities as well as further reports as required, which in particular also include the results of monitoring and assessment.

Article 10

Legal capacity and representation

1. The International commission shall have such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes in accordance with the law applicable at the headquarters of its secretariat.

2. The International Commission shall be represented by its president. This representation shall be determined further by the rules of procedure.

Article 11

Costs

1. The International Commission shall adopt its financial rules.

2. The Commission shall adopt an annual or biennial budget of proposed expenditures and consider budget estimates for the fiscal period following thereafter.

3. The total amount of the budget, including any supplementary budget adopted by the Commission shall be contributed by the Contracting Parties other than the European Community, in equal parts, unless unanimously decided otherwise by the Commission.

4. The European Community shall contribute no more than 2,5 % of the administrative costs to the budget.

5. Each Contracting Party shall pay the expenses related to the participation in the Commission of its representatives, experts and advisers.

6. Each Contracting Party carries the costs of the current monitoring and assessment activities, carried out in their territory.

Article 12

Rules of procedure

The International Commission establishes its rules of procedure.

Article 13

Working languages

The official languages of the International Commission are English and German.

ANNEX V

ARBITRATION

1. The arbitration procedure referred to in Article 24 of this Convention shall be in accordance with paragraphs 2 to 10 as follows.

2. (a) In the event of a dispute being submitted to arbitration pursuant to Article 24 (2) of this Convention an arbitral tribunal shall be constituted at the request addressed by one party to the dispute to the other party. The request for arbitration shall state the subject matter of the application including in particular the Articles of this Convention, the interpretation or application of which is in dispute;

   (b) the applicant party shall inform the International Commission that it has requested the setting up of an arbitral tribunal, stating the name of the other party to the dispute and the Articles of this Convention, the interpretation or application of which, in its opinion, is in dispute. The claimant as well as the defendant party can consist of a plurality of Contracting Parties. The International Commission shall forward the information thus received to all Contracting Parties to this Convention.

3. 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 within two months; the two arbitrators so appointed shall designate by common agreement within two months 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.

4. (a) 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 president of the International Court of Justice 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, if the arbitrator has not been approved, the chairman of the arbitral tribunal shall inform the president of the International Court of Justice who shall make this appointment within a further two months's period.

   (b) If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the president of the International Court of Justice shall, at the request of either party, designate him within a further two months' period.

5. (a) The arbitral tribunal shall decide according to the rules of international law and, in particular, those of this Convention;

   (b) any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure;

   (c) in the event of a dispute as to whether the arbitral tribunal has jurisdiction, the matter shall be decided by the decision of the arbitral tribunal.

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

   (b) the arbitral tribunal may use all appropriate means in order to establish the facts. It may at the request of one of the parties prescribe essential interim measures of protection;

   (c) if two or more arbitral tribunals constituted under the provisions of this Annex are seized of requests with identical or similar subjects, they may inform themselves of the procedures for establishing the facts and take them into account as far as possible;

   (d) the parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings;

   (e) the absence of a party to the dispute shall not constitute an impediment to the proceedings.

7. 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.

8. 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.

9. Any Contracting Party than 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. The award of the arbitral tribunal shall become binding on the intervening Party in the same way as for the parties to the dispute.

10. (a) 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. The award will be transmitted by the arbitral tribunal to the parties to the dispute and to the International Commission. The Commission will forward the information received to all Parties to this Convention;

(b) 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 arbitral tribunal constituted for this purpose in the same manner as the first.

Annex 122

Protocol for the Protection of the Mediterranean Sea against pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil, 14 October 1994, OJ L 4/15

PROTOCOL

for the Protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil

PREAMBLE

THE CONTRACTING PARTIES TO THE PRESENT PROTOCOL,

BEING PARTIES to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976,

BEARING IN MIND Article 7 of the said Convention,

BEARING IN MIND the increase in the activities concerning exploration and exploitation of the Mediterranean seabed and its subsoil,

RECOGNISING that the pollution which may result therefrom represents a serious danger to the environment and to human beings,

DESIROUS of protecting and preserving the Mediterranean Sea from pollution resulting from exploration and exploitation activities,

TAKING INTO ACCOUNT the Protocols related to the Convention for the Protection of the Mediterranean Sea against Pollution and, in particular, the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency, adopted at Barcelona on 16 February 1976, and the Protocol concerning Mediterranean Specially Protected Areas, adopted at Geneva on 3 April 1982,

BEARING in mind the relevant provisions of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 and signed by many Contracting Parties,

RECOGNISING the differences in levels of development among the coastal States, and taking account of the economic and social imperatives of the developing countries,

HAVE AGREED AS FOLLOWS:

SECTION I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Protocol:

(a) 'Convention' means the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976;

(b) 'Organisation' means the body referred to in Article 17 of the Convention;

(c) 'Resources' means all mineral resources, whether solid, liquid or gaseous;

(d) 'Activities concerning exploration and/or exploitation of the resources in the Protocol Area' (hereinafter referred to as 'activities') means:

(i) Activities of scientific research concerning the resources of the seabed and its subsoil;

(ii) Exploration activities:

— Seismological activities; surveys of the seabed and its subsoil; sample taking;

— Exploration drilling;

(iii) Exploitation activities:

— Establishment of an installation for the purpose of recovering resources, and activities connected therewith;

— Development drilling;

— Recovery, treatment and storage;

— Transportation to shore by pipeline and loading of ships;

— Maintenance, repair and other ancillary operations;

(e) 'Pollution' is defined as in Article 2, paragraph (a), of the Convention;

(f) 'Installation' means any fixed or floating structure, and any integral part thereof, that is engaged in activities, including, in particular:

(i) Fixed or mobile offshore drilling units;

(ii) Fixed or floating production units including dynamically-positioned units;

(iii) Offshore storage facilities including ships used for this purpose;

(iv) Offshore loading terminals and transport systems for the extracted products, such as submarine pipelines;

(v) Apparatus attached to it and equipment for the reloading, processing, storage and disposal of substances removed from the seabed or its subsoil;

(g) 'Operator' means:

(i) Any natural or juridical person who is authorised by the Party exercising jurisdiction over the area where the activities are undertaken (hereinafter referred to as the 'Contracting Party') in accordance with this Protocol to carry out activities and/or who carries out such activities; or

(ii) Any person who does not hold an authorisation within the meaning of this Protocol but is *de facto* in control of such activities;

(h) 'Safety zone' means a zone established around installations in conformity with the provisions of general international law and technical requirements, with appropriate markings to ensure the safety of both navigation and the installations;

(i) 'Wastes' means substances and materials of any kind, form or description resulting from activities covered by this Protocol which are disposed of or are intended for disposal or are required to be disposed of;

(j) 'Harmful or noxious substances and materials' means substances and materials of any kind, form or description, which might cause pollution, if introduced into the Protocol Area;

(k) 'Chemical Use Plan' means a plan drawn up by the operator of any offshore installation which shows:

(i) The chemicals which the operator intends to use in the operations;

(ii) The purpose or purposes for which the operator intends to use the chemicals;

(iii) The maximum concentrations of the chemicals which the operator intends to use within any other substances, and maximum amounts intended to be used in any specified period;

(iv) The area within which the chemical may escape into the marine environment;

(l) 'Oil' means petroleum in any form including crude oil, fuel oil, oily sludge, oil refuse and refined products and, without limiting the generality of the foregoing, includes the substances listed in the Appendix to this Protocol;

(m) 'Oily mixture' means a mixture with any oil content;

(n) 'Sewage' means:

(i) Drainage and other wastes from any form of toilets, urinals and water-closet scuppers;

(ii) Drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;

(iii) Other waste waters when mixed with the drainages defined above;

(o) 'Garbage' means all kinds of food, domestic and operational waste generated during the normal operation of the installation and liable to be disposed of continuously or periodically, except those substances which are defined or listed elsewhere in this Protocol;

(p) 'Freshwater limit' means the place in water courses where, at low tides and in a period of low freshwater flow, there is an appreciable increase in salinity due to the presence of sea water.

Article 2

Geographical coverage

1. The area to which this Protocol applies (referred to in this Protocol as the 'Protocol Area') shall be:

(a) The Mediterranean Sea Area as defined in Article 1 of the Convention, including the continental shelf and the seabed and its subsoil;

(b) Waters, including the seabed and its subsoil, on the landward side of the baselines from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit.

2. Any of the Contracting Parties to this Protocol (referred to in this Protocol as 'the Parties') may also include in the Protocol area wetlands or coastal areas of their territory.

3. Nothing in this Protocol, nor any act adopted on the basis of this Protocol, shall prejudice the rights of any State concerning the delimitation of the continental shelf.

Article 3

General undertakings

1. The Parties shall take, individually or through bilateral or multilateral cooperation, all appropriate measures to prevent, abate, combat and control pollution in the Protocol Area resulting from activities, inter alia, by ensuring that the best available techniques, environmentally effective and economically appropriate, are used for this purpose.

2. The Parties shall ensure that all necessary measures are taken so that activities do not cause pollution.

SECTION II

AUTHORISATION SYSTEM

Article 4

General principles

1. All activities in the Protocol Area, including erection on site of installations, shall be subject to the prior written authorisation for exploration or exploitation from the competent authority. Such authority, before granting the authorisation, shall be satisfied that the installation has been constructed according to international standards and practice and that the operator has the technical competence and the financial capacity to carry out the activities. Such authorisation shall be granted in accordance with the appropriate procedure, as defined by the competent authority.

2. Authorisation shall be refused if there are indications that the proposed activities are likely to cause significant adverse effects on the environment that could not be avoided by compliance with the conditions laid down in the authorisation and referred to in Article 6, paragraph 3, of this Protocol.

3. When considering approval of the siting of an installation, the Contracting Party shall ensure that no detrimental effects will be caused to existing facilities by such siting, in particular, to pipelines and cables.

Article 5

Requirements for authorisations

1. The Contracting Party shall prescribe that any application for authorisation or for the renewal of an authorisation is subject to the submission of the project by the candidate operator to the competent authority and that any such application must include, in particular, the following:

(a) A survey concerning the effects of the proposed activities on the environment; the competent authority may, in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area, require that an environmental impact assessment be prepared in accordance with Annex IV to this Protocol;

(b) The precise definition of the geographical areas where the activity is envisaged, including safety zones;

(c) Particulars of the professional and technical qualifications of the candidate operator and personnel on the installation, as well as of the composition of the crew;

(d) The safety measures as specified in Article 15;

(e) The operator's contingency plan as specified in Article 16;

(f) The monitoring procedures as specified in Article 19;

(g) The plans for removal of installations as specified in Article 20;

(h) Precautions for specially protected areas as specified in Article 21;

(i) The insurance or other financial security to cover liability as prescribed in Article 27, paragraph 2 (b).

2. The competent authority may decide, for scientific research and exploration activities, to limit the scope of the requirements laid down in paragraph 1 of this Article, in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area.

Article 6

Granting of authorisations

1. The authorisations referred to in Article 4 shall be granted only after examination by the competent authority of the requirements listed in Article 5 and Annex IV.

2. Each authorisation shall specify the activities and the period of validity of the authorisation, establish the geographical limits of the area subject to the authorisation and specify the technical requirements and the authorised installations. The necessary safety zones shall be established at a later appropriate stage.

