Annex 151

Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, 15 October 2010, 3240 UNTS 1

No. 30619. Multilateral

CONVENTION ON BIOLOGICAL DIVERSITY. RIO DE JANEIRO, 5 JUNE 1992 [*United Nations, Treaty Series, vol. 1760, I-30619.*]

NAGOYA - KUALA LUMPUR SUPPLEMENTARY PROTOCOL ON LIABILITY AND REDRESS TO THE CARTAGENA PROTOCOL ON BIOSAFETY. NAGOYA, 15 OCTOBER 2010*

Entry into force: 5 March 2018, in accordance with article 18(1) which reads as follows: "This Supplementary Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession by States or regional economic integration organizations that are Parties to the Protocol"

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

Registration with the Secretariat of the United Nations: ex officio, 5 March 2018

No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.

Nº 30619. Multilatéral

CONVENTION SUR LA DIVERSITÉ BIOLOGIQUE. RIO DE JANEIRO, 5 JUIN 1992 [*Nations Unies, Recueil des Traités, vol. 1760, I-30619.*]

PROTOCOLE ADDITIONNEL DE NAGOYA – KUALA LUMPUR SUR LA RESPONSABILITÉ ET LA RÉPARATION RELATIF AU PROTOCOLE DE CARTAGENA SUR LA PRÉVENTION DES RISQUES BIOTECHNOLOGIQUES. NAGOYA, 15 OCTOBRE 2010*

Entrée en vigueur : 5 mars 2018, conformément au paragraphe 1 de l'article 18 qui se lit comme suit : "Le présent Protocole additionnel entre en vigueur le quatre-vingt-dixième jour suivant la date de dépôt du quarantième instrument de ratification, d'acceptation, d'approbation ou d'adhésion par les États ou les organisations régionales d'intégration économique qui sont Parties au Protocole"

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

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : d'office, 5 mars 2018

Aucun numéro de volume n'a encore été attribué à ce dossier. Les textes disponibles qui sont reproduits ci-dessous sont les textes originaux de l'accord ou de l'action tels que soumis pour enregistrement. Par souci de clarté, leurs pages ont été numérotées. Les traductions qui accompagnent ces textes ne sont pas définitives et sont fournies uniquement à titre d'information.

Participant	Ratification, Accession (a), Acceptance (A) and Approval (AA)		
Albania	29 Jan	2013	a
Bulgaria	6 Dec	2012	
Burkina Faso	4 Oct	2013	a
Cambodia	30 Aug	2013	a
Central African Republic	15 Jun	2017	
Congo	16 May	2016	a
Cuba	26 Apr	2017	a
Czech Republic	13 Feb	2012	
Democratic Republic of the Congo	4 Oct	2017	a
Denmark	25 Feb	2015	AA
Estonia	6 Feb	2015	a
European Union (with declaration)	21 Mar	2013	AA
Finland	25 Apr	2014	A
Germany	27 Aug	2013	
Guinea-Bissau	24 Sep	2013	A
Hungary	9 Dec	2013	
India	19 Dec	2014	
Ireland	14 Jan	2013	
Japan	5 Dec	2017	A
Latvia	30 Nov	2011	
Liberia	17 Aug	2015	a
Lithuania	6 Dec	2012	
Luxembourg	14 May	2013	
Mali	23 Jun	2016	a
Mexico	26 Sep	2012	
Mongolia	21 May	2013	
Netherlands	30 Dec	2013	A
Norway	1 Nov	2012	a
Romania	4 Oct	2013	
Slovakia	28 Apr	2015	
Slovenia	8 May	2014	
Spain	4 Dec	2012	
Swaziland	21 Sep	2016	a

Participant	**Ratification, Accession (a), Acceptance (A) and Approval (AA)**		
Sweden	12 Oct	2012	
Switzerland	27 Oct	2014	
Syrian Arab Republic	5 Nov	2012	a
Togo	8 Feb	2016	
Uganda	25 Jun	2014	a
United Arab Emirates	12 Sep	2014	a
United Kingdom of Great Britain and Northern Ireland	17 Mar	2015	
Viet Nam	23 Apr	2014	a

Note: The texts of the declarations and reservations are published after the list of Parties -- Les textes des déclarations et réserves sont reproduits après la liste des Parties.

Participant	Ratification, Adhésion (a), Acceptation (A) et Approbation (AA)		
Albanie	29 janv	2013	a
Allemagne	27 août	2013	
Bulgarie	6 déc	2012	
Burkina Faso	4 oct	2013	a
Cambodge	30 août	2013	a
Congo	16 mai	2016	a
Cuba	26 avr	2017	a
Danemark	25 févr	2015	AA
Émirats arabes unis	12 sept	2014	a
Espagne	4 déc	2012	
Estonie	6 févr	2015	a
Finlande	25 avr	2014	A
Guinée-Bissau	24 sept	2013	A
Hongrie	9 déc	2013	
Inde	19 déc	2014	
Irlande	14 janv	2013	
Japon	5 déc	2017	A
Lettonie	30 nov	2011	
Libéria	17 août	2015	a
Lituanie	6 déc	2012	
Luxembourg	14 mai	2013	
Mali	23 juin	2016	a
Mexique	26 sept	2012	
Mongolie	21 mai	2013	
Norvège	1er nov	2012	a
Ouganda	25 juin	2014	a
Pays-Bas	30 déc	2013	A
République arabe syrienne	5 nov	2012	a
République centrafricaine	15 juin	2017	
République démocratique du Congo	4 oct	2017	a
République tchèque	13 févr	2012	
Roumanie	4 oct	2013	
Royaume-Uni de Grande-Bretagne et	17 mars	2015	

Participant	Ratification, Adhésion (a), Acceptation (A) et Approbation (AA)		
d'Irlande du Nord			
Slovaquie	28 avr	2015	
Slovénie	8 mai	2014	
Suède	12 oct	2012	
Suisse	27 oct	2014	
Swaziland	21 sept	2016	a
Togo	8 févr	2016	
Union européenne (avec déclaration)	21 mars	2013	AA
Viet Nam	23 avr	2014	a

Declaration made upon Approval

EUROPEAN UNION

Declaration in accordance with Article 34(3) of the Convention on Biological Diversity
(Original: English, French and Spanish)

"The European Union declares that, in accordance with the Treaty on the Functioning of the European Union, and in particular Article 191 thereof, it is competent for entering into international agreements, and for implementing the obligations resulting therefrom, which contribute to the pursuit of the following objectives:

- preserving, protecting and improving the quality of the environment;
- protecting human health;
- prudent and rational utilisation of natural resources;
- promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

Moreover, the European Union adopts measures at Union level in the area of judicial cooperation in civil matters for the proper functioning of its internal market.

The European Union declares that it has already adopted legal instruments, binding on its Member States, covering matters governed by this Supplementary Protocol. The exercise of Union competence is by nature subject to continuous development. In order to comply with its obligations under Article 20(3)(a) of the Cartagena Protocol on Biosafety to the Convention of Biodiversity, the Union will keep up to date the list of legal instruments already transmitted to the Biosafety Clearing House.

The European Union is responsible for the performance of those obligations resulting from this Supplementary Protocol which are covered by Union law in force."

Déclaration faite lors de l'Approbation

UNION EUROPÉENNE

[ENGLISH TEXT – TEXTE ANGLAIS]

NAGOYA — KUALA LUMPUR SUPPLEMENTARY PROTOCOL ON LIABILITY AND REDRESS TO THE CARTAGENA PROTOCOL ON BIOSAFETY

The Parties to this Supplementary Protocol,

Being Parties to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, hereinafter referred to as "the Protocol",

Taking into account Principle 13 of the Rio Declaration on Environment and Development,

Reaffirming the precautionary approach contained in Principle 15 of the Rio Declaration on Environment and Development,

Recognizing the need to provide for appropriate response measures where there is damage or sufficient likelihood of damage, consistent with the Protocol,

Recalling Article 27 of the Protocol,

Have agreed as follows:

Article 1 OBJECTIVE

The objective of this Supplementary Protocol is to contribute to the conservation and sustainable use of biological diversity, taking also into account risks to human health, by providing international rules and procedures in the field of liability and redress relating to living modified organisms.

Article 2 USE OF TERMS

1. The terms used in Article 2 of the Convention on Biological Diversity, hereinafter referred to as "the Convention", and Article 3 of the Protocol shall apply to this Supplementary Protocol.

2. In addition, for the purposes of this Supplementary Protocol:

(a) "Conference of the Parties serving as the meeting of the Parties to the Protocol" means the Conference of the Parties to the Convention serving as the meeting of the Parties to the Protocol;

(b) "Damage" means an adverse effect on the conservation and sustainable use of biological diversity, taking also into account risks to human health, that:

(i) Is measurable or otherwise observable taking into account, wherever available, scientifically-established baselines recognized by a competent authority that takes into account any other human induced variation and natural variation; and

(ii) Is significant as set out in paragraph 3 below;

(c) "Operator" means any person in direct or indirect control of the living modified organism which could, as appropriate and as determined by domestic law, include, *inter alia*, the permit holder, person who placed the living modified organism on the market, developer, producer, notifier, exporter, importer, carrier or supplier;

(d) "Response measures" means reasonable actions to:

(i) Prevent, minimize, contain, mitigate, or otherwise avoid damage, as appropriate;

(ii) Restore biological diversity through actions to be undertaken in the following order of preference:

a. Restoration of biological diversity to the condition that existed before the damage occurred, or its nearest equivalent; and where the competent authority determines this is not possible;

b. Restoration by, *inter alia*, replacing the loss of biological diversity with other components of biological diversity for the same, or for another type of use either at the same or, as appropriate, at an alternative location.

3. A "significant" adverse effect is to be determined on the basis of factors, such as:

(a) The long-term or permanent change, to be understood as change that will not be redressed through natural recovery within a reasonable period of time;

(b) The extent of the qualitative or quantitative changes that adversely affect the components of biological diversity;

(c) The reduction of the ability of components of biological diversity to provide goods and services;

(d) The extent of any adverse effects on human health in the context of the Protocol.

Article
3
SCOPE

1. This Supplementary Protocol applies to damage resulting from living modified organisms which find their origin in a transboundary movement. The living modified organisms referred to are those:

(a) Intended for direct use as food or feed, or for processing;

(b) Destined for contained use;

(c) Intended for intentional introduction into the environment.

2. With respect to intentional transboundary movements, this Supplementary Protocol applies to damage resulting from any authorized use of the living modified organisms referred to in paragraph 1 above.

3. This Supplementary Protocol also applies to damage resulting from unintentional transboundary movements as referred to in Article 17 of the Protocol as well as damage resulting from illegal transboundary movements as referred to in Article 25 of the Protocol.

4. This Supplementary Protocol applies to damage resulting from a transboundary movement of living modified organisms that started after the entry into force of this Supplementary Protocol for the Party into whose jurisdiction the transboundary movement was made.

5. This Supplementary Protocol applies to damage that occurred in areas within the limits of the national jurisdiction of Parties.

6. Parties may use criteria set out in their domestic law to address damage that occurs within the limits of their national jurisdiction.

7. Domestic law implementing this Supplementary Protocol shall also apply to damage resulting from transboundary movements of living modified organisms from non-Parties.

Article
4
CAUSATION

A causal link shall be established between the damage and the living modified organism in question in accordance with domestic law.

Article
5
RESPONSE MEASURES

1. Parties shall require the appropriate operator or operators, in the event of damage, subject to any requirements of the competent authority, to:

(a) Immediately inform the competent authority;

(b) Evaluate the damage; and

(c) Take appropriate response measures.

2. The competent authority shall:

(a) Identify the operator which has caused the damage;

(b) Evaluate the damage; and

(c) Determine which response measures should be taken by the operator.

3. Where relevant information, including available scientific information or information available in the Biosafety Clearing-House, indicates that there is a sufficient likelihood that damage will result if timely response measures are not taken, the operator shall be required to take appropriate response measures so as to avoid such damage.

4. The competent authority may implement appropriate response measures, including, in particular, when the operator has failed to do so.

5. The competent authority has the right to recover from the operator the costs and expenses of, and incidental to, the evaluation of the damage and the implementation of any such appropriate response measures. Parties may provide, in their domestic law, for other situations in which the operator may not be required to bear the costs and expenses.

6. Decisions of the competent authority requiring the operator to take response measures should be reasoned. Such decisions should be notified to the operator. Domestic law shall provide for remedies, including the opportunity for administrative or judicial review of such decisions. The competent authority shall, in accordance with domestic law, also inform the operator of the available remedies. Recourse to such remedies shall not impede the competent authority from taking response measures in appropriate circumstances, unless otherwise provided by domestic law.

7. In implementing this Article and with a view to defining the specific response measures to be required or taken by the competent authority, Parties may, as appropriate, assess whether response measures are already addressed by their domestic law on civil liability.

8. Response measures shall be implemented in accordance with domestic law.

Article 6 EXEMPTIONS

1. Parties may provide, in their domestic law, for the following exemptions:

(a) Act of God or *force majeure*; and

(b) Act of war or civil unrest.

2. Parties may provide, in their domestic law, for any other exemptions or mitigations as they may deem fit.

Article
7
TIME LIMITS

Parties may provide, in their domestic law, for:

(a) Relative and/or absolute time limits including for actions related to response measures; and

(b) The commencement of the period to which a time limit applies.

Article
8
FINANCIAL LIMITS

Parties may provide, in their domestic law, for financial limits for the recovery of costs and expenses related to response measures.

Article
9
RIGHT OF RECOURSE

This Supplementary Protocol shall not limit or restrict any right of recourse or indemnity that an operator may have against any other person.

Article
10
FINANCIAL SECURITY

1. Parties retain the right to provide, in their domestic law, for financial security.

2. Parties shall exercise the right referred to in paragraph 1 above in a manner consistent with their rights and obligations under international law, taking into account the final three preambular paragraphs of the Protocol.

3. The first meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol after the entry into force of the Supplementary Protocol shall request the Secretariat to undertake a comprehensive study which shall address, *inter alia*:

(a) The modalities of financial security mechanisms;

(b) An assessment of the environmental, economic and social impacts of such mechanisms, in particular on developing countries; and

(c) An identification of the appropriate entities to provide financial security.

Article 11
RESPONSIBILITY OF STATES FOR INTERNATIONALLY WRONGFUL ACTS

This Supplementary Protocol shall not affect the rights and obligations of States under the rules of general international law with respect to the responsibility of States for internationally wrongful acts.

Article 12
IMPLEMENTATION AND RELATION TO CIVIL LIABILITY

1. Parties shall provide, in their domestic law, for rules and procedures that address damage. To implement this obligation, Parties shall provide for response measures in accordance with this Supplementary Protocol and may, as appropriate:

(a) Apply their existing domestic law, including, where applicable, general rules and procedures on civil liability;

(b) Apply or develop civil liability rules and procedures specifically for this purpose; or

(c) Apply or develop a combination of both.

2. Parties shall, with the aim of providing adequate rules and procedures in their domestic law on civil liability for material or personal damage associated with the damage as defined in Article 2, paragraph 2 (b):

(a) Continue to apply their existing general law on civil liability;

(b) Develop and apply or continue to apply civil liability law specifically for that purpose; or

(c) Develop and apply or continue to apply a combination of both.

3. When developing civil liability law as referred to in subparagraphs (b) or (c) of paragraphs 1 or 2 above, Parties shall, as appropriate, address, inter alia, the following elements:

(a) Damage;

(b) Standard of liability, including strict or fault-based liability;

(c) Channelling of liability, where appropriate;

(d) Right to bring claims.

Article
13
ASSESSMENT AND REVIEW

The Conference of the Parties serving as the meeting of the Parties to the Protocol shall undertake a review of the effectiveness of this Supplementary Protocol five years after its entry into force and every five years thereafter, provided information requiring such a review has been made available by Parties. The review shall be undertaken in the context of the assessment and review of the Protocol as specified in Article 35 of the Protocol, unless otherwise decided by the Parties to this Supplementary Protocol. The first review shall include a review of the effectiveness of Articles 10 and 12.

Article
14
CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PROTOCOL

1. Subject to paragraph 2 of Article 32 of the Convention, the Conference of the Parties serving as the meeting of the Parties to the Protocol shall serve as the meeting of the Parties to this Supplementary Protocol.

2. The Conference of the Parties serving as the meeting of the Parties to the Protocol shall keep under regular review the implementation of this Supplementary Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Supplementary Protocol and, *mutatis mutandis*, the functions assigned to it by paragraphs 4 (a) and (f) of Article 29 of the Protocol.

Article
15
SECRETARIAT

The Secretariat established by Article 24 of the Convention shall serve as the secretariat to this Supplementary Protocol.

Article
16
RELATIONSHIP WITH THE CONVENTION AND THE PROTOCOL

1. This Supplementary Protocol shall supplement the Protocol and shall neither modify nor amend the Protocol.

2. This Supplementary Protocol shall not affect the rights and obligations of the Parties to this Supplementary Protocol under the Convention and the Protocol.

3. Except as otherwise provided in this Supplementary Protocol, the provisions of the Convention and the Protocol shall apply, *mutatis mutandis*, to this Supplementary Protocol.

4. Without prejudice to paragraph 3 above, this Supplementary Protocol shall not affect the rights and obligations of a Party under international law.

Article
17
SIGNATURE

This Supplementary Protocol shall be open for signature by Parties to the Protocol at the United Nations Headquarters in New York from 7 March 2011 to 6 March 2012.

Article
18
ENTRY INTO FORCE

1. This Supplementary Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession by States or regional economic integration organizations that are Parties to the Protocol.

2. This Supplementary Protocol shall enter into force for a State or regional economic integration organization that ratifies, accepts or approves it or accedes thereto after the deposit of the fortieth instrument as referred to in

paragraph 1 above, on the ninetieth day after the date on which that State or regional economic integration organization deposits its instrument of ratification, acceptance, approval, or accession, or on the date on which the Protocol enters into force for that State or regional economic integration organization, whichever shall be the later.