3. The authorisation may impose conditions regarding measures, techniques or methods designed to reduce to the minimum risks of and damage due to pollution resulting from the activities.

4. The Parties shall notify the Organisation as soon as possible of authorisations granted or renewed. The Organisation shall keep a register of all the authorised installations in the Protocol Area.

Article 7

Sanctions

Each Party shall prescribe sanctions to be imposed for breach of obligations arising out of this Protocol, or for non-observance of the national laws or regulations implementing this Protocol, or for non-fulfilment of the specific conditions attached to the authorisation.

SECTION III

WASTES AND HARMFUL OR NOXIOUS SUBSTANCES AND MATERIALS

Article 8

General obligation

Without prejudice to other standards or obligations referred to in this Section, the Parties shall impose a general obligation upon operators to use the best available, environmentally effective and economically appropriate techniques and to observe internationally accepted standards regarding wastes, as well as the use, storage and discharge of harmful or noxious substances and materials, with a view to minimising the risk of pollution.

Article 9

Harmful or noxious substances and materials

1. The use and storage of chemicals for the activities shall be approved by the competent authority, on the basis of the Chemical Use Plan.

2. The Contracting Party may regulate, limit or prohibit the use of chemicals for the activities in accordance with guidelines to be adopted by the Contracting Parties.

3. For the purpose of protecting the environment, the Parties shall ensure that each substance and material used for activities is accompanied by a compound description provided by the entity producing such substance or material.

4. The disposal into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in Annex I to this Protocol is prohibited.

5. The disposal into the Protocol Area of harmful or noxious substances and materials resulting from the activities covered by this Protocol and listed in Annex II to this Protocol requires, in each case, a prior special permit from the competent authority.

6. The disposal into the Protocol Area of all other harmful or noxious substances and materials resulting from the activities covered by this Protocol and which might cause pollution requires a prior general permit from the competent authority.

7. The permits referred to in paragraphs 5 and 6 above shall be issued only after careful consideration of all the factors set forth in Annex III to this Protocol.

Article 10

Oil and oily mixtures and drilling fluids and cuttings

1. The Parties shall formulate and adopt common standards for the disposal of oil and oily mixtures from installations into the Protocol Area:

(a) Such common standards shall be formulated in accordance with the provisions of Annex V, A;

(b) Such common standards shall not be less restrictive than the following, in particular:

(i) For machinery space drainage, a maximum oil content of 15 mg per litre whilst undiluted;

(ii) For production water, a maximum oil content of 40 mg per litre as an average in any calendar month; the content shall not at any time exceed 100 mg per litre;

(c) The Parties shall determine by common agreement which method will be used to analyze the oil content.

2. The Parties shall formulate and adopt common standards for the use and disposal of drilling fluids and drill cuttings into the Protocol Area. Such common standards shall be formulated in accordance with the provisions of Annex V, B.

3. Each Party shall take appropriate measures to enforce the common standards adopted pursuant to this Article or to enforce more restrictive standards that it may have adopted.

Article 11

Sewage

1. The Contracting Party shall prohibit the discharge of sewage from installations permanently manned by 10 or more persons into the Protocol Area except in cases where:

(a) The installation is discharging sewage after treatment as approved by the competent authority at a distance of at least four nautical miles from the nearest land or fixed fisheries installation, leaving the Contracting Party to decide on a case by case basis; or

(b) The sewage is not treated, but the discharge is carried out in accordance with international rules and standards; or

(c) The sewage has passed through an approved sewage treatment plant certified by the competent authority.

2. The Contracting Party shall impose stricter provisions, as appropriate, where deemed necessary, inter alia, because of the regime of the currents in the area or proximity to any area referred to in Article 21.

3. The exceptions referred to in paragraph 1 shall not apply if the discharge produces visible floating solids or produces colouration, discolouration or opacity of the surrounding water.

4. If the sewage is mixed with wastes and harmful or noxious substances and materials having different disposal requirements, the more stringent requirements shall apply.

Article 12

Garbage

1. The Contracting Party shall prohibit the disposal into the Protocol Area of the following products and materials:

(a) All plastics, including but not limited to synthetic ropes, synthetic fishing nets and plastic garbage bags;

(b) All other non-biodegradable garbage, including paper products, rags, glass, metal, bottles, crockery, dunnage, lining and packing materials.

2. Disposal into the Protocol Area of food wastes shall take place as far away as possible from land, in accordance with international rules and standards.

3. If garbage is mixed with other discharges having different disposal or discharge requirements, the more stringent requirements shall apply.

Article 13

Reception facilities, instructions and sanctions

The Parties shall ensure that:

(a) Operators dispose satisfactorily of all wastes and harmful or noxious substances and materials in designated onshore reception facilities, except as otherwise authorised by the Protocol;

(b) Instructions are given to all personnel concerning proper means of disposal;

(c) Sanctions are imposed in respect of illegal disposals.

Article 14

Exceptions

1. The provisions of this Section shall not apply in case of:

(a) *Force majeure* and in particular for disposals:

— to save human life,

— to ensure the safety of installations,

— in case of damage to the installation or its equipment,

on condition that all reasonable precautions have been taken after the damage is discovered or after the disposal has been performed to reduce the negative effects.

(b) The discharge into the sea of substances containing oil or harmful or noxious substances or materials which, subject to the prior approval of the competent authority, are being used for the purpose of combating specific pollution incidents in order to minimise the damage due to the pollution.

2. However, the provisions of this Section shall apply in any case where the operator acted with the intent to cause damage or recklessly and with knowledge that damage will probably result.

3. Disposals carried out in the circumstances referred to in paragraph 1 of this Article shall be reported immediately to the Organisation and, either through the Organisation or directly, to any Party or Parties likely to be affected, together with full details of the circumstances and of the nature and quantities of wastes or harmful or noxious substances or materials discharged.

SECTION IV

SAFEGUARDS

Article 15

Safety measures

1. The Contracting Party within whose jurisdiction activities are envisaged or are being carried out shall ensure that safety measures are taken with regard to the design, construction, placement, equipment, marking, operation and maintenance of installations.

2. The Contracting Party shall ensure that at all times the operator has on the installations adequate equipment and devices, maintained in good working order, for protecting human life, preventing and combating accidental pollution and facilitating prompt response to an emergency, in accordance with the best available environmentally effective and economically appropriate techniques and the provisions of the operator's contingency plan referred to in Article 16.

3. The competent authority shall require a certificate of safety and fitness for the purpose (hereinafter referred to as 'certificate') issued by a recognised body to be submitted in respect of production platforms, mobile offshore drilling units, offshore storage facilities, offshore loading systems and pipelines and in respect of such other installations as may be specified by the Contracting Party.

4. The Parties shall ensure through inspection that the activities are conducted by the operators in accordance with this Article.

Article 16

Contingency planning

1. In cases of emergency the Contracting Parties shall implement *mutatis mutandis* the provisions of the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency.

2. Each Party shall require operators in charge of installations under its jurisdiction to have a contingency plan to combat accidental pollution, coordinated with the contingency plan of the Contracting Party established in accordance with the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency and approved in conformity with the procedures established by the competent authorities.

3. Each Contracting Party shall establish coordination for the development and implementation of contingency plans. Such plans shall be established in accordance with guidelines adopted by the competent international organisation. They shall, in particular, be in accordance with the provisions of Annex VII to this Protocol.

Article 17

Notification

Each Party shall require operators in charge of installations under its jurisdiction to report without delay to the competent authority:

(a) Any event on their installation causing or likely to cause pollution in the Protocol Area;

(b) Any observed event at sea causing or likely to cause pollution in the Protocol Area.

Article 18

Mutual assistance in cases of emergency

In cases of emergency, a Party requiring assistance in order to prevent, abate or combat pollution resulting from activities may request help from the other Parties, either directly or through the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), which shall do their utmost to provide the assistance requested.

For this purpose, a Party which is also a Party to the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency shall apply the pertinent provisions of the said Protocol.

Article 19

Monitoring

1. The operator shall be required to measure, or to have measured by a qualified entity, expert in the matter, the effects of the activities on the environment in the light of the nature, scope, duration and technical methods employed in the activities and of the characteristics of the area and to report on them periodically or upon request by the competent authority for the purpose of an evaluation by such competent authority according to a procedure established by the competent authority in its authorisation system.

2. The competent authority shall establish, where appropriate, a national monitoring system in order to be in a position to monitor regularly the installations and the impact of the activities on the environment, so as to ensure that the conditions attached to the grant of the authorisation are being fulfilled.

Article 20

Removal of installations

1. The operator shall be required by the competent authority to remove any installation which is abandoned or disused, in order to ensure safety of navigation, taking into account the guidelines and standards adopted by the competent international organisation. Such removal shall also have due regard to other legitimate uses of the sea, in particular fishing, the protection of the marine environment and the rights and duties of other Contracting Parties. Prior to such removal, the operator under its responsibility shall take all necessary measures to prevent spillage or leakage from the site of the activities.

2. The competent authority shall require the operator to remove abandoned or disused pipelines in accordance with paragraph 1 of this Article or to clean them inside and abandon them or to clean them inside and bury them so that they neither cause pollution, endanger navigation, hinder fishing, threaten the marine environment, nor interfere with other legitimate uses of the sea or with the rights and duties of other Contracting Parties. The competent authority shall ensure that appropriate publicity is given to the depth, position and dimensions of any buried pipeline and that such information is indicated on charts and notified to the Organisation and other competent international organisations and the Parties.

3. The provisions of this Article apply also to installations disused or abandoned by any operator whose authorisation may have been withdrawn or suspended in compliance with Article 7.

4. The competent authority may indicate eventual modifications to be made to the level of activities and to the measures for the protection of the marine environment which had initially been provided for.

5. The competent authority may regulate the cession or transfer of authorised activities to other persons.

6. Where the operator fails to comply with the provisions of this Article, the competent authority shall undertake, at the operator's expense, such action or actions as may be necessary to remedy the operator's failure to act.

Article 21

Specially protected areas

For the protection of the areas defined in the Protocol concerning Mediterranean Specially Protected Areas and any other area established by a Party and in furtherance of the goals stated therein, the Parties shall take special measures in conformity with international law, either individually or through multilateral or bilateral cooperation, to prevent, abate, combat and control pollution arising from activities in these areas.

In addition to the measures referred to in the Protocol concerning Mediterranean Specially Protected Areas for the granting of authorisation, such measures may include, inter alia:

(a) Special restrictions or conditions when granting authorisations for such areas:

  (i) The preparation and evaluation of environmental impact assessments;

  (ii) The elaboration of special provisions in such areas concerning monitoring, removal of installations and prohibition of any discharge.

(b) Intensified exchange of information among operators, the competent authorities, Parties and the Organisation regarding matters which may affect such areas.

SECTION V

COOPERATION

Article 22

Studies and research programmes

In conformity with Article 13 of the Convention, the Parties shall, where appropriate, cooperate in promoting studies and undertaking programmes of scientific and technological research for the purpose of developing new methods of:

(a) Carrying out activities in a way that minimises the risk of pollution;

(b) Preventing, abating, combating and controlling pollution, especially in cases of emergency.

Article 23

International rules, standards and recommended practices and procedures

1. The Parties shall cooperate, either directly or through the Organisation or other competent international organisations, in order to:

(a) Establish appropriate scientific criteria for the formulation and elaboration of international rules, standards and recommended practices and procedures for achieving the aims of this Protocol;

(b) Formulate and elaborate such international rules, standards and recommended practices and procedures;

(c) Formulate and adopt guidelines in accordance with international practices and procedures to ensure observance of the provisions of Annex VI.

2. The Parties shall, as soon as possible, endeavour to harmonise their laws and regulations with the international rules, standards and recommended practices and procedures referred to in paragraph 1 of this Article.

3. The Parties shall endeavour, as far as possible, to exchange information relevant to their domestic policies, laws and regulations and the harmonisation referred to in paragraph 2 of this Article.

Article 24

Scientific and technical assistance to developing countries

1. The Parties shall, directly or with the assistance of competent regional or other international organisations, cooperate with a view to formulating and, as far as possible, implementing programmes of assistance to developing countries, particularly in the fields of science, law, education and technology, in order to prevent, abate, combat and control pollution due to activities in the Protocol Area.

2. Technical assistance shall include, in particular, the training of scientific, legal and technical personnel, as well as the acquisition, utilisation and production by those countries of appropriate equipment on advantageous terms to be agreed upon among the Parties concerned.

Article 25

Mutual information

The Parties shall inform one another directly or through the Organisation of measures taken, of results achieved and, if the case arises, of difficulties encountered in the application of this Protocol. Procedures for the collection and submission of such information shall be determined at the meetings of the Parties.

Article 26

Transboundary pollution

1. Each Party shall take all measures necessary to ensure that activities under its jurisdiction are so conducted as not to cause pollution beyond the limits of its jurisdiction.

2. A Party within whose jurisdiction activities are being envisaged or carried out shall take into account any adverse environmental effects, without discrimination as to whether such effects are likely to occur within the limits of its jurisdiction or beyond such limits.

3. If a Party becomes aware of cases in which the marine environment is in imminent danger of being damaged, or has been damaged, by pollution, it shall immediately notify other Parties which in its opinion are likely to be affected by such damage, as well as the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), and provide them with timely information that would enable them, where necessary, to take appropriate measures. REMPEC shall distribute the information immediately to all relevant Parties.

4. The Parties shall endeavour, in accordance with their legal systems and, where appropriate, on the basis of an agreement, to grant equal access to and treatment in administrative proceedings to persons in other States who may be affected by pollution or other adverse effects resulting from proposed or existing operations.

5. Where pollution originates in the territory of a State which is not a Contracting Party to this Protocol, any Contracting Party affected shall endeavour to cooperate with the said State so as to make possible the application of the Protocol.

Article 27

Liability and compensation

1. The Parties undertake to cooperate as soon as possible in formulating and adopting appropriate rules and procedures for the determination of liability and compensation for damage resulting from the activities dealt with in this Protocol, in conformity with Article 16 of the Convention.

2. Pending development of such procedures, each Party:

(a) Shall take all measures necessary to ensure that liability for damage caused by activities is imposed on operators, and they shall be required to pay prompt and adequate compensation;

(b) Shall take all measures necessary to ensure that operators shall have and maintain insurance cover or other financial security of such type and under such terms as the Contracting Party shall specify in order to ensure compensation for damages caused by the activities covered by this Protocol.

SECTION VI

FINAL PROVISIONS

Article 28

Appointment of competent authorities

Each Contracting Party shall appoint one or more competent authorities to:

(a) Grant, renew and register the authorisations provided for in Section II of this Protocol;

(b) Issue and register the special and general permits referred to in Article 9 of this Protocol;

(c) Issue the permits referred to in Annex V to this Protocol;

(d) Approve the treatment system and certify the sewage treatment plant referred to in Article 11, paragraph 1, of this Protocol;

(e) Give the prior approval for exceptional discharges referred to in Article 14, paragraph 1 (b), of this Protocol;

(f) Carry out the duties regarding safety measures referred to in Article 15, paragraphs 3 and 4, of this Protocol;

(g) Perform the functions relating to contingency planning described in Article 16 and Annex VII to this Protocol;

(h) Establish monitoring procedures as provided in Article 19 of this Protocol;

(i) Supervise the removal operations of the installations as provided in Article 20 of this Protocol.

Article 29

Transitional measures

Each Party shall elaborate procedures and regulations regarding activities, whether authorised or not, initiated before the entry into force of this Protocol, to ensure their conformity, as far as practicable, with the provisions of this Protocol.

Article 30

Meetings

1. Ordinary meetings of the Parties shall take place in conjunction with ordinary meetings of the Contracting Parties to the Convention held pursuant to Article 18 of the Convention. The Parties may also hold extraordinary meetings in accordance with Article 18 of the Convention.

2. The functions of the meetings of the Parties to this Protocol shall be, inter alia:

(a) To keep under review the implementation of this Protocol and to consider the efficacy of the measures adopted and the advisability of any other measures, in particular in the form of annexes and appendices;

(b) To revise and amend any annex or appendix to this Protocol;

(c) To consider the information concerning authorisations granted or renewed in accordance with Section II of this Protocol;

(d) To consider the information concerning the permits issued and approvals given in accordance with Section III of this Protocol;

(e) To adopt the guidelines referred to in Article 9, paragraph 2, and Article 23, paragraph 1 (c), of this Protocol;

(f) To consider the records of the contingency plans and means of intervention in emergencies adopted in accordance with Article 16 of this Protocol;

(g) To establish criteria and formulate international rules, standards and recommended practices and procedures in accordance with Article 23, paragraph 1, of this Protocol, in whatever form the Parties may agree;

(h) To facilitate the implementation of the policies and the achievement of the objectives referred to in Section V, in particular the harmonisation of national and European Community legislation in accordance with Article 23, paragraph 2, of this Protocol;

(i) To review progress made in the implementation of Article 27 of this Protocol;

(j) To discharge such other functions as may be appropriate for the application of this Protocol.

Article 31

Relations with the Convention

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.

2. The rules of procedure and the financial rules adopted pursuant to Article 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

Article 32

Final clause

1. This Protocol shall be open for signature at Madrid from 14 October 1994 to 14 October 1995, by any State Party to the Convention invited to the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Seabed and its Subsoil, held at Madrid on 13 and 14 October 1994. It shall also be open until the same dates for signature by the European Community and by any similar regional economic grouping of which at least one member is a coastal State of the Protocol Area and which exercises competence in fields covered by this Protocol in conformity with Article 30 of the Convention.

2. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

3. As from 15 October 1995, this Protocol shall be open for accession by the States referred to in paragraph 1 above, by the European Community and by any grouping referred to in that paragraph.

4. This Protocol shall enter into force on the thirtieth day following the date of deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol by the Parties referred to in paragraph 1 of this Article.

IN WITNESS WHEREOF the undersigned, being duly authorised, have signed this Protocol.

ANNEX I

Harmful or noxious substances and materials the disposal of which in the protocol area is prohibited

A. The following substances and materials and compounds thereof are listed for the purposes of Article 9, paragraph 4, of the Protocol. They have been selected mainly on the basis of their toxicity, persistence and bioaccumulation:

1. Mercury and mercury compounds
2. Cadmium and cadmium compounds
3. Organotin compounds and substances which may form such compounds in the marine environment ([1])
4. Organophosphorus compounds and substances which may form such compounds in the marine environment ([1])
5. Organohalogen compounds and substances which may form such compounds in the marine environment ([1])
6. Crude oil, fuel oil, oily sludge, used lubricating oils and refined products
7. Persistent synthetic materials which may float, sink or remain in suspension and which may interfere with any legitimate use of the sea
8. Substances having proven carcinogenic, teratogenic or mutagenic properties in or through the marine environment
9. Radioactive substances, including their wastes, if their discharges do not comply with the principles of radiation protection as defined by the competent international organisations, taking into account the protection of the marine environment

B. The present Annex does not apply to discharges which contain substances listed in section A that are below the limits defined jointly by the Parties and, in relation to oil, below the limits defined in Article 10 of this Protocol.

([1]) With the exception of those which are biologically harmless or which are rapidly converted into biologically harmless substances.

ANNEX II

Harmful or noxious substances and materials the disposal of which in the protocol area is subject to a special permit

A. The following substances and materials and compounds thereof have been selected for the purpose of Article 9, paragraph 5, of the Protocol.

1. Arsenic
2. Lead
3. Copper
4. Zinc
5. Beryllium
6. Nickel
7. Vanadium
8. Chromium
9. Biocides and their derivatives not covered in Annex I
10. Selenium
11. Antimony
12. Molybdenum
13. Titanium
14. Tin
15. Barium (other than barium sulphate)
16. Boron
17. Uranium
18. Cobalt
19. Thallium
20. Tellurium
21. Silver
22. Cyanides

B. The control and strict limitation of the discharge of substances referred to in section A must be implemented in accordance with Annex III.

ANNEX III

FACTORS TO BE CONSIDERED FOR THE ISSUE OF THE PERMITS

For the purpose of the issue of a permit required under Article 9, paragraph 7, particular account will be taken, as the case may be, of the following factors:

A. Characteristics and composition of the waste

1. Type and size of waste source (e.g. industrial process);

2. Type of waste (origin, average composition);

3. Form of waste (solid, liquid, sludge, slurry, gaseous);

4. Total amount (volume discharged, e.g. per year);

5. Discharge pattern (continuous, intermittent, seasonally variable, etc.);

6. Concentrations with respect to major constituents, substances listed in Annex I, substances listed in Annex II, and other substances as appropriate;

7. Physical, chemical and biochemical properties of the waste.

B. Characteristics of waste constituents with respect to their harmfulness

1. Persistence (physical, chemical, biological) in the marine environment;

2. Toxicity and other harmful effects;

3. Accumulation in biological materials or sediments;

4. Biochemical transformation producing harmful compounds;

5. Adverse effects on the oxygen content and balance;

6. Susceptibility to physical, chemical and biochemical changes and interaction in the aquatic environment with other sea-water constituents which may produce harmful biological or other effects on any of the uses listed in Section E below.

C. Characteristics of discharge site and receiving marine environment

1. Hydrographic, meteorological, geological and topographical characteristics of the area;

2. Location and type of the discharge (outfall, canal, outlet, etc.) and its relation to other areas (such as amenity areas, spawning, nursery and fishing areas, shellfish grounds) and other discharges;

3. Initial dilution achieved at the point of discharge into the receiving marine environment;

4. Dispersion characteristics such as effects of currents, tides and wind on horizontal transport and vertical mixing;

5. Receiving water characteristics with respect to physical, chemical, biological and ecological conditions in the discharge area;

6. Capacity of the receiving marine environment to receive waste discharges without undesirable effects.

D. Availability of waste technologies

The methods of waste reduction and discharge for industrial effluents as well as domestic sewage should be selected taking into account the availability and feasibility of:

(a) Alternative treatment processes;

(b) Reuse or elimination methods;

(c) On-land disposal alternatives;

(d) Appropriate low-waste technologies.

E. Potential impairment of marine ecosystem and sea-water uses

1. Effects on human life through pollution impact on:

(a) Edible marine organisms;

(b) Bathing waters;

(c) Aesthetics.