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

Article
19
RESERVATIONS

No reservations may be made to this Supplementary Protocol.

Article
20
WITHDRAWAL

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

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

3. Any Party which withdraws from the Protocol in accordance with Article 39 of the Protocol shall be considered as also having withdrawn from this Supplementary Protocol.

Article
21
AUTHENTIC TEXTS

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

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

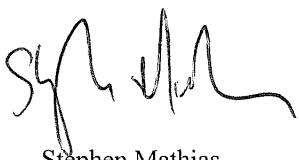
DONE at Nagoya on this fifteenth day of October two thousand and ten.

I hereby certify that the foregoing text is a true copy of the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, done at Nagoya on 15 October 2010, the original of which is deposited with the Secretary-General of the United Nations.

Je certifie que le texte qui précède est une copie conforme du Protocole additionnel de Nagoya - Kuala Lumpur sur la responsabilité et la réparation relatif au Protocole de Cartagena sur la prévention des risques biotechnologiques, fait à Nagoya le 15 octobre 2010, dont l'original se trouve déposé auprès du Secrétaire général des Nations Unies.

For the Assistant Secretary-General,
in charge of the Office of
Legal Affairs

Pour le Sous-Secrétaire général,
chargé du Bureau des
affaires juridiques



Stephen Mathias

United Nations
New York, 17 February 2011

Organisation des Nations Unies
New York, le 17 février 2011

Annex 152

Protocol amending the Agreement between Canada and the United States of America on Great Lakes water quality, 1978 as amended on October 16, 1983 and November 18, 1987, 7 September 2012, 3125 UNTS 1

No. 18177. United States of America and Canada

AGREEMENT BETWEEN CANADA AND THE UNITED STATES OF AMERICA ON GREAT LAKES WATER QUALITY, 1978. OTTAWA, 22 NOVEMBER 1978 [*United Nations, Treaty Series, vol. 1153 and 1153, I-18177.*]

PROTOCOL AMENDING THE AGREEMENT BETWEEN CANADA AND THE UNITED STATES OF AMERICA ON GREAT LAKES WATER QUALITY, 1978 AS AMENDED ON OCTOBER 16, 1983 AND NOVEMBER 18, 1987 (WITH APPENDIX AND ANNEXES). WASHINGTON, 7 SEPTEMBER 2012*

Entry into force: 12 February 2013 by notification, in accordance with article 3

Authentic texts: English and French

Registration with the Secretariat of the United Nations: Canada, 25 April 2016

**No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.*

Nº 18177. États-Unis d'Amérique et Canada

ACCORD DE 1978 ENTRE LE CANADA ET LES ÉTATS-UNIS D'AMÉRIQUE RELATIF À LA QUALITÉ DE L'EAU DANS LES GRANDS LACS. OTTAWA, 22 NOVEMBRE 1978 [*Nations Unies, Recueil des Traités, vol. 1153 and 1153, I-18177.*]

PROTOCOLE MODIFIANT L'ACCORD DE 1978 ENTRE LE CANADA ET LES ÉTATS-UNIS D'AMÉRIQUE RELATIF À LA QUALITÉ DE L'EAU DANS LES GRANDS LACS TEL QU'AMENDÉ LE 16 OCTOBRE 1983 ET LE 18 NOVEMBRE 1987 (AVEC APPENDICE ET ANNEXES). WASHINGTON, 7 SEPTEMBRE 2012*

Entrée en vigueur : 12 février 2013 par notification, conformément à l'article 3

Textes authentiques : anglais et français

Enregistrement auprès du Secrétariat des Nations Unies : Canada, 25 avril 2016

**Le numéro de volume RTNU n'a pas encore été établi pour ce dossier. Les textes reproduits ci-dessous, s'ils sont disponibles, sont les textes authentiques de l'accord/pièce jointe d'action tel que soumises pour l'enregistrement et publication au Secrétariat. Pour référence, ils ont été présentés sous forme de la pagination consécutive. Les traductions, s'ils sont inclus, ne sont pas en form finale et sont fournies uniquement à titre d'information.*

[ENGLISH TEXT – TEXTE ANGLAIS]

PROTOCOL AMENDING THE AGREEMENT

BETWEEN

CANADA

AND

THE UNITED STATES OF AMERICA

ON GREAT LAKES WATER QUALITY, 1978,

AS AMENDED ON OCTOBER 16, 1983 AND ON NOVEMBER 18, 1987

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA (the "Parties"),

RECOGNIZING that the *Agreement between Canada and the United States of America on Great Lakes Water Quality, 1978*, done at Ottawa on 22 November 1978, as amended on October 16, 1983 and on November 18, 1987 (the "1978 Agreement") and its predecessor, the *Agreement between Canada and the United States of America on Great Lakes Water Quality*, done at Ottawa on 15 April 1972, provide a vital framework for binational consultation and cooperative action to restore, protect and enhance the water quality of the Great Lakes to promote the ecological health of the Great Lakes basin;

REAFFIRMING their commitment to achieve the goals and objectives of the 1978 Agreement, as amended on 16 October, 1983 and 18 November, 1987, as well as those of its 1972 predecessor agreement;

RECOGNIZING the need to update and strengthen the 1978 Agreement to address current impacts on the quality of the Waters of the Great Lakes, and anticipate and prevent emerging threats to the quality of the Waters of the Great Lakes,

HAVE AGREED as follows:

ARTICLE 1

This Protocol shall be referred to as the Great Lakes Water Quality Protocol of 2012.

ARTICLE 2

The title, preamble, article and annexes of the 1978 Agreement are amended to read as set forth in the Appendix to this Protocol.

ARTICLE 3

This Protocol shall enter into force on the date of the last notification in an Exchange of Notes by the Parties indicating that each Party has completed its domestic processes for approval.

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

DONE at Washington, this 7th day of September 2012, in duplicate in the English and French languages, each text being equally authentic.

FOR THE GOVERNMENT OF CANADA

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

APPENDIX TO THE
PROTOCOL AMENDING THE AGREEMENT
BETWEEN CANADA AND THE UNITED STATES OF AMERICA
ON GREAT LAKES WATER QUALITY, 1978, AS AMENDED
ON OCTOBER 16, 1983 AND ON NOVEMBER 18, 1987

AGREEMENT BETWEEN CANADA AND THE UNITED STATES OF AMERICA ON GREAT LAKES WATER QUALITY, 2012

THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA (the "Parties"),

ACKNOWLEDGING the vital importance of the Great Lakes to the social and economic well-being of both countries, the close connection between quality of the Waters of the Great Lakes and the environment and human health, as well as the need to address the risks to human health posed by environmental degradation;

REAFFIRMING their determination to protect, restore, and enhance water quality of the Waters of the Great Lakes and their intention to prevent further pollution and degradation of the Great Lakes Basin Ecosystem;

REAFFIRMING, in a spirit of friendship and cooperation, the rights and obligations of both countries under the *Treaty relating to the Boundary Waters and Questions arising along the Boundary between Canada, and the United States* done at Washington on 11 January 1909 ("Boundary Waters Treaty") and, in particular, the obligation not to pollute boundary waters;

EMPHASIZING the need to strengthen efforts to address new and continuing threats to the quality of the Waters of the Great Lakes, including aquatic invasive species, nutrients, chemical substances, discharge from vessels, the climate change impacts, and the loss of habitats and species;

ACKNOWLEDGING that pollutants may enter the Waters of the Great Lakes from air, surface water, groundwater, sediment, runoff from non-point sources, direct discharges and other sources;

RECOGNIZING that restoration and enhancement of the Waters of the Great Lakes cannot be achieved by addressing individual threats in isolation, but rather depend upon the application of an ecosystem approach to the management of water quality that addresses individually and cumulatively all sources of stress to the Great Lakes Basin Ecosystem;

RECOGNIZING that nearshore areas must be restored and protected because they are the major source of drinking water for communities within the basin, are where most human commerce and recreation occurs, and are the critical ecological link between watersheds and the open waters of the Great Lakes;

ACKNOWLEDGING that the quality of the Waters of the Great Lakes may affect the quality of the waters of the St. Lawrence River downstream of the international boundary;

CONCLUDING that the best means to preserve the Great Lakes Basin Ecosystem and to improve the quality of the Waters of the Great Lakes is to adopt common objectives, develop and implement cooperative programs and other compatible measures, and assign special responsibilities and functions to the International Joint Commission;

RECOGNIZING that, while the Parties are responsible for decision-making under this Agreement, the involvement and participation of State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, local public agencies, and the Public are essential to achieve the objectives of this Agreement;

DETERMINED to improve management processes for the implementation of measures necessary to achieve the objectives of this Agreement,

HAVE AGREED as follows:

ARTICLE 1

Definitions

In this Agreement:

(a) "Boundary Waters Treaty" means the *Treaty relating to the Boundary Waters and Questions arising along the Boundary between Canada and the United States*, done at Washington on 11 January 1909;

(b) "General Objectives" means broad descriptions of water quality conditions consistent with the protection of the level of environmental quality which the Parties desire to secure and which will provide a basis for overall water management guidance;

(c) "Great Lakes Basin Ecosystem" means the interacting components of air, land, water and living organisms, including humans, and all of the streams, rivers, lakes, and other bodies of water, including groundwater, that are in the drainage basin of the Great Lakes and the St. Lawrence River at the international boundary or upstream from the point at which this river becomes the international boundary between Canada and the United States;

(d) "International Joint Commission" or "Commission" means the International Joint Commission established by the Boundary Waters Treaty;

(e) "Municipal Government" means a local government created by a Province or State situated within the Great Lakes basin;

(f) "Public" means individuals and organizations such as public interest groups, researchers and research institutions, and businesses and other non-governmental entities;

(g) "State and Provincial Governments" means the Governments of the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Wisconsin, the Commonwealth of Pennsylvania and the Government of the Province of Ontario;

(h) "Tribal Government" means the government of a tribe recognized by either the Government of Canada or the Government of the United States situated within the Great Lakes basin;

(i) "Tributary Waters" means surface waters that flow directly or indirectly into the Waters of the Great Lakes;

(j) "Waters of the Great Lakes" means the waters of Lakes Superior, Huron, Michigan, Erie and Ontario and the connecting river systems of St. Marys, St. Clair including Lake St. Clair, Detroit, Niagara and St. Lawrence at the international boundary or upstream from the point at which this river becomes the international boundary between Canada and the United States, including all open and nearshore waters.

ARTICLE 2

Purpose, Principles and Approaches

PURPOSE

1. The purpose of this Agreement is to restore and maintain the chemical, physical, and biological integrity of the Waters of the Great Lakes. To achieve this purpose, the Parties agree to maximize their efforts to:

(a) cooperate and collaborate;

(b) develop programs, practices and technology necessary for a better understanding of the Great Lakes Basin Ecosystem; and

(c) eliminate or reduce, to the maximum extent practicable, environmental threats to the Waters of the Great Lakes.

2. The Parties, recognizing the inherent natural value of the Great Lakes Basin Ecosystem, are guided by a shared vision of a healthy and prosperous Great Lakes region in which the Waters of the Great Lakes, through sound management, use and enjoyment, will benefit present and future generations of Canadians and Americans.

3. The Parties recognize that it is necessary to take action to resolve existing environmental problems, as well as to anticipate and prevent environmental problems, by implementing measures that are sufficiently protective to achieve the purpose of this Agreement.

PRINCIPLES AND APPROACHES

4. The Parties shall be guided by the following principles and approaches in order to achieve the purpose of this Agreement:

(a) accountability – establishing clear objectives, regular reporting made available to the Public on progress, and transparently evaluating the effectiveness of work undertaken to achieve the objectives of this Agreement;

(b) adaptive management – implementing a systematic process by which the Parties assess effectiveness of actions and adjust future actions to achieve the objectives of this Agreement, as outcomes and ecosystem processes become better understood;

(c) adequate treatment – treating wastewater without relying on flow augmentation to achieve applicable water quality standards;

(d) anti-degradation – implementing all reasonable and practicable measures to maintain or improve the existing water quality in the areas of the Waters of the Great Lakes that meet or exceed the General Objectives or Specific Objectives of this Agreement, as well as in areas that have outstanding natural resource value;

(e) coordination – developing and implementing coordinated planning processes and best management practices by the Parties, as well as among State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, and local public agencies;

(f) ecosystem approach – taking management actions that integrate the interacting components of air, land, water, and living organisms, including humans;

(g) innovation – considering and applying advanced and environmentally-friendly ideas, methods and efforts;

(h) "polluter pays" – incorporating the "polluter pays" principle, as set forth in the *Rio Declaration on Environment and Development*, "that the polluter should, in principle, bear the cost of pollution";

(i) precaution – incorporating the precautionary approach, as set forth in the *Rio Declaration on Environment and Development*, the Parties intend that, "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";

(j) prevention – anticipating and preventing pollution and other threats to the quality of the Waters of the Great Lakes to reduce overall risks to the environment and human health;

(k) Public engagement – incorporating Public opinion and advice, as appropriate, and providing information and opportunities for the Public to participate in activities that contribute to the achievement of the objectives of this Agreement;

(l) science-based management – implementing management decisions, policies and programs that are based on best available science, research and knowledge, as well as traditional ecological knowledge, when available;

(m) sustainability – considering social, economic and environmental factors and incorporating a multi-generational standard of care to address current needs, while enhancing the ability of future generations to meet their needs;

(n) tributary management – restoring and maintaining surface waters that flow into and impact the quality of the Waters of the Great Lakes;

(o) virtual elimination – adopting the principle of virtual elimination for elimination of releases of chemicals of mutual concern, as appropriate; and

(p) zero discharge – adopting the philosophy of zero discharge for control of releases of chemicals of mutual concern, as appropriate.

ARTICLE 3

General and Specific Objectives

1. The Parties, in achieving the purpose of this Agreement, shall work to attain the following General and Specific Objectives, and are guided by the Principles and Approaches identified in Article 2:

(a) GENERAL OBJECTIVES

The Parties adopt the following General Objectives. The Waters of the Great Lakes should:

(i) be a source of safe, high-quality drinking water;

(ii) allow for swimming and other recreational use, unrestricted by environmental quality concerns;

(iii) allow for human consumption of fish and wildlife unrestricted by concerns due to harmful pollutants;

(iv) be free from pollutants in quantities or concentrations that could be harmful to human health, wildlife, or aquatic organisms, through direct exposure or indirect exposure through the food chain;

(v) support healthy and productive wetlands and other habitats to sustain resilient populations of native species;

(vi) be free from nutrients that directly or indirectly enter the water as a result of human activity, in amounts that promote growth of algae and cyanobacteria that interfere with aquatic ecosystem health, or human use of the ecosystem;

(vii) be free from the introduction and spread of aquatic invasive species and free from the introduction and spread of terrestrial invasive species that adversely impact the quality of the Waters of the Great Lakes;

(viii) be free from the harmful impact of contaminated groundwater; and

(ix) be free from other substances, materials or conditions that may negatively impact the chemical, physical or biological integrity of the Waters of the Great Lakes;

(b) SPECIFIC OBJECTIVES

The Parties, to help achieve the General Objectives, shall, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, downstream jurisdictions, and the Public, identify and work to attain Specific Objectives for the Waters of the Great Lakes, including:

(i) LAKE ECOSYSTEM OBJECTIVES

Lake Ecosystem Objectives shall be established for each Great Lake, including its connecting river systems, that:

(A) are binational, except for Lake Michigan, where the Government of the United States shall have sole responsibility;

(B) specify interim or long term ecological conditions necessary to achieve the General Objectives of this Agreement;

(C) may be narrative or numeric in nature;

(D) will be developed in recognition of the complexities of large, dynamic ecosystems; and

(E) may be developed for temperature, pH, total dissolved solids, dissolved oxygen, settleable, and suspended solids, light transmission, and other physical parameters; and levels of plankton, benthos, microbial organisms, aquatic plants, fish or other biota; or other parameters, as appropriate;

(ii) SUBSTANCE OBJECTIVES

Substance Objectives are numeric targets that may be established binationally by the Parties, except where specific to Lake Michigan, to further direct actions to manage the level of a substance or combination of substances to reduce threats to human health and the environment in the Great Lakes Basin Ecosystem. The Parties shall identify Substance Objectives, where deemed essential to achieve the General Objectives and Lake Ecosystem Objectives of this Agreement.

The Parties shall develop the Substance Objectives:

(A) using approaches appropriate to the substance or combination of substances;

(B) using binational processes established by the Parties, domestic programs implemented by the Parties, or programs developed and implemented by other entities having relevant jurisdiction coordinated binationally as appropriate.

IMPLEMENTATION

2. The Parties shall progress toward the attainment of these General Objectives, Lake Ecosystem Objectives and Substance Objectives through their respective domestic programs. The Parties shall use best efforts to ensure that water quality standards and other regulatory requirements of the Parties, State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, and other local public agencies are consistent with all of these objectives. Objectives developed jointly by the Parties do not preclude either Party from establishing more stringent domestic requirements.

MONITORING

3. The Parties shall monitor environmental conditions so that the Parties may determine the extent to which General Objectives, Lake Ecosystem Objectives and Substance Objectives are being achieved.

REPORTING

4. The Parties shall publicly report, in the Progress Report of the Parties, State of the Great Lakes Report and Lakewide Action and Management Plans, on the progress in achieving the General Objectives, Lake Ecosystem Objectives and Substance Objectives.

REVIEW

5. The Parties shall periodically review the Lake Ecosystem Objectives and Substance Objectives and revise them if appropriate.

6. The International Joint Commission may make recommendations to the Parties, in accordance with Article 7, about how to develop or achieve the Lake Ecosystem Objectives and Substance Objectives.

ARTICLE 4

Implementation

1. The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall develop and implement programs and other measures:

(a) to fulfill the purpose of this Agreement, in accordance with the Principles and Approaches set forth in Article 2; and

(b) to achieve the General and Specific Objectives set forth in Article 3.