2. Effects on marine ecosystems, in particular living resources, endangered species and critical habitats.

3. Effects on other legitimate uses of the sea in conformity with international law.

ANNEX IV

ENVIRONMENTAL IMPACT ASSESSMENT

1. Each Party shall require that the environmental impact assessment contains at least the following:

   (a) A description of the geographical boundaries of the area within which the activities are to be carried out, including safety zones where applicable;

   (b) A description of the initial state of the environment of the area;

   (c) An indication of the nature, aims, scope and duration of the proposed activities;

   (d) A description of the methods, installations and other means to be used, possible alternatives to such methods and means;

   (e) A description of the foreseeable direct or indirect short and long-term effects of the proposed activities on the environment, including fauna, flora and the ecological balance;

   (f) A statement setting out the measures proposed for reducing to the minimum the risk of damage to the environment as a result of carrying out the proposed activities, including possible alternatives to such measures;

   (g) An indication of the measures to be taken for the protection of the environment from pollution and other adverse effects during and after the proposed activities;

   (h) A reference to the methodology used for the environmental impact assessment;

   (i) An indication of whether the environment of any other State is likely to be affected by the proposed activities.

2. Each Party shall promulgate standards taking into account the international rules, standards and recommended practices and procedures, adopted in accordance with Article 23 of the Protocol, by which environmental impact assessments are to be evaluated.

ANNEX V

OIL AND OILY MIXTURES AND DRILLING FLUIDS AND CUTTINGS

The following provisions shall be prescribed by the Parties in accordance with Article 10:

A. Oil and Oily Mixtures

1. Spills of high oil content in processing drainage and platform drainage shall be contained, diverted and then treated as part of the product, but the remainder shall be treated to an acceptable level before discharge, in accordance with good oilfield practice;

2. Oily waste and sludges from separation processes shall be transported to shore;

3. All the necessary precautions shall be taken to minimise losses of oil into the sea from oil collected or flared from well testing;

4. All the necessary precautions shall be taken to ensure that any gas resulting from oil activities should be flared or used in an appropriate manner.

B. Drilling Fluids and Drill Cuttings

1. Water-based drilling fluids and drill cuttings shall be subject to the following requirements:

   (a) The use and disposal of such drilling fluids shall be subject to the Chemical Use Plan and the provisions of Article 9 of this Protocol;

   (b) The disposal of the drill cuttings shall either be made on land or into the sea in an appropriate site or area as specified by the competent authority.

2. Oil-based drilling fluids and drill cuttings are subject to the following requirements:

   (a) Such fluids shall only be used if they are of a sufficiently low toxicity and only after the operator has been issued a permit by the competent authority when it has verified such low toxicity;

   (b) The disposal into the sea of such drilling fluids is prohibited;

   (c) The disposal of the drill cuttings into the sea is only permitted on condition that efficient solids control equipment is installed and properly operated, that the discharge point is well below the surface of the water, and that the oil content is less than 100 grams of oil per kilogram dry cuttings;

   (d) The disposal of such drill cuttings in specially protected areas is prohibited;

   (e) In case of production and development drilling, a programme of seabed sampling and analysis relating to the zone of contamination must be undertaken.

3. Diesel-based drilling fluids:

   The use of diesel-based drilling fluids is prohibited. Diesel oil may exceptionally be added to drilling fluids in such circumstances as the Parties may specify.

ANNEX VI

SAFETY MEASURES

The following provisions shall be prescribed by the Parties in accordance with Article 15:

(a) That the installation must be safe and fit for the purpose for which it is to be used, in particular, that it must be designed and constructed so as to withstand, together with its maximum load, any natural condition, including, more specifically, maximum wind and wave conditions as established by historical weather patterns, earthquake possibilities, seabed conditions and stability, and water depth;

(b) That all phases of the activities, including storage and transport of recovered resources, must be properly prepared, that the whole activity must be open to control for safety reasons and must be conducted in the safest possible way, and that the operator must apply a monitoring system for all activities;

(c) That the most advanced safety systems must be used and periodically tested in order to minimise the dangers of leakages, spillages, accidental discharges, fire, explosions, blow-outs or any other threat to human safety or the environment, that a trained specialised crew to operate and maintain these systems must be present and that this crew must undertake periodic exercises. In the case of authorised not permanently manned installations, the permanent availability of a specialised crew shall be ensured;

(d) That the installation and, where necessary, the established safety zone, must be marked in accordance with international recommendations so as to give adequate warning of its presence and sufficient details for its identification;

(e) That in accordance with international maritime practice, the installations must be indicated on charts and notified to those concerned;

(f) That, in order to secure observance of the foregoing provisions, the person and/or persons having the responsibility for the installation and/or the activities, including the person responsible for the blow-out preventer, must have the qualifications required by the competent authority, and that sufficient qualified staff must be permanently available. Such qualifications shall include, in particular, training, on a continuing basis, in safety and environmental matters.

ANNEX VII

CONTINGENCY PLAN

A. The operator's contingency plan

1. Operators are obliged to ensure:

(a) That the most appropriate alarm system and communication system are available at the installation and they are in good working order;

(b) That the alarm is immediately raised on the occurrence of an emergency and that any emergency is immediately communicated to the competent authority;

(c) That, in coordination with the competent authority, transmission of the alarm and appropriate assistance and coordination of assistance can be organised and supervised without delay;

(d) That immediate information about the nature and extent of the emergency is given to the crew on the installation and to the competent authority;

(e) That the competent authority is constantly informed about the progress of combating the emergency;

(f) That at all times sufficient and most appropriate materials and equipment, including stand-by boats and aircraft, are available to put into effect the emergency plan;

(g) That the most appropriate methods and techniques are known to the specialised crew referred to in Annex VI, paragraph (c), in order to combat leakages, spillages, accidental discharges, fire, explosions, blow-outs and any other threat to human life or the environment;

(h) That the most appropriate methods and techniques are known to the specialised crew responsible for reducing and preventing long-term adverse effects on the environment;

(i) That the crew is thoroughly familiar with the operator's contingency plan, that periodic emergency exercises are held so that the crew has a thorough working knowledge of the equipment and procedures and that each individual knows exactly his role within the plan.

2. The operator shall cooperate, on an institutional basis, with other operators or entities capable of rendering necessary assistance, so as to ensure that, in cases where the magnitude or nature of an emergency creates a risk for which assistance is or might be required, such assistance can be rendered.

B. National coordination and direction

The competent authority for emergencies of a Contracting Party shall ensure:

(a) The coordination of the national contingency plan and/or procedures and the operator's contingency plan and control of the conduct of actions, especially in case of significant adverse effects of the emergency;

(b) Direction to the operator to take any action it may specify in the course of preventing, abating or combating pollution or in the preparation of further action for that purpose, including placing an order for a relief drilling rig, or to prevent the operator from taking any specified action;

(c) The coordination of actions in the course of preventing, abating or combating pollution or in preparation for further action for that purpose within the national jurisdiction with such actions undertaken within the jurisdiction of other States or by international organisations;

(d) Collection and ready availability of all necessary information concerning the existing activities;

(e) The provision of an up-to-date list of the persons and entities to be alerted and informed about an emergency, its development and the measures taken;

(f) The collection of all necessary information concerning the extent and means of combating contingencies, and the dissemination of this information to interested Parties;

(g) The coordination and supervision of the assistance referred to in Part A above, in cooperation with the operator;

(h) The organisation and if necessary, the coordination of specified actions, including intervention by technical experts and trained personnel with the necessary equipment and materials;

(i) Immediate communication to the competent authorities of other Parties which might be affected by a contingency to enable them to take appropriate measures where necessary;

(j) The provision of technical assistance to other Parties, if necessary;

(k) Immediate communication to the competent international organisations with a view to avoiding danger to shipping and other interests.

Appendix

LIST OF OILS [1]

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

Residual Fuel Oil

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

[1] The list of oils should not necessarily be considered as exhaustive.

Jet Fuels

JP-1 (Kerosene)

JP-3

JP-4

JP-5 (Kerosene, Heavy)

Turbo Fuel

Kerosene

Mineral Spirit

Naphtha

Solvent

Petroleum

Heartcut Distillate Oil

Gasoline Blending Stocks

Alkylates — fuel

Reformates

Polymer — 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

Annex 123

United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, 14 October 1994, 1954 UNTS 3, pages 108-114, 135

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Treaties and international agreements registered from 23 December 1996 to 31 December 1996

No. 33480

MULTILATERAL

Convention to combat desertification in those countries experieucing serious drought and/or desertificatiou, particularly in Africa (with annexes). Opened for signature at Paris on 14 October 1994

Authentic texts: Arabic, Chinese, English, French, Russian and Spanish.
Registered ex officio *on 26 December 1996.*

MULTILATÉRAL

Convention snr la lutte contre la désertification dans les pays gravement touchés par la sécheresse et/ou la désertification, en particulier en Afrique (avec annexes). Onverte à la signature à Paris le 14 octobre 1994

Textes authentiques : arabe, chinois, anglais, français, russe et espagnol.
Enregistrée d'office le 26 décembre 1996.

UNITED NATIONS CONVENTION[1] TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA

The Parties to this Convention,

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

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

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

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

[1] Came into force on 26 December 1996, in accordance with article 36 (1):

Participant	*Date of deposit of the instrument of ratification, accession* (a) *or acceptance* (A)	
Afghanistan	1 November	1995 *a*
Algeria*	22 May	1996
Bangladesh	26 January	1996
Benin	29 August	1996
Bolivia	1 August	1996
Botswana	11 September	1996
Burkina Faso	26 January	1996
Canada	1 December	1995
Cape Verde	8 May	1995
Central African Republic	5 September	1996
Chad	27 September	1996
Denmark	22 December	1995
Ecuador	6 September	1995
Egypt	7 July	1995
Eritrea	14 August	1996
Finland	20 September	1995 *A*
Gabon	6 September	1996 *a*
Gambia	11 June	1996
Germany	10 July	1996
Guinea-Bissau	27 October	1995
Haiti	25 September	1996
Israel	26 March	1996
Lao People's Democratic Republic	20 September	1996 *A*
Lebanon	16 May	1996
Lesotho	12 September	1995
Libyan Arab Jamahiriya	22 July	1996
Malawi	13 June	1996
Mali	31 October	1995
Mauritania	7 August	1996
Mauritius	23 January	1996
Mexico	3 April	1995
Micronesia (Federated States of)	25 March	1996
Mongolia	3 September	1996
Netherlands* (For the Kingdom in Europe.)	27 June	1995 *A*
Niger	19 January	1996
Norway	30 August	1996
Oman	23 July	1996 *a*
Panama	4 April	1996
Peru	9 November	1995
Portugal	1 April	1996
Senegal	26 July	1995
Spain	30 January	1996
Sudan	24 November	1995
Sweden	12 December	1995
Switzerland	19 January	1996
Togo	4 October	1995 *A*
Tunisia	11 October	1995
Turkmenistan	18 September	1996
Uzbekistan	31 October	1995
Zambia	19 September	1996

(Continued on page 109)

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

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

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

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

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

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

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

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

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

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(Footnote 1 continued from page 108)

In addition, and prior to the entry into force of the Convention, the following States deposited an instrument of ratification:

Swaziland	7 October	1996
(With effect from 5 January 1997.)		
Nepal	15 October	1996
(With effect from 13 January 1997.)		
United Kingdom of Great Britain and Northern Ireland**	18 October	1996
(In respect of the United Kingdom of Great Britain and Northern Ireland, the British Virgin Islands, Saint Helena and Ascension Island. With effect from 16 January 1997.)		
Jordan	21 October	1996
(With effect from 19 January 1997.)		
Morocco	7 November	1996
(With effect from 5 February 1997.)		
India	17 December	1996
(With effect from 17 March 1997.)		

* See p. 384 of this volume for the text of the declarations made upon ratification and acceptance.

** Subsequently, on 24 December 1996, the Government of the United Kingdom notified the Secretary-General that the Convention would apply to Montserrat.

Moreover, the Convention came into force for the following participant on the ninetieth day after the date of its instrument of ratification, in accordance with article 36 (2):

Participant	*Date of deposit of the instrument of ratification*
Ghana	27 December 1996
(With effect from 27 March 1997.)	

Recalling General Assembly resolution 47/188,[1] particularly the priority in it prescribed for Africa, and all other relevant United Nations resolutions, decisions and programmes on desertification and drought, as well as relevant declarations by African countries and those from other regions,

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

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

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

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

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

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

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

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

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

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

[1] United Nations, *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 49* (A/47/49), p. 137.

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

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

Have agreed as follows:

PART I

INTRODUCTION

Article 1

Use of terms

For the purposes of this Convention:

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

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

(i) prevention and/or reduction of land degradation;

(ii) rehabilitation of partly degraded land; and

(iii) reclamation of desertified land;

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

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

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

(f) "land degradation" means reduction or loss, in arid, semi-arid and dry sub-humid areas, of the biological or economic productivity and complexity of rainfed cropland, irrigated cropland, or range, pasture, forest and woodlands resulting from land uses or from a process or combination of processes, including processes arising from human activities and habitation patterns, such as:

(i) soil erosion caused by wind and/or water;

(ii) deterioration of the physical, chemical and biological or economic properties of soil; and

(iii) long-term loss of natural vegetation;

(g) "arid, semi-arid and dry sub-humid areas" means areas, other than polar and sub-polar regions, in which the ratio of annual precipitation to potential evapotranspiration falls within the range from 0.05 to 0.65;

(h) "affected areas" means arid, semi-arid and/or dry sub-humid areas affected or threatened by desertification;

(i) "affected countries" means countries whose lands include, in whole or in part, affected areas;

(j) "regional economic integration organization" means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention;

(k) "developed country Parties" means developed country Parties and regional economic integration organizations constituted by developed countries.

Article 2

Objective

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

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

Article 3

Principles

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

(a) the Parties should ensure that decisions on the design and implementation of programmes to combat desertification and/or mitigate the effects of drought are taken with the participation of populations and local communities and that an enabling environment is created at higher levels to facilitate action at national and local levels;

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

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

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

PART II

GENERAL PROVISIONS

Article 4

General obligations

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

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

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

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

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

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

(e) strengthen subregional, regional and international cooperation;

(f) cooperate within relevant intergovernmental organizations;

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

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

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

Article 5

Obligations of affected country Parties

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

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

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

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

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

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

Article 6

Obligations of developed country Parties

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

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

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

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

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

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

Article 38

Withdrawal

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

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

Article 39

Depositary

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

Article 40

Authentic texts

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

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

DONE AT Paris, this 17th day of June one thousand nine hundred and ninety-four.

[*For the signatures, see p. 336 of this volume.*]

Annex 124

Amendments to the Convention for the Protection of the Mediterranean Sea Against Pollution, 10 June 1995, OJ L 322

I. AMENDMENTS TO THE CONVENTION FOR THE PROTECTION OF THE MEDITERRANEAN SEA AGAINST POLLUTION

A. Title

The title of the Convention is amended as follows:

'CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AND THE COASTAL REGION OF THE MEDITERRANEAN'.

B. Preambular paragraphs

The second preambular paragraph of the Convention is amended as follows:

'FULLY AWARE of their responsibility to preserve and sustainably develop this common heritage for the benefit and enjoyment of present and future generations,'.

The following paragraphs are added to the Preamble:

'FULLY AWARE that the Mediterranean Action Plan, since its adoption in 1975 and through its evolution, has contributed to the process of sustainable development in the Mediterranean region and has represented a substantive and dynamic tool for the implementation of the activities related to the Convention and its Protocols by the Contracting Parties,

TAKING INTO ACCOUNT the results of the United Nations Conference on Environment and Development, held in Rio de Janeiro from 4 to 14 June 1992,

ALSO TAKING INTO ACCOUNT the Declaration of Genoa of 1985, the Charter of Nicosia of 1990, the Declaration of Cairo of 1992 on Euro-Mediterranean Cooperation on the Environment within the Mediterranean Basin, the recommendations of the conference of Casablanca of 1993, and the Declaration of Tunis of 1994 on the Sustainable Development of the Mediterranean,

BEARING IN MIND the relevant provisions of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982 and signed by many Contracting Parties.'

C. *Article 1*

Geographical coverage

Paragraph 2 of Article 1 is amended as follows:

'2. The application of the Convention may be extended to coastal areas as defined by each Contracting Party within its own territory.'

The following paragraph is added to Article 1 as new paragraph 3:

'3. Any Protocol to this Convention may extend the geographical coverage to which that particular Protocol applies.'

D. *Article 2*

Definitions

Paragraph (a) of Article 2 is amended as follows:

'(a) "Pollution" means the introduction by man, directly or indirectly, of substances or energy into the marine environment, including estuaries, which results, or is likely to result, in such

deleterious effect as harm to living resources and marine life, hazards to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of seawater and reduction of amenities.'

E. *Article 3*

General provisions

Paragraphs 1 and 2 of Article 3 are amended as follows:

'1. *(renumbered as 2)* The Contracting Parties may enter into bilateral or multilateral agreements, including regional or subregional agreements for the promotion of sustainable development, the protection of the environment, the conservation and preservation of natural resources in the Mediterranean Sea Area, provided that such agreements are consistent with this Convention and the Protocols and conform to international law. Copies of such agreements shall be communicated to the Organisation. As appropriate, Contracting Parties should make use of existing organisations, agreements or arrangements in the Mediterranean Sea Area.

2. *(renumbered as 3)* Nothing in this Convention and its Protocols shall prejudice the rights and positions of any State concerning the United Nations Convention on the Law of the Sea of 1982.'

The following new paragraphs are added to Article 3:

'0. *(renumbered as 1)* The Contracting Parties, when applying this Convention and its related Protocols, shall act in conformity with international law.

3. *(renumbered as 4)* The Contracting Parties shall take individual or joint initiatives compatible with international law through the relevant international organisations to encourage the implementation of the provisions of this Convention and its Protocols by all the non-party States.

3 *bis*. *(renumbered as 5)* Nothing in this Convention and its Protocols shall affect the sovereign immunity of warships or other ships owned or operated by a State while engaged in government non-commercial service. However, each Contracting Party shall ensure that its vessels and aircraft, entitled to sovereign immunity under international law, act in a manner consistent with this Protocol.'

F. *Article 4*

General obligations

Article 4 is amended as follows:

'1. The Contracting Parties shall individually or jointly take all appropriate measures in accordance with the provisions of this Convention and those Protocols in force to which they are party to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to protect and enhance the marine environment in that Area so as to contribute towards its sustainable development.

2. The Contracting Parties pledge themselves to take appropriate measures to implement the Mediterranean Action Plan and, further, to pursue the protection of the marine environment and the natural resources of the Mediterranean Sea Area as an integral part of the development process, meeting the needs of present and future generations in an equitable manner. For the purpose of implementing the objectives of sustainable development the Contracting Parties shall take fully into account the recommendations of the Mediterranean Commission on Sustainable development established within the framework of the Mediterranean Action Plan.

3. In order to protect the environment and contribute to the sustainable development of the Mediterranean Sea Area, the Contracting Parties shall:

(a) apply, in accordance with their capabilities, the precautionary principle, by virtue of which where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation;

(b) apply the polluter pays principle, by virtue of which the costs of pollution prevention, control and reduction measures are to be borne by the polluter, with due regard to the public interest;

(c) undertake environmental impact assessment for proposed activities that are likely to cause a significant adverse impact on the marine environment and are subject to an authorisation by competent national authorities;

(d) promote cooperation between and among States in environmental impact assessment procedures related to activities under their jurisdiction or control which are likely to have a significant adverse effect on the marine environment of other States or areas beyond the limits of national jurisdiction, on the basis of notification, exchange of information and consultation;

(e) commit themselves to promote the integrated management of the coastal zones, taking into account the protection of areas of ecological and landscape interest and the rational use of natural resources.

4. In implementing the Convention and the related Protocols, the Contracting Parties shall:

(a) adopt programmes and measures which contain, where appropriate, time limits for their completion;

(b) utilise the best available techniques and the best environmental practices and promote the application of, access to and transfer of environmentally sound technology, including clean production technologies, taking into account the social, economic and technological conditions.

5. The Contracting Parties shall cooperate in the formulation and adoption of Protocols, prescribing agreed measures, procedures and standards for the implementation of this Convention.

6. The Contracting Parties further pledge themselves to promote, within the international bodies considered to be competent by the Contracting Parties, measures concerning the implementation of programmes of sustainable development, the protection conservation and rehabilitation of the environment and of the natural resources in the Mediterranean Sea Area.'

G. Article 5 and its title are amended as follows:

'*Article 5*

Pollution caused by dumping from ships and aircraft or incineration at sea

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by dumping from ships and aircraft or incineration at sea.'

H. *Article 6*

Pollution from ships

Article 6 is amended as follows:

'The Contracting Parties shall take all measures in conformity with international law to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by discharges from ships and to ensure the effective implementation in that Area of the rules which are generally recognised at the international level relating to the control of this type of pollution.'

I. *Article 7*

Pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil

Article 7 is amended as follows:

'The Contracting Parties shall take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil.'

J. *Article 8*

Pollution from land-based sources

Article 8 is amended as follows:

'The Contracting Parties shall take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area and to draw up and implement plans for the reduction and phasing out of substances that are toxic, persistent and liable to bioaccumulate arising from land-based sources. These measures shall apply:

(a) to pollution from land-based sources originating within the territories of the Parties, and reaching the sea:

directly from outfalls discharging into the sea or through coastal disposal;

indirectly through rivers, canals or other watercourses, including underground watercourses, or through run-off;

(b) to pollution from land-based sources transported by the atmosphere.'

K. The following new Article 9A is adopted:

'*Article 9A* (renumbered as Article 10)

Conservation of biological diversity

The Contracting Parties shall, individually or jointly, take all appropriate measures to protect and preserve biological diversity, rare or fragile ecosystems, as well as species of wild fauna and flora which are rare, depleted, threatened or endangered and their habitats, in the area to which this Convention applies.'