2. These programs and other measures shall include, but are not limited to:

(a) pollution abatement, control, and prevention programs for:

(i) municipal sources, including urban drainage;

(ii) industrial sources;

(iii) agriculture, forestry, and other land use;

(iv) contaminated sediments, and dredging activities;

(v) onshore and offshore facilities, including the prevention of discharge of harmful quantities of oil and hazardous polluting substances;

(vi) sources of radioactive materials; and

(vii) other environmental priorities that may be identified by the Parties;

(b) aquatic invasive species programs and other measures to:

(i) prevent the introduction of aquatic invasive species;

(ii) control or reduce the spread of existing aquatic invasive species; and

(iii) eradicate, when feasible, existing aquatic invasive species;

(c) conservation programs to:

(i) restore and protect habitat; and

(ii) recover and protect species;

(d) enforcement actions and other measures to ensure the effectiveness of the programs described in (a), (b) and (c); and

(e) research and monitoring programs to support the commitments made in this Agreement.

3. The Parties commit themselves, in the implementation of this Agreement, to seek:

(a) the appropriation of funds;

(b) the appropriation of funds required by the International Joint Commission to carry out its responsibilities effectively;

(c) the enactment of any legislation that may be necessary to implement programs and other measures developed pursuant to Article 4;

(d) the cooperation of State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, and other local public agencies in all pertinent matters;

(e) Public input and advice on all pertinent matters, as appropriate; and

(f) input and advice from downstream jurisdictions on matters relating to this Agreement, as appropriate.

4. The Parties' policy is to ensure that a combination of local, state, provincial, and federal participation provide financial assistance to construct and improve publicly owned waste treatment works.

5. The Parties' respective obligations are subject to the appropriation of funds in accordance with their respective constitutional procedures.

ARTICLE 5

Consultation, Management and Review

1. Recognizing the importance of Public input and advice, the Parties shall convene, with the Commission, a Great Lakes Public Forum within one year of entry into force of this Agreement, and every three years after the first Forum. The Great Lakes Public Forum will provide an opportunity for:

(a) the Parties to discuss and receive Public comments on the state of the lakes and binational priorities for science and action to inform future priorities and actions; and

(b) the Commission to discuss and receive Public input on the Progress Report of the Parties.

2. The Parties hereby establish a Great Lakes Executive Committee to help coordinate, implement, review and report on programs, practices and measures undertaken to achieve the purpose of this Agreement:

(a) the Parties shall co-chair the Great Lakes Executive Committee and invite representatives from Federal Governments, State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, and other local public agencies;

(b) the Parties shall convene the Great Lakes Executive Committee at least twice each year, and shall appoint Annex-specific sub-committees to the Great Lakes Executive Committee, as required, to assist in the implementation of this Agreement;

(c) the Parties shall establish, in consultation with the Great Lakes Executive Committee, binational priorities for science and action to address current and future threats to the quality of the Water of the Great Lakes, not later than six months after each Great Lakes Public Forum. The priorities shall be established based on an evaluation of the state of the Great Lakes and input received during the Great Lakes Public Forum and recommendations of the Commission;

(d) the Parties shall establish priorities, in consultation with the Great Lakes Executive Committee, for each Annex sub-committee to ensure the effective implementation of this Agreement. The Parties shall regularly update those priorities; and

(e) the Parties shall prepare, in consultation with the Great Lakes Executive Committee, a binational Progress Report of the Parties to document actions relating to this Agreement, taken domestically and binationally. The first such report shall be provided to the Public and the Commission before the second Great Lakes Public Forum, and subsequent reports shall be provided before each subsequent Great Lakes Public Forum.

3. To further assist in the implementation of this Agreement, the Parties shall convene a Great Lakes Summit in conjunction with the Great Lakes Public Forum to promote coordination among the Parties, the Commission and other binational and international governmental organizations, and increase their effectiveness in managing the resources of the Great Lakes.

4. The Parties shall review each Assessment of Progress Report prepared by the Commission in accordance with Article 7(1)(k), and consult with each other on the recommendations contained in the report, and consider such action as may be appropriate. The Parties may transmit any comments to the Commission within six months of receipt of the Assessment of Progress Report.

5. Following every third triennial Assessment of Progress Report of the Commission, the Parties shall review the operation and effectiveness of this Agreement. The Parties shall determine the scope and nature of the review taking into account the views of State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, downstream jurisdictions, and the Public.

6. Each Party shall make available to the other Party, at its request, any data or other information in its control relating to the quality of the Waters of the Great Lakes. The disclosure of this information is subject to national security considerations, information-sharing laws, privacy laws, regulations, and policies.

ARTICLE 6

Notification and Response

The Parties acknowledge the importance of anticipating, preventing and responding to threats to the Waters of the Great Lakes. The Parties commit to the following notification and response process:

(a) if a Party becomes aware of a pollution incident, or the imminent threat of a pollution incident, that could be of joint concern to both of the Parties, it shall notify the other Party in accordance with the requirements set out in the Canada-United States Joint Inland Pollution Contingency Plan and the Canada-United States Joint Marine Pollution Contingency Plan. A pollution incident is a release of any pollutant of a magnitude that causes or may cause damage to the Waters of the Great Lakes or may constitute a threat to public safety, security, health, welfare, or property;

(b) the Parties shall continue to implement the CANUSLAK Annex of the Canada-United States Joint Marine Pollution Contingency Plan, as amended, or any successor instrument, to provide a coordinated binational approach for planning and preparedness in response to pollution incidents;

(c) the Parties shall notify each other, through the Great Lakes Executive Committee, of planned activities that could lead to a pollution incident or that could have a significant cumulative impact on the Waters of the Great Lakes, such as:

(i) the storage and transfer of nuclear waste or radioactive materials;

(ii) mining and mining related activities;

(iii) oil and gas pipelines;

(iv) oil and gas drilling;

(v) refineries; power plants;

(vi) nuclear facilities;

(vii) hazardous waste storage;

(viii) treatment or disposal facilities; and

(ix) other categories of activities identified by the Parties.

ARTICLE 7

The International Joint Commission

1. The Parties agree that, pursuant to Article IX of the Boundary Waters Treaty, the Commission shall have the following responsibilities:

(a) analyzing and disseminating data and information obtained from the Parties, State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, relating to the quality of the Waters of the Great Lakes and to the pollution that enters the boundary waters from tributary waters and other sources. The Commission shall have authority to verify independently such data and information through tests or other means that it deems appropriate, in accordance with the Boundary Waters Treaty and with applicable laws;

(b) analyzing and disseminating data and information about the General Objectives, Lake Ecosystem Objectives and Substance Objectives, and about the operation and effectiveness of the programs and other measures established pursuant to this Agreement;

(c) tendering advice and recommendations to the Parties on the following:

(i) the social, economic and environmental aspects of current and emerging issues related to the quality of the Waters of the Great Lakes, including specific recommendations concerning the revision of the General Objectives, Lake Ecosystem Objectives and Substance Objectives, legislation, standards and other regulatory requirements, programs, and other measures, and intergovernmental agreements relating to the quality of these waters;

(ii) matters covered under the Annexes to this Agreement;

(iii) approaches and options that the Parties may consider to improve effectiveness in achieving the purpose and objectives of this Agreement; and

(iv) research and monitoring of the Waters of the Great Lakes, including recommendations for specific research and monitoring priorities;

(d) providing assistance as requested by the Parties in the coordination of the Parties' joint activities;

(e) assisting in and advising on scientific matters related to the Great Lakes Basin Ecosystem, including:

(i) identifying objectives for scientific activities; and

(ii) tendering scientific advice and recommendations to the Parties and to State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public;

(f) investigating any subjects related to the Great Lakes Basin Ecosystem that the Parties may refer to the Commission;

(g) consulting on a regular basis with the Public about issues related to the quality of the Waters of the Great Lakes, and about options for restoring and protecting these waters, while providing the Public with the opportunity to raise concerns, and tender advice and recommendations to the Commission and the Parties;

(h) engaging with the Public to increase awareness of the inherent value of the Waters of the Great Lakes, of the issues related to the quality of these waters, and the benefit of taking individual and collective action to restore and protect these waters;

(i) ensuring liaison and coordination among the institutions established under Article 8 and other institutions within the Commission's purview, such as Boards responsible to oversee Great Lakes water levels and air pollution matters;

(j) coordinating with other binational or international institutions that address concerns relating to the Great Lakes Basin Ecosystem;

(k) providing to the Parties, in consultation with the Boards established under Article 8, a triennial "Assessment of Progress Report" that includes:

(i) a review of the Progress Report of the Parties;

(ii) a summary of Public input on the Progress Report of the Parties;

(iii) an assessment of the extent to which programs and other measures are achieving the General and Specific Objectives of this Agreement;

(iv) consideration of the most recent State of the Lakes Report; and

(v) other advice and recommendations, as appropriate;

(l) providing to the Parties, at any time, special reports concerning any problem relating to the quality of the Waters of the Great Lakes;

(m) submitting to the Parties, for their review and approval, an annual budget of anticipated expenses for carrying out its responsibilities under this Agreement. Each Party shall seek funds to pay half of the approved annual budget. A Party shall not be obliged to pay a larger amount than the other Party;

(n) providing any requested data or information, furnished to the Commission in accordance with this Article, to the Parties or State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, downstream jurisdictions, or the Public; and

(o) publishing any report, statement, or other document prepared in the discharge the Commission's functions under this Agreement.