L. The following new Article 9B is adopted:

'*Article 9B* (renumbered as Article 11)

Pollution resulting from the transboundary movements of hazardous wastes and their disposal

The Contracting Parties shall take all appropriate measures to prevent, abate and to the fullest possible extent eliminate pollution of the environment which can be caused by transboundary movements and disposal of hazardous wastes, and to reduce to a minimum, and if possible eliminate, such transboundary movements.'

Articles 9A and 9B are renumbered as Articles 10 and 11.

M. *Article 11* (renumbered as Article 13)

Scientific and technological cooperation

Paragraph 2 is amended as follows:

'2. The Contracting Parties undertake to promote the research on, access to and transfer of environmentally sound technology, including clean production technologies, and to cooperate in the formulation, establishment and implementation of clean production processes.'

N. The following new Article 11A is adopted:

'*Article 11A* (renumbered as Article 14)

Environmental legislation

1. The Contracting Parties shall adopt legislation implementing the Convention and the Protocols.

2. The Secretariat may, upon request from a Contracting Party, assist that Party in the drafting of environmental legislation in compliance with the Convention and the Protocols.'

O. The following new Article 11B is adopted:

'*Article 11 B* (renumbered as Article 15)

Public information and participation

1. The Contracting Parties shall ensure that their competent authorities shall give to the public appropriate access to information on the environmental state in the field of application of the Convention and the Protocols, on activities or measures adversely affecting or likely to affect it and on activities carried out or measures taken in accordance with the Convention and the Protocols.

2. The Contracting Parties shall ensure that the opportunity is given to the public to participate in decision-making processes relevant to the field of application of the Convention and the Protocols, as appropriate.

3. The provision of paragraph 1 of this Article shall not prejudice the right of Contracting Parties to refuse, in accordance with their legal systems and applicable international regulations, to provide access to such information on the ground of confidentiality, public security or investigation proceedings, stating the reasons for such a refusal.'

P. *Article 12* (renumbered as Article 16)

Liability and compensation

Article 12 is amended as follows:

'The Contracting Parties undertake to cooperate in the formulation and adoption of appropriate rules and procedures for the determination of liability and compensation for damage resulting from pollution of the marine environment in the Mediterranean Sea Area.'

Q. *Article 13* (renumbered as Article 17)

Institutional arrangements

Paragraph (iii) of Article 13 is amended as follows:

'(iii) to receive, consider and reply to enquiries and information from the Contracting Parties;'.

The following new paragraphs are added to Article 13:

'(iii *bis*) *(renumbered as (iv))*:

to receive, consider and reply to enquiries and information from non-governmental organisations and the public when they relate to subjects of common interest or to activities carried out at the regional level; in this case, the Contracting Parties concerned shall be informed;

(iv *bis*) *(renumbered as (vi))*:

to regularly report to the Contracting Parties on the implementation of the Convention and of the Protocols;'.

Paragraphs (iv), (v) and (vi) are renumbered as paragraphs (v), (vii) and (viii) respectively.

R. *Article 14* (renumbered as Article 18)

Meetings of the Contracting Parties

The following new subparagraph is added to Article 14, paragraph 2:

'(vii) to approve the Programme Budget.'.

S. The following new Article 14A is adopted:

'*Article 14A* (renumbered as Article 19)

Bureau

1. The Bureau of the Contracting Parties shall be composed of representatives of the Contracting Parties elected by the Meetings of the Contracting Parties. In electing the members of the Bureau, the Meetings of the Contracting Parties shall observe the principle of equitable geographical distribution.

2. The functions of the Bureau and the terms and conditions upon which it shall operate shall be set in the Rules of Procedure adopted by the Meetings of the Contracting Parties.'

T. The following new Article 14B is adopted:

'*Article 14B* (renumbered as Article 20)

Observers

1. The Contracting Parties may decide to admit as observers at their meetings and conferences:

(a) any State which is not a Contracting Party to the Convention

(b) any international governmental organisation or any non-governmental organisation the activities of which are related to the Convention.

2. Such observers may participate in meetings without the right to vote and may present any information or report relevant to the objectives of the Convention.

3. The conditions for the admission and participation of observers shall be established in the Rules of Procedure adopted by the Contracting Parties.'

Articles 14A and 14B are renumbered as Articles 19 and 20

U. *Article 15* (renumbered as Article 21)

Adoption of additional protocols

Paragraph 3 of Article 15 is deleted.

V. *Article 18* (renumbered as Article 24)

Rules of procedure and financial rules

Paragraph 2 of Article 18 is amended as follows:

'2. The Contracting Parties shall adopt financial rules, prepared in consultation with the Organisation, to determine, in particular, their financial participation in the Trust Fund.'

W. *Article 20* (renumbered as Article 26)

Reports

Article 20 is amended as follows:

'1. The Contracting Parties shall transmit to the Organisation reports on:

(a) the legal, administrative or other measures taken by them for the implementation of this Convention, the Protocols and of the recommendations adopted by their meetings;

(b) the effectiveness of the measures referred to in subparagraph (a) and problems encountered in the implementation of the instruments as mentioned above.

2. The reports shall be submitted in such form and at such intervals as the Meetings of Contracting Parties may determine.'

X. *Article 21* (renumbered as Article 27)

Compliance control

Article 21 is amended as follows:

'The meetings of the Contracting Parties shall, on the basis of periodical reports referred to in Article 20 and any other report submitted by the Contracting Parties, assess the compliance with the Convention and the Protocols as well as the measures and recommendations. They shall recommend, when appropriate, the necessary steps to bring about full compliance with the Convention and the Protocols and promote the implementation of the decisions and recommendations.'

Articles 10, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28 and 29 are renumbered as Articles 12, 22, 23, 25, 28, 29, 30, 31, 32, 33, 34 and 35 respectively.

Annex 125

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 4 August 1995, 2167 UNTS 3

No. 37924

Multilateral

Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fisb Stocks and Highly Migratory Fish Stocks (with annexes). New York, 4 August 1995

Entry into force: *11 December 2001, in accordance with article 40 (1) (see following page)*

Authentic texts: *Arabic, Chinese, English, French, Russian and Spanish*

Registration with the Secretariat of the United Nations: *ex officio, 11 December 2001*

Multilatéral

Accord aux fins de l'application des dispositions de la Couvention des Nations Unies sur le droit de la mer du 10 décembre 1982 relatives à la conservation et à la gestion des stocks de poissons dont les déplacements s'effectuent tant à l'intérieur qu'au delà de zones économiques exclusives (stocks chevauchants) et des stocks de poissons grands migrateurs (avec annexes). New York, 4 août 1995

Entrée en vigueur : *11 décembre 2001, conformément au paragraphe 1 de l'article 40 (voir la page suivante)*

Textes authentiques : *arabe, chinois, anglais, français, russe et espagnol*

Enregistremeut auprès du Secrétariat des Nations Unies : *d'office, 11 décembre 2001*

Participant[1]	Ratification and Accession (a)
Australia	23 Dec 1999
Bahamas	16 Jan 1997 a
Barbados	22 Sep 2000 a
Brazil	8 Mar 2000
Canada with declarations	3 Aug 1999
Cook Islands	1 Apr 1999 a
Costa Rica	18 Jun 2001 a
Fiji	12 Dec 1996
Iceland	14 Feb 1997
Iran (Islamic Republic of)	17 Apr 1998 a
Maldives	30 Dec 1998
Malta with declaration	11 Nov 2001 a
Mauritius with declaration	25 Mar 1997 a
Micronesia (Federated States of)	23 May 1997
Monaco	9 Jun 1999 a
Namibia	8 Apr 1998
Nauru	10 Jan 1997 a
New Zealand	18 Apr 2001
Norway with declarations	30 Dec 1996
Papua New Guinea	4 Jun 1999
Russian Federation with declaration	4 Aug 1997
Saint Lucia	9 Aug 1996
Samoa	25 Oct 1996
Senegal	30 Jan 1997
Seychelles	20 Mar 1998
Solomon Islands	13 Feb 1997 a
Sri Lanka	24 Oct 1996

Participant[1]	**Ratification and Accession (a)**
Tonga	31 Jul 1996
United Kingdom of Great Britain and Northern Ireland (in respect of: Anguilla, Bermuda, British Indian Ocean Territory, British Virgin Islands, Falkland Islands (Malvinas), Pitcairn, Henderson, Ducie and Oeno Islands, South Georgia and South Sandwich Islands and Turks and Caicos Islands) with declarations	10 Dec 2001
United States of America with declaration	21 Aug 1996
Uruguay with confirmation of declaration	10 Sep 1999

[1] For the texts of the declarations made upon ratification and accession, see p. 251 of this volume.

Participant[1]	**Ratification et Adhésion (a)**
Australie	23 déc 1999
Bahamas	16 janv 1997 a
Barbade	22 sept 2000 a
Brésil	8 mars 2000
Canada avec déclarations	3 août 1999
Costa Rica	18 juin 2001 a
Fidji	12 déc 1996
Fédération de Russie avec déclaration	4 août 1997
Iran (République islamique d')	17 avr 1998 a
Islande	14 févr 1997
Maldives	30 déc 1998
Malte avec déclaration	11 nov 2001 a
Maurice avec déclaration	25 mars 1997 a
Micronésie (États fédérés de)	23 mai 1997
Monaco	9 juin 1999 a
Namibie	8 avr 1998

Participant[1]	**Ratification et Adhésion (a)**
Nauru	10 janv 1997 a
Norvège avec déclarations	30 déc 1996
Nouvelle-Zélande	18 avr 2001
Papouasie-Nouvelle-Guinée	4 juin 1999
Royaume-Uni de Grande-Bretagne et d'Irlande du Nord (à l'égard de : Anguilla, Bermudes, Territoire britannique de l'océan Indien, Îles Vierges britanniques, Îles Falkland (Malvinas), Îles Pitcairn, Henderson, Ducie and Oeno, Îles Georgie du Sud et Sandwich du Sud et Îles Turques et Caïques) avec déclarations	10 déc 2001
Sainte-Lucie	9 août 1996
Samoa	25 oct 1996
Seychelles	20 mars 1998
Sri Lanka	24 oct 1996
Sénégal	30 janv 1997
Tonga	31 juil 1996
Uruguay avec confirmation de déclaration	10 sept 1999
États-Unis d'Amérique avec déclaration	21 août 1996
Îles Cook	1 avr 1999 a
Îles Salomon	13 févr 1997 a

[1] Pour les textes des déclarations faites lors de la ratification et l'ádhésion, voir p. 251 du présent volume.

[ENGLISH TEXT — TEXTE ANGLAIS]

AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OFTHE UNITED NATIONS CONVENTION ON THE LAW OF THE SEAOF 10 DECEMBER 1982 RELATING TO THE CONSERVATION ANDMANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLYMIGRATORY FISH STOCKS

The States Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982,

Determined to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks,

Resolved to improve cooperation between States to that end,

Calling for more effective enforcement by flag States, port States and coastal States of the conservation and management measures adopted for such stocks,

Seeking to address in particular the problems identified in chapter 17, programme area C, of Agenda 21 adopted by the United Nations Conference on Environment and Development, namely, that the management of high seas fisheries is inadequate in many areas and that some resources are overutilized; noting that there are problems of unregulated fishing, over-capitalization, excessive fleet size, vessel reflagging to escape controls, insufficiently selective gear, unreliable databases and lack of sufficient cooperation between States,

Committing themselves to responsible fisheries,

Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations,

Recognizing the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks,

Convinced that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

Affirming that matters not regulated by the Convention or by this Agreement continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I
GENERAL PROVISIONS
Article 1
Use of terms and scope

1. For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "conservation and management measures" means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;

(c) "fish" includes molluscs and crustaceans except those belonging to sedentary species as defined in article 77 of the Convention; and

(d) "arrangement" means a cooperative mechanism established in accordance with the Convention and this Agreement by two or more States for the purpose, inter alia, of establishing conservation and management measures in a subregion or region for one or more straddling fish stocks or highly migratory fish stocks.

2. (a) "States Parties" means States which have consented to be bound by this Agreement and for which the Agreement is in force.

(b) This Agreement applies mutatis mutandis:

(i) to any entity referred to in article 305, paragraph 1 (c), (d) and (e), of the Convention and

(ii) subject to article 47, to any entity referred to as an "international organization" in Annex IX, article 1, of the Convention

which becomes a Party to this Agreement, and to that extent "States Parties" refers to those entities.

3. This Agreement applies mutatis mutandis to other fishing entities whose vessels fish on the high seas.

Article 2
Objective

The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3
Application

1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction, except that articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply mutatis mutandis the general principles enumerated in article 5.

3. States shall give due consideration to the respective capacities of developing States to apply articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies mutatis mutandis in respect of areas under national jurisdiction.

Article 4

Relationship between this Agreement and the Convention

Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

PART II

CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKSAND HIGHLY MIGRATORY FISH STOCKS

Article 5

General principles

In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

(a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;

(b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;

(c) apply the precautionary approach in accordance with

article 6;
(d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;

(e) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;

(f) minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;

(g) protect biodiversity in the marine environment;
(h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;

(i) take into account the interests of artisanal and subsistence fishers;
(j) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes;

(k) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management; and

(l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6
Application of the precautionary approach

1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.

2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.

3. In implementing the precautionary approach, States shall:
(a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;

(b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;

(c) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and

(d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans

which are necessary to ensure the conservation of such species and to protect habitats of special concern.
4. States shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that they are exceeded, States shall, without delay, take the action determined under paragraph 3 (b) to restore the stocks.

5. Where the status of target stocks or non-target or associated or dependent species is of concern, States shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new information.

6. For new or exploratory fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.

7. If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 7
Compatibility of conservation and management measures

1. Without prejudice to the sovereign rights of coastal

States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

(a) with respect to straddling fish stocks, the relevant coastal States and the States whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas area;

(b) with respect to highly migratory fish stocks, the relevant coastal States and other States whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation provided for in Part III, with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and beyond the areas under national jurisdiction.

2. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety. To this end, coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks. In determining compatible conservation and management measures, States shall:

(a) take into account the conservation and management measures adopted and applied in accordance with article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such mea-

sures;

(b) take into account previously agreed measures established and applied for the high seas in accordance with the Convention in respect of the same stocks by relevant coastal States and States fishing on the high seas;

(c) take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organization or arrangement;

(d) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(e) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and

(f) ensure that such measures do not result in harmful impact on the living marine resources as a whole.

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.

4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part VIII.

5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on such arrangements, any

of the States concerned may, for the purpose of obtaining provisional measures, submit the dispute to a court or tribunal in accordance with the procedures for the settlement of disputes provided for in Part VIII.

6. Provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of final agreement on compatible conservation and management measures and shall be without prejudice to the final outcome of any dispute settlement procedure.

7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.

8. States fishing on the high seas shall regularly inform other interested States, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels flying their flag which fish for such stocks on the high seas.

PART III
MECHANISMS FOR INTERNATIONAL COOPERATION CONCERNING STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 8
Cooperation for conservation and management

1. Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or

regional fisheries management organizations or arrangements, taking into account the specific characteristics of the sub-region or region, to ensure effective conservation and management of such stocks.

2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of over-exploitation or where a new fishery is being developed for such stocks. To this end, consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stocks. Pending agreement on such arrangements, States shall observe the provisions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.

3. Where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal States shall give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement. States having a real interest in the fisheries concerned may become members of such organization or participants in such arrangement. The terms of participation in such organization or arrangement shall not preclude such States from membership or participation; nor shall they be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned.

4. Only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have

access to the fishery resources to which those measures apply.

5. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal States and States fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management of such stock and shall participate in the work of the organization or arrangement.

6. Any State intending to propose that action be taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with its members or participants. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organization.

Article 9
Subregional and regional fisheries management organizationsand arrangements

1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:

(a) the stocks to which conservation and management measures apply, taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved;

(b) the area of application, taking into account article 7, paragraph 1, and the characteristics of the subregion or

region, including socio-economic, geographical and environmental factors;

(c) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and

(d) the mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

2. States cooperating in the formation of a subregional or regional fisheries management organization or arrangement shall inform other States which they are aware have a real interest in the work of the proposed organization or arrangement of such cooperation.

Article 10
Functions of subregional and regional fisheries management organizations and arrangements

In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall:

(a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;

(b) agree, as appropriate, on participatory rights such as allocations of allowable catch or levels of fishing effort;

(c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;

(d) obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target

and associated or dependent species;

(e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;

(f) compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;

(g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;

(h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;

(i) agree on means by which the fishing interests of new members of the organization or new participants in the arrangement will be accommodated;

(j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;

(k) promote the peaceful settlement of disputes in accordance with Part VIII;

(l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement; and

(m) give due publicity to the conservation and management measures established by the organization or arrangement.

Article 11

New members or participants

In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, inter alia:

(a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;

(b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;

(c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;

(d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;

(e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and

(f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Article 12

Transparency in activities of subregional and regional fisheriesmanagement organizations and arrangements

1. States shall provide for transparency in the decision-making process and other activities of subregional and regional fisheries management organizations and arrangements.

2. Representatives from other intergovernmental organizations and representatives from non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such proce-

dures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall have timely access to the records and reports of such organizations and arrangements, subject to the procedural rules on access to them.

Article 13

Strengthening of existing organizations and arrangements

States shall cooperate to strengthen existing subregional and regional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 14

Collection and provision of information and cooperationin scientific research

1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end, States shall in accordance with Annex I:

(a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks and highly migratory fish stocks;

(b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organizations or arrangements; and

(c) take appropriate measures to verify the accuracy of such data.

2. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements:

(a) to agree on the specification of data and the format in which they are to be provided to such organizations or

arrangements, taking into account the nature of the stocks and the fisheries for those stocks; and

(b) to develop and share analytical techniques and stock assessment methodologies to improve measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Consistent with Part XIII of the Convention, States shall cooperate, either directly or through competent international organizations, to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end, a State or the competent international organization conducting such research beyond areas under national jurisdiction shall actively promote the publication and dissemination to any interested States of the results of that research and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 15
Enclosed and semi-enclosed seas

In implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a manner consistent with Part IX of the Convention and other relevant provisions thereof.

Article 16
Areas of high seas surrounded entirely by an area underthe national jurisdiction of a single State

1. States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single State and the latter State shall cooperate to establish conservation and management measures in respect of those

stocks in the high seas area. Having regard to the natural characteristics of the area, States shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to article 7. Measures taken in respect of the high seas shall take into account the rights, duties and interests of the coastal State under the Convention, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied in respect of the same stocks in accordance with article 61 of the Convention by the coastal State in the area under national jurisdiction. States shall also agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. Pursuant to article 8, States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area referred to in paragraph 1. If, within a reasonable period of time, the fishing States concerned and the coastal State are unable to agree on such measures, they shall, having regard to paragraph 1, apply article 7, paragraphs 4, 5 and 6, relating to provisional arrangements or measures. Pending the establishment of such provisional arrangements or measures, the States concerned shall take measures in respect of vessels flying their flag in order that they not engage in fisheries which could undermine the stocks concerned.

PART IV
NON-MEMBERS AND NON-PARTICIPANTS

Article 17
Non-members of organizations and non-participantsin arrangements

1. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or arrangement, is not discharged from the obligation to coop-

erate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.

2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.

3. States which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement shall, individually or jointly, request the fishing entities referred to in article 1, paragraph 3, which have fishing vessels in the relevant area to cooperate fully with such organization or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.

4. States which are members of such organization or participants in such arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

PART V
DUTIES OF THE FLAG STATE
Article 18
Duties of the flag State

1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

(a) control of such vessels on the high seas by means of fishing licences, authorizations or permits, in accordance with any applicable procedures agreed at the subregional, regional or global level;

(b) establishment of regulations:

(i) to apply terms and conditions to the licence, authorization or permit sufficient to fulfil any subregional, regional or global obligations of the flag State;

(ii) to prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorization or permit;

(iii) to require vessels fishing on the high seas to carry the licence, authorization or permit on board at all times and to produce it on demand for inspection by a duly authorized person; and

(iv) to ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;

(c) establishment of a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information;

(d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;

(e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;

(f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;

(g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia:

(i) the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to articles 21 and 22, including requirements for such vessels to permit access by duly authorized inspectors from other States;

(ii) the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions agreed under the pro-

grammes; and

(iii) the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned;

(h) regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; and

(i) regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimizing catches of non-target species.

4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

PART VI
COMPLIANCE AND ENFORCEMENT

Article 19
Compliance and enforcement by the flag State

1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

(a) enforce such measures irrespective of where violations occur;

(b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;

(c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;
(d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and

(e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

Article 20

International cooperation in enforcement

1. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.

2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may

request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests made by a flag State in connection with such investigations.

3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.

4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.

5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.

6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorize the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to article 111 of the Convention.

7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional proce-

dures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

Article 21

Subregional and regional cooperation in enforcement

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of such organization or a participant in such arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established by that organization or arrangement.

2. States shall establish, through subregional or regional fisheries management organizations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this article. Such procedures shall be consistent with this article and the basic procedures set out in article 22 and shall not discriminate against non-members of the organization or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.

3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accor-

dance with this article and the basic procedures set out in article 22.

4. Prior to taking action under this article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organization or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorized inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this article and shall give due publicity of such designation through the relevant subregional or regional fisheries management organization or arrangement.

5. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation.

6. The flag State shall respond to the notification referred to in paragraph 5 within three working days of its receipt, or such other period as may be prescribed in procedures established in accordance with paragraph 2, and shall either:

(a) fulfil, without delay, its obligations under article 19 to investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or

(b) authorize the inspecting State to investigate.

7. Where the flag State authorizes the inspecting State to investigate an alleged violation, the inspecting State shall, without delay, communicate the results of that inves-

tigation to the flag State. The flag State shall, if evidence so warrants, fulfil its obligations to take enforcement action with respect to the vessel. Alternatively, the flag State may authorize the inspecting State to take such enforcement action as the flag State may specify with respect to the vessel, consistent with the rights and obligations of the flag State under this Agreement.

8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organization or the participants in the relevant arrangement of the results of any further investigation.

10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimize interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection is not conducted in a manner that would constitute harassment of any fishing vessel.