2. A Party shall provide any available data or other information relating to the quality of the Waters of the Great Lakes if it is requested by the Commission. The Party shall disclose the information, subject to national security considerations, information-sharing laws, and privacy laws, regulations, and policies.

3. When discharging its responsibilities under this Agreement, the Commission may exercise all of the powers conferred to it by the Boundary Waters Treaty and by any legislation passed pursuant thereto, including the power to conduct public hearings and to compel the testimony of witnesses, and the production of documents.

4. The Parties shall enable the Commission to make available to the Public all advice and recommendations made by the Commission to the Parties pursuant to this Article.

5. In addition to the responsibilities outlined in this Article, the Commission has specific roles and responsibilities pursuant to Annex 1 – Areas of Concern; Annex 2 – Lakewide Management; Annex 5 – Discharges from Vessels; and Annex 10 – Science, of this Agreement.

6. Notwithstanding any other provision of this Agreement, the Parties shall ensure that the Commission does not release any information that is protected or regulated under applicable law, unless it has consent of the owner.

ARTICLE 8

Commission Boards and Regional Office

1. The Parties hereby direct the Commission to establish a Great Lakes Water Quality Board, a Great Lakes Science Advisory Board, and a Great Lakes Regional Office to assist in exercising the powers and responsibilities assigned to it under this Agreement.

2. The Great Lakes Water Quality Board shall be the principal advisor to the Commission. The Great Lakes Water Quality Board shall be composed of an equal number of members from Canada and the United States. The Great Lakes Water Quality Board shall include representatives from the Parties and State and Provincial Governments and also may include representatives from Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, downstream jurisdictions, and the Public.

3. The Great Lakes Water Quality Board shall assist the Commission by:

(a) reviewing and assessing progress of the Parties in implementation of this Agreement;

(b) identifying emerging issues and recommending strategies and approaches for preventing and resolving the complex challenges facing the Great Lakes; and

(c) providing advice on the role of relevant jurisdictions to implement these strategies and approaches.

4. The Great Lakes Science Advisory Board shall provide advice on research to the Commission and to the Great Lakes Water Quality Board. The Great Lakes Science Advisory Board shall also provide advice on scientific matters referred to it by the Commission, or by the Great Lakes Water Quality Board, in consultation with the Commission. The Great Lakes Science Advisory Board shall consist of managers of Great Lakes research programs and recognized experts on Great Lakes water quality problems and related matters and include representatives from the Parties and State and Provincial Governments.

5. The Commission shall appoint the members of the Great Lakes Water Quality Board and the Great Lakes Science Advisory Board subject to consultation with the appropriate government or governments concerned.

6. The Parties instruct the Commission to prepare the detailed functions of the Boards for review and approval by the Parties.

7. The Parties agree that the Great Lakes Regional Office of the Commission shall:

(a) provide administrative support and technical assistance to the Great Lakes Water Quality Board and the Great Lakes Science Advisory Board and their sub-organizations, to assist the Boards in discharging effectively the responsibilities, duties and functions assigned to them;

(b) provide public notice and outreach for the activities, including public hearings, undertaken by the Commission and its Boards;

(c) provide any other assistance to the Commission, as required to fulfill the Commission's responsibilities under this Agreement; and

(d) be managed by a Director appointed by the Commission in consultation with the Parties and with the co-chairs of the Boards. The position of Director shall alternate between a Canadian citizen and a United States citizen. Consistent with the responsibilities assigned to the Commission, and under the supervision of the Commission, the Director shall be responsible for:

(i) managing the Great Lakes Regional Office and its staff in the carrying out of the functions described herein; and

(ii) conducting such activities in support of the Boards as directed by the Boards' co-chairs in consultation with the Commission.

ARTICLE 9

Existing Rights and Obligations

This Agreement shall not be interpreted to diminish the Parties' rights or obligations under the Boundary Waters Treaty.

ARTICLE 10

Integration Clause

The Annexes form an integral part of this Agreement.

ARTICLE 11

Amendment

1. This Agreement and its Annexes may be amended by written agreement of the Parties.

2. The Parties shall promptly advise the International Joint Commission of any amendment to this Agreement and its Annexes.

3. An amendment shall enter into force on the date of the last notification in an Exchange of Notes between the Parties indicating that each Party has completed its domestic processes for entry into force.

ARTICLE 12

Entry into Force and Termination

1. This Agreement shall enter into force upon signature by the duly authorized representatives of the Parties.

2. This Agreement will remain in force until terminated by a Party through written notification delivered to the other Party through diplomatic channels.

ARTICLE 13

Supersession

This Agreement supersedes the *Agreement between Canada and the United States of America on Great Lakes Water Quality*, done at Ottawa on 15 April 1972.

ANNEX 1

AREAS OF CONCERN

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement by restoring beneficial uses that have become impaired due to local conditions at Areas of Concern (AOCs), through the development and implementation of Remedial Action Plans (RAPs) for each AOC designated pursuant to this Agreement.

B. Programs and Other Measures

An AOC is a geographic area designated by the Parties where significant impairment of beneficial uses has occurred as a result of human activities at the local level.

The Parties have designated AOCs and may, after consulting with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, the Public, and the Commission as appropriate, designate additional AOCs based on an evaluation of Beneficial Use Impairments (BUIs). A BUI is a reduction in the chemical, physical or biological integrity of the Waters of the Great Lakes sufficient to cause any of the following:

1. restrictions on fish and wildlife consumption;
2. tainting of fish and wildlife flavour;
3. degradation of fish and wildlife populations;
4. fish tumours or other deformities;
5. bird or animal deformities or reproduction problems;

6. degradation of benthos;

7. restrictions on dredging activities;

8. eutrophication or undesirable algae;

9. restrictions on drinking water consumption, or taste and odour problems;

10. beach closings;

11. degradation of aesthetics;

12. added costs to agriculture or industry;

13. degradation of phytoplankton and zooplankton populations; and

14. loss of fish and wildlife habitat.

For each AOC, the Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall develop and implement a systematic and comprehensive ecosystem approach to restoring beneficial use.

The Parties shall cooperate with State and Provincial Governments to ensure that RAPs are developed, periodically updated, and implemented for each AOC. Each plan shall include:

1. identification of BUIs and causes;

2. criteria for the restoration of beneficial uses that take into account local conditions and established in consultation with the local community;

3. remedial measures to be taken, including identification of entities responsible for implementing these measures;

4. a summary of the implementation of remedial measures taken and the status of the beneficial use; and

5. a description of surveillance and monitoring processes to track the effectiveness of remedial measures and confirm restoration of beneficial uses.

A Party shall make RAPs and updated RAPs available to the Commission and the Public.

A Party shall remove a BUI designation when the established criteria have been met.

A Party may elect to identify an AOC as an AOC in Recovery when all remedial actions identified in the RAP have been implemented and monitoring confirms that recovery is progressing in accordance with the RAP. A Party shall monitor and take further action, if required, to restore beneficial uses within an AOC in Recovery.

A Party shall remove the designation of an AOC or AOC in Recovery when environmental monitoring confirms that beneficial uses have been restored in accordance with the criteria established in the RAP.

A Party shall solicit a review and comments from the State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, the Public, and the Commission:

1. prior to the designation of an AOC in Recovery; and

2. prior to the removal of a designation as an AOC or an AOC in Recovery.

C. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties, including:

1. a listing of current AOCs;

2. the status of BUIs in each AOC;

3. the actions completed or initiated in each AOC during the reporting period; and

4. the remaining actions required in each AOC for the removal of the designation as an AOC.

ANNEX 2

LAKEWIDE MANAGEMENT

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement by assessing the status of each Great Lake, and by addressing environmental stressors that adversely affect the Waters of the Great Lakes which are best addressed on a lakewide scale through an ecosystem approach.