11. For the purposes of this article, a serious violation means:

(a) fishing without a valid licence, authorization or permit issued by the flag State in accordance with article 18, paragraph 3 (a);

(b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement;

(c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement;

(d) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;

(e) using prohibited fishing gear;
(f) falsifying or concealing the markings, identity or registration of a fishing vessel;

(g) concealing, tampering with or disposing of evidence relating to an investigation;

(h) multiple violations which together constitute a serious disregard of conservation and management measures; or

(i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

12. Notwithstanding the other provisions of this article, the flag State may, at any time, take action to fulfil its obligations under article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation.

13. This article is without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws.

14. This article applies mutatis mutandis to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organization or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organization or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State.

15. Where a subregional or regional fisheries management organization or arrangement has established an alternative mechanism which effectively discharges the obligation under this Agreement of its members or participants to ensure compliance with the conservation and management measures established by the organization or arrangement, members of such organization or participants in such arrangement may agree to limit the application of paragraph 1 as between themselves in respect of the conservation and management measures which have been established in the relevant high seas area.

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.

17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.

18. States shall be liable for damage or loss attributable to them arising from action taken pursuant to this article when such action is unlawful or exceeds that reasonably required in the light of available information to implement the provisions of this article.

Article 22
Basic procedures for boarding and inspection pursuantto article 21

1. The inspecting State shall ensure that its duly authorized inspectors:
(a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question pursuant to those measures;

(b) initiate notice to the flag State at the time of the boarding and inspection;

(c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;

(d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any objection or statement which the master wishes to have included in the report;

(e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and

(f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

2. The duly authorized inspectors of an inspecting State

shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.

3. The flag State shall ensure that vessel masters:
(a) accept and facilitate prompt and safe boarding by the inspectors;
(b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;
(c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;

(d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;

(e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors; and

(f) facilitate safe disembarkation by the inspectors.
4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

Article 23
Measures taken by a port State

1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation

and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.

3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.

4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

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PART VII
REQUIREMENTS OF DEVELOPING STATES

Article 24
Recognition of the special requirements of developing States

1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

(a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;

(b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and

(c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 25

Forms of cooperation with developing States

1. States shall cooperate, either directly or through subregional, regional or global organizations:

(a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks;

(b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11; and

(c) to facilitate the participation of developing States in subregional and regional fisheries management organizations and arrangements.

2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources develop-

ment, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

3. Such assistance shall, inter alia, be directed specifically towards:
(a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and
(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 26

Special assistance in the implementation of this Agreement

1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organizations should assist developing States in establishing new subregional or regional fisheries management organizations or arrangements, or in strengthening existing organizations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART VIII

PEACEFUL SETTLEMENT OF DISPUTES

Article 27

Obligation to settle disputes by peaceful means

States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrange-

ments, or other peaceful means of their own choice.

Article 28
Prevention of disputes

States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and expeditious decision-making procedures within subregional and regional fisheries management organizations and arrangements and shall strengthen existing decision-making procedures as necessary.

Article 29
Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

Article 30
Procedures for the settlement of disputes

1. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.

2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.

3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part,

unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 for the settlement of disputes under this Part.

4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in article 287, paragraph 1, of the Convention for the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and arbitration in accordance with Annexes V, VII and VIII to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex V, article 2, Annex VII, article 2, and Annex VIII, article 2, for the settlement of disputes under this Part.

5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

Article 31
Provisional measures

1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.

2. Without prejudice to article 290 of the Convention, the court or tribunal to which the dispute has been submitted

under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in article 7, paragraph 5, and article 16, paragraph 2.

3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding article 290, paragraph 5, of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State.

Article 32

Limitations on applicability of procedures for thesettlement of disputes

Article 297, paragraph 3, of the Convention applies also to this Agreement.

PART IX

NON-PARTIES TO THIS AGREEMENT

Article 33

Non-parties to this Agreement

1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.

2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement.

PART X

GOOD FAITH AND ABUSE OF RIGHTS

Article 34

Good faith and abuse of rights

States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not con-

stitute an abuse of right.

Part XI
RESPONSIBILITY AND LIABILITY
Article 35
Responsibility and liability

States Parties are liable in accordance with international law for damage or loss attributable to them in regard to this Agreement.

PART XII
REVIEW CONFERENCE
Article 36
Review conference

1. Four years after the date of entry into force of this Agreement, the Secretary-General of the United Nations shall convene a conference with a view to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become parties to this Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers.

2. The conference shall review and assess the adequacy of the provisions of this Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART XIII
FINAL PROVISIONS
Article 37
Signature

This Agreement shall be open for signature by all States and the other entities referred to in article 1, paragraph 2(b), and shall remain open for signature at United Nations Headquarters for twelve months from the fourth of December 1995.

Article 38

Ratification

This Agreement is subject to ratification by States and the other entities referred to in article 1, paragraph 2(b). The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 39

Accession

This Agreement shall remain open for accession by States and the other entities referred to in article 1, paragraph 2(b). The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 40

Entry into force

1. This Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the thirtieth instrument of ratification or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41

Provisional application

1. This Agreement shall be applied provisionally by a State or entity which consents to its provisional application by so notifying the depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or entity shall terminate upon the entry into force of this Agreement for that State or entity or upon notification by that State or entity to the depositary in writing of its intention to terminate

provisional application.

Article 42

Reservations and exceptions

No reservations or exceptions may be made to this Agreement.

Article 43

Declarations and statements

Article 42 does not preclude a State or entity, when signing, ratifying or acceding to this Agreement, 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 Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or entity.

Article 44

Relation to other agreements

1. This Agreement shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Agreement and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification

or suspension for which it provides.

Article 45
Amendment

1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.

3. Once adopted, amendments to this Agreement shall be open for signature at United Nations Headquarters by States Parties for twelve months from the date of adoption, unless otherwise provided in the amendment itself.

4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.

5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:

(a) be considered as a Party to this Agreement as so amended; and
(b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 46
Denunciation

1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 47
Participation by international organizations

1. In cases where an international organization referred to in Annex IX, article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply mutatis mutandis to participation by such international organization in this Agreement, except that the following provisions of that Annex shall not apply:

(a) article 2, first sentence; and
(b) article 3, paragraph 1.

2. In cases where an international organization referred to

in Annex IX, article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to participation by such international organization in this Agreement:

(a) at the time of signature or accession, such international organization shall make a declaration stating:

(i) that it has competence over all the matters governed by this Agreement;

(ii) that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the international organization has no responsibility; and

(iii) that it accepts the rights and obligations of States under this Agreement;

(b) participation of such an international organization shall in no case confer any rights under this Agreement on member States of the international organization;

(c) in the event of a conflict between the obligations of an international organization under this Agreement and its obligations under the agreement establishing the international organization or any acts relating to it, the obligations under this Agreement shall prevail.

Article 48
Annexes

1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.

2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of article 45, if a revision to an Annex is adopted by consensus

at a meeting of States Parties, it shall be incorporated in this Agreement and shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at such a meeting, the amendment procedures set out in article 45 shall apply.

Article 49
Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 50
Authentic texts

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

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

OPENED FOR SIGNATURE at New York, this fourth day of December, one thousand nine hundred and ninety-five, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

ANNEX I
STANDARD REQUIREMENTS FOR THE COLLECTION AND SHARING OF DATA

Article 1
General principles

1. The timely collection, compilation and analysis of data are fundamental to the effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These

data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardizing fishing effort. Data collected should also include information on non-target and associated or dependent species. All data should be verified to ensure accuracy. Confidentiality of non-aggregated data shall be maintained. The dissemination of such data shall be subject to the terms on which they have been provided.

2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and research projects supporting stock assessments. The fullest possible involvement of developing State scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

Article 2

Principles of data collection, compilation and exchange

The following general principles should be considered in defining the parameters for collection, compilation and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

(a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishing method (e.g., each individual tow for trawl, each set for long-line and purse-seine, each school fished for pole-and-line and each day fished for troll) and in sufficient detail to facilitate effective stock assessment;

(b) States should ensure that fishery data are verified through an appropriate system;

(c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant subregional or regional

fisheries management organization or arrangement where one exists. Otherwise, States should cooperate to exchange data either directly or through such other cooperative mechanisms as may be agreed among them;

(d) States should agree, within the framework of subregional or regional fisheries management organizations or arrangements, or otherwise, on the specification of data and the format in which they are to be provided, in accordance with this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. Such organizations or arrangements should request non-members or non-participants to provide data concerning relevant fishing activities by vessels flying their flag;

(e) such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement; and

(f) scientists of the flag State and from the relevant subregional or regional fisheries management organization or arrangement should analyse the data separately or jointly, as appropriate.

Article 3

Basic fishery data

1. States shall collect and make available to the relevant subregional or regional fisheries management organization or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

(a) time series of catch and effort statistics by fishery and fleet;

(b) total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. [Nominal weight is defined by the Food and Agriculture Organization of the United Nations as the live-weight equivalent of the landings];

(c) discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;

(d) effort statistics appropriate to each fishing method; and
(e) fishing location, date and time fished and other statistics on fishing operations as appropriate.
2. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries management organization or arrangement information to support stock assessment, including:

(a) composition of the catch according to length, weight and sex;
(b) other biological information supporting stock assessments, such as information on age, growth, recruitment, distribution and stock identity; and

(c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Article 4
Vessel data and information

1. States should collect the following types of vessel-related data for standardizing fleet composition and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

(a) vessel identification, flag and port of registry;
(b) vessel type;
(c) vessel specifications (e.g., material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods); and

(d) fishing gear description (e.g., types, gear specifica-

tions and quantity).
2. The flag State will collect the following information:
(a) navigation and position fixing aids;
(b) communication equipment and international radio call sign; and
(c) crew size.

Article 5
Reporting

A State shall ensure that vessels flying its flag send to its national fisheries administration and, where agreed, to the relevant subregional or regional fisheries management organization or arrangement, logbook data on catch and effort, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, facsimile or satellite transmission or by other means.

Article 6
Data verification

States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fishery data, such as:
(a) position verification through vessel monitoring systems;
(b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;

(c) vessel trip, landing and transshipment reports; and
(d) port sampling.

Article 7
Data exchange

1. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries management organizations or arrangements. Such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database

systems which provide efficient access to data.

2. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organization of the United Nations. Where a subregional or regional fisheries management organization or arrangement does not exist, that organization may also do the same at the subregional or regional level by arrangement with the States concerned.

ANNEX II
GUIDELINES FOR THE APPLICATION OF PRECAUTIONARY REFERENCE-POINTS IN CONSERVATION AND MANAGEMENT OF STRADDLING FISH-STOCKS AND HIGHLY MIGRATORY FISH STOCKS

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.

2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stocks can produce maximum sustainable yield. Target reference points are intended to meet management objectives.

3. Precautionary reference points should be stock-specific to account, inter alia, for the reproductive capacity, the resilience of each stock and the characteristics of fisheries exploiting the stock, as well as other sources of mortality and major sources of uncertainty.

4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference

points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.

5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.

6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.

7. The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points. For stocks which are not overfished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to maximum sustainable yield, and that the biomass does not fall below a predefined threshold. For overfished stocks, the biomass which would produce maximum sustainable yield can serve as a rebuilding target.