B. Programs and Other Measures

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall undertake the following lakewide management actions:

1. establish Lake Ecosystem Objectives as a benchmark against which to assess status and trends in water quality and lake ecosystem health;

2. assemble, assess and report on existing scientific information concerning the state of the waters of each Great Lake including current and future potential threats to water quality;

3. identify research, monitoring and other science priorities for the assessment of current and future potential threats to water quality, and for the identification of priorities to support management actions;

4. conduct surveys, inventories, studies and outreach activities as required to support the above assessments;

5. identify the need for further action by governments and the Public to address priority threats to water quality and the achievement of Lake Ecosystem Objectives;

6. develop and implement lake specific binational strategies to address Substance Objectives, such as nutrient objectives developed pursuant to Annex 4, and any other current and future potential threats to water quality that are judged to be best addressed on a lake by lake basis; and

7. develop, within three years of entry into force of this Agreement, an integrated nearshore framework to be implemented collaboratively through the lakewide management process for each Great Lake. The nearshore framework shall:

   (a) provide an overall assessment of the state of the nearshore Waters of the Great Lakes;

   (b) identify nearshore areas that are or may become subject to high stress due to individual or cumulative impact on the chemical, physical or biological integrity of those areas;

   (c) identify areas within the nearshore which, due to their nature, are of high ecological value;

   (d) determine factors and cumulative effects that are causing stress or that are threatening areas of high ecological value;

   (e) establish priorities for nearshore prevention, restoration and protection measures based on consideration of nearshore and whole-lake factors;

   (f) identify and engage appropriate agencies and entities that are developing and implementing prevention, restoration and protection strategies;

(g) include consideration of non-point source runoff, shoreline hardening, climate change impacts, habitat loss, invasive species, dredging and contaminated sediment issues, bacterial contamination, contaminated groundwater, and other factors where they are identified as a source of stress to the nearshore environment;

(h) take into account the impact on human health and the environment;

(i) include monitoring of the nearshore to support this framework, which shall be conducted on a frequency to be determined by the Parties, to assess changes in the nearshore over time; and

(j) be regularly assessed and revised as appropriate.

C. Lakewide Action and Management Plans

The Parties shall document and coordinate these management actions through the development of Lakewide Action and Management Plans (LAMP) for each Great Lake as follows:

- Lake Superior;
- Lake Huron, and the St. Marys River;
- Lake Erie, and the St. Clair River, Lake St. Clair, and the Detroit River;
- Lake Ontario, and the Niagara River and the St. Lawrence River to the international boundary; and
- Lake Michigan, for which the Government of the United States shall have sole responsibility.

The Parties shall issue a LAMP for each Great Lake every five years. When the LAMP is issued, the Parties shall provide a copy to the Commission for advice and recommendations.

The Parties shall provide brief annual updates to the Public on each LAMP.

D. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties.

ANNEX 3

CHEMICALS OF MUTUAL CONCERN

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement by protecting human health and the environment through cooperative and coordinated measures to reduce the anthropogenic release of chemicals of mutual concern into the Waters of the Great Lakes, recognizing:

1. that chemicals of mutual concern released into the air, water, land, sediment, and biota should not result in impairment to the quality of the Waters of the Great Lakes;

2. the need to manage chemicals of mutual concern including, as appropriate, by implementing measures to achieve virtual elimination and zero discharge of these chemicals;

3. the importance of a life-cycle management approach to minimize risks and environmental impacts of chemicals of mutual concern and products containing chemicals of mutual concern;

4. that the Public can contribute to achieving reductions of the environmental impact of chemicals of mutual concern and products containing chemicals of mutual concern by using safer and less harmful chemicals and adopting technologies that reduce or eliminate the uses and releases of chemicals of mutual concern;

5. the susceptibility of the Great Lakes Basin Ecosystem to the negative impact of chemicals of mutual concern, due to the economic activity level and population density in the region, as well as the unique characteristics of the ecosystem;

6. that knowledge and information concerning the use, creation and release of chemicals of mutual concern, and combinations thereof, are fundamental to the sound management of chemicals in the Great Lakes Basin Ecosystem;

7. that climate change may affect the use, release, transport, and fate of chemicals of mutual concern in the Great Lakes Basin Ecosystem, thereby contributing to impacts on human health and the environment;

8. that chemicals of mutual concern may be managed at the federal, state, provincial, tribal, and local levels through a combination of regulatory and non-regulatory programs; and

9. that international efforts may contribute to reductions of releases of chemicals of mutual concern from out-of-basin sources that are deposited within the Great Lakes Basin Ecosystem.

B. Programs and Other Measures

The Parties shall identify chemicals of mutual concern that originate from anthropogenic sources. The Parties shall mutually determine those chemicals that are potentially harmful to human health or the environment by:

1. establishing and implementing a process by which the Great Lakes Executive Committee may recommend chemicals of mutual concern to the Parties. The recommendation shall include a review of available scientific information supporting the recommendation; and

2. considering recommendations of the Great Lakes Executive Committee and jointly designate chemicals as chemicals of mutual concern for the purposes of this Agreement.

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall target these chemicals of mutual concern for action by:

1. preparing binational strategies for chemicals of mutual concern, which may include research, monitoring, surveillance and pollution prevention and control provisions;

2. coordinating the development and application of domestic water quality standards, objectives, criteria, and guidelines among the Parties and other governmental entities, subject to relevant domestic law and regulation, by:

   (a) maintaining, periodically reviewing, and making publicly available current water quality-standards, objectives, criteria and guidelines for chemicals of mutual concern;

   (b) aligning, where appropriate, domestic water quality standards, objectives, criteria and guidelines applicable to chemicals of mutual concern;

   (c) developing, where warranted, new domestic water quality standards, objectives, criteria and guidelines for chemicals of mutual concern; and

   (d) reviewing and addressing any exceedences of or non-compliance with domestic water quality standards, objectives, criteria, and guidelines for chemicals of mutual concern;

3. reducing the anthropogenic release of chemicals of mutual concern and products containing chemicals of mutual concern throughout their entire life-cycles;

4. promoting the use of safer chemical substances and the use of technologies that reduce or eliminate the use and release of chemicals of mutual concern;

5. continuing progress toward the sound management of chemicals of mutual concern using approaches that are accountable, adaptive, and science-based;

6. monitoring and evaluating the progress and effectiveness of pollution prevention and control measures for chemicals of mutual concern, and adapting management approaches as necessary; and

7. exchanging, on a regular basis, information on monitoring, surveillance, research, technology, and measures for managing chemicals of mutual concern.

C. Science

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall coordinate on science priorities, research, surveillance and monitoring activities, as appropriate, including:

1. identifying and assessing the occurrence, sources, transport and impact of chemicals of mutual concern, including spatial and temporal trends in the atmosphere, in aquatic biota, wildlife, water, and sediments;

2. identifying and assessing loadings of chemicals of mutual concern into the Waters of the Great Lakes from all sources including point sources, non-point sources, tributaries, and the atmosphere;

3. evaluating the effects of chemicals of mutual concern, and combinations thereof, on human health and the ecosystem, including the development and use of reproductive, physiological and biochemical measures in wildlife, fish and humans as health effect indicators;

4. maintaining biological and sediment banks to support retrospective analysis and to establish background levels for use in assessing future management actions;

5. coordinating research, monitoring, and surveillance activities as a means to provide early warning for chemicals that could become chemicals of mutual concern;

6. reviewing and prioritizing research, monitoring, and surveillance needs on an annual basis, taking into account progress made in implementing this Agreement, new developments in science, and other factors; and

7. exploring research, monitoring, and surveillance opportunities related to management at source and treatment technologies under the respective jurisdictional authorities to address chemicals of mutual concern in wastewater effluent and residuals.

D. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties. The report shall include:

1. an identification of chemicals of mutual concern; and

2. the status of initiatives to develop binational strategies to address issues involving chemicals of mutual concern and the status of implementing binational strategies for chemicals of mutual concern.

ANNEX 4

NUTRIENTS

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement by coordinating binational actions to manage phosphorus concentrations and loadings, and other nutrients if warranted, in the Waters of the Great Lakes.

B. Lake Ecosystem Objectives

To achieve the purpose of this Annex and pursuant to Article 3(1)(b)(i), the Parties hereby adopt Lake Ecosystem Objectives related to nutrients, including:

1. minimize the extent of hypoxic zones in the Waters of the Great Lakes associated with excessive phosphorus loading, with particular emphasis on Lake Erie;

2. maintain the levels of algal biomass below the level constituting a nuisance condition;

3. maintain algal species consistent with healthy aquatic ecosystems in the nearshore Waters of the Great Lakes;

4. maintain cyanobacteria biomass at levels that do not produce concentrations of toxins that pose a threat to human or ecosystem health in the Waters of the Great Lakes;

5. maintain an oligotrophic state, relative algal biomass, and algal species consistent with healthy aquatic ecosystems, in the open waters of Lakes Superior, Michigan, Huron and Ontario; and

6. maintain mesotrophic conditions in the open waters of the western and central basins of Lake Erie, and oligotrophic conditions in the eastern basin of Lake Erie.

C. Substance Objectives

To achieve Lake Ecosystem Objectives, the Parties deem it essential to establish Substance Objectives, in accordance with Article 3(1)(b)(ii), for phosphorus concentrations for the open waters and nearshore areas of each Great Lake. To achieve these Substance Objectives for phosphorus concentrations, the Parties shall develop phosphorus loading targets and allocations for each Party for each Great Lake, as required.

The Parties shall retain the following Substance Objectives on an interim basis for phosphorus concentration in the open Waters of the Great Lakes until updated:

Interim Substance Objectives
for Total Phosphorus Concentration
in Open Waters (ug/l)
(as represented by Spring means)

Lake Superior	5
Lake Huron	5
Lake Michigan	7
Lake Erie (western basin)	15
Lake Erie (central basin)	10
Lake Erie (eastern basin)	10
Lake Ontario	10

To help achieve these Substance Objectives, the Parties shall use the following phosphorus loading targets for the Waters of the Great Lakes on an interim basis until the loading targets are updated:

Interim Phosphorus
Load Targets
(Metric Tonnes Total P Per Year)

Lake Superior	3400
Lake Michigan	5600
Main Lake Huron	2800
Georgian Bay	600
North Channel	520
Saginaw Bay	440
Lake Erie	11000
Lake Ontario	7000

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall:

1. for the open Waters of the Great Lakes:

   (a) review the interim Substance Objectives for phosphorus concentrations for each Great Lake to assess adequacy for the purpose of meeting Lake Ecosystem Objectives, and revise as necessary;

   (b) review and update the phosphorus loading targets for each Great Lake; and

   (c) determine appropriate phosphorus loading allocations, apportioned by country, necessary to achieve Substance Objectives for phosphorus concentrations for each Great Lake;

2. for the nearshore Waters of the Great Lakes:

   (a) develop Substance Objectives for phosphorous concentrations for nearshore waters, including embayments and tributary discharge for each Great Lake; and

   (b) establish load reduction targets for priority watersheds that have a significant localized impact on the Waters of the Great Lakes.

In establishing Substance Objectives for phosphorus concentrations and phosphorus loading targets, the Parties shall take into account the bioavailability of various forms of phosphorus, related productivity, seasonality, fisheries productivity requirements, climate change, invasive species, and other factors, such as downstream impacts, as necessary.

The Parties shall complete this work for Lake Erie within three years of entry into force of this Agreement and complete this work for the other Great Lakes on a schedule to be determined by the Parties.

The Parties shall periodically review the Substance Objectives for phosphorus concentrations, phosphorus loading targets, and phosphorus loading allocations, apportioned by country to ensure that Lake Ecosystem Objectives are met.

The Parties shall establish Substance Objectives, loading targets and loading allocations for other nutrients apportioned by country, as required, to control the growth of nuisance and toxic algae to achieve Lake Ecosystem Objectives.

D. Programs and Other Measures

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall develop and implement the following programs and other measures to achieve the Lake Ecosystem and Substance Objectives for phosphorus concentrations, loading targets, and loading allocations apportioned by country, established pursuant to this Annex:

1. the Parties shall assess and, where necessary, develop and implement regulatory and non-regulatory programs to reduce phosphorus loading from urban sources including:

   (a) programs to prevent further degradation of the Waters of the Great Lakes from wastewater treatment plants located in the Great Lakes basin;

   (b) programs to optimize existing wastewater treatment facilities;

   (c) programs to ensure that construction and operation of municipal wastewater treatment facilities that discharge one million liquid gallons or more per day achieve a maximum effluent concentration of 1.0 milligram per litre total phosphorus for plants in the basins of Lakes Superior, Michigan, and Huron, and of 0.5 milligram per litre total phosphorus for plants in the basins of Lakes Ontario and Erie;

   (d) more stringent restrictions on phosphorus discharges from wastewater treatments plants may be considered as action plans are developed and implemented; and

(e) new approaches and technologies for the reduction of phosphorus from wastewater, storm water discharge, and other urban sources;

2. the Parties shall develop and implement regulatory and non-regulatory programs to reduce phosphorus loading from industrial discharges, and continue to develop and implement new technologies, as necessary;

3. the Parties shall assess and, where necessary, develop and implement regulatory and non-regulatory programs to reduce phosphorus loading from agricultural and rural non-farm point and non-point sources including:

(a) programs to assess the effectiveness of current phosphorus management options including best management practices; and

(b) programs to support the ongoing development and implementation of new approaches and technologies for the reduction of phosphorus from agricultural and rural non-farm sources;

4. the Parties shall take appropriate measures to reduce phosphorus in household laundry and dishwashing detergents and household cleaners to 0.5 percent by weight, where necessary to meet the Substance Objectives for phosphorus concentrations, loading targets, and loading allocations apportioned by country to be developed pursuant to this Annex;

5. the Parties shall evaluate programs and practices to manage phosphorus inputs;

6. the Parties shall develop for Lake Erie, within five years of entry into force of this Agreement and for other Great Lakes as required, phosphorus reduction strategies and domestic action plans to meet Substance Objectives for phosphorus concentrations, loading targets, and loading allocations apportioned by country, developed pursuant to this Annex. These strategies and action plans shall include:

   (a) assessment of environmental conditions;

   (b) identification of priorities for binational research and monitoring; and

   (c) identification of priorities for implementation of measures to manage phosphorous loading to the Waters of the Great Lakes;

7. the Parties shall identify watersheds that are a priority for nutrient control, and shall develop and implement management plans, including phosphorus load reduction targets and controls, for these watersheds, as appropriate.

E. Science

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall undertake the necessary research, monitoring and modeling to establish, report and assess Substance Objectives for phosphorus concentrations, loading targets, and loading allocations apportioned by country for the management of phosphorus and other nutrients, as required, and to further the understanding of issues such as:

1. nutrient distribution and movement within the Great Lakes;

2. the causes of toxic algal blooms and nuisance algal blooms;

3. phosphorus sources and forms;

4. nutrient conditions and biological responses in the Great Lakes;

5. adverse effects from excessive inputs of phosphorus;

6. the influence of climate change on nutrient inputs to the Waters of the Great Lakes and the formation of algae and other emerging issues related to nutrients;

7. non-point source phosphorus control methods;

8. the use of objectives and targets based on soluble reactive phosphorus (or bioavailable phosphorus), or use of surrogate measures; and

9. improved technologies and management practices.

The Parties shall do the following to maximize the effectiveness of the scientific activities referred to in this Annex:

1. establish and regularly review and revise binational priorities for nutrient science; and

2. collect and share binational monitoring data and other scientific information related to nutrients in the Waters of the Great Lakes.

F. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties. This report shall document:

1. Lake Ecosystem Objectives and Substance Objectives;

2. implementation of the binational strategies and domestic action plans;

3. changes in phosphorus loading and concentrations; and

4. progress toward achievement of the Substance Objectives for phosphorus concentrations, loading targets and loading allocations apportioned by country, established under to this Annex.

ANNEX 5

DISCHARGES FROM VESSELS

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement by preventing and controlling vessel discharges that are harmful to the quality of the Waters of the Great Lakes, through the adoption and implementation of regulations, programs, and other measures that facilitate coordinated and cooperative implementation and enforcement, where appropriate.

B. Programs and Other Measures

The Parties' responsibility for implementation of this Annex is expected to rest principally with Transport Canada, Fisheries and Oceans Canada, the Canadian Coast Guard, the United States Coast Guard, and the United States Environmental Protection Agency and other agencies, as appropriate. These responsible authorities shall meet annually to consider issues of this Annex.

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall adopt programs and measures that:

1. protect the quality of the Waters of the Great Lakes;

2. apply environmental requirements and practices that are protective of the environment and human health, provided that the Parties shall implement this Agreement with due regard for securing the safety of a ship and the passengers and crew, and for saving life on the Waters of the Great Lakes;

3. take into account relevant standards and guidance issued under the auspices of the International Maritime Organization (IMO);

4. implement their respective domestic laws and regulations for vessel discharge, taking into account best-available science; and

5. prohibit, and make subject to penalties, as appropriate, discharges from vessels that are harmful to the quality of the Waters of the Great Lakes.

Discharges

The Parties shall address discharges to the Waters of the Great Lakes as follows:

1. prevention of pollution from Oil and Hazardous Polluting Substances:

   (a) the discharge of a Harmful Quantity of Oil or Hazardous Polluting Substance, including any such quantities as may be contained in Ballast Water, shall be prohibited;

   (b) as soon as any person in charge has knowledge of any discharge or probable discharge of Harmful Quantities of Oil or Hazardous Polluting Substances, notice of such discharge shall be given to the appropriate agency in the jurisdiction where the discharge occurs; and

   (c) the programs and measures to be adopted for the prevention of discharges of Harmful Quantities of Oil and Hazardous Polluting Substances shall include:

      (i) regulations for design, construction, and operation of vessels guided by standards and guidelines developed by the IMO, including the following requirements:

         (A) that each Vessel shall have a suitable means of containing on board cargo spills of Oil and Hazardous Polluting Substances caused by loading or unloading operations;

         (B) that each Vessel shall have a suitable means of containing on board fuel Oils spills caused by loading or unloading operations, including those from tank vents and overflow pipes;

(C) that each Vessel shall have the capability of retaining on board oily and other wastes accumulated during vessel operation;

(D) that each Vessel shall be capable of off-loading retained oily wastes and wastes containing Hazardous Polluting Substances to a reception facility;

(E) that each Vessel shall be provided with a means for rapidly and safely stopping the flow of cargo fuel Oil, or waste material during loading, unloading or bunkering operations in the event of an emergency;

(F) that each Vessel shall be provided with suitable lighting to adequately illuminate all cargo and fuel Oil handling areas if the loading, unloading or bunkering operations occur at night;

(G) that hose assemblies used on board vessels for Oil loading, unloading, or bunkering shall be suitably designed, identified, and inspected to minimize the possibility of failure; and

(H) that Oil loading, unloading, and bunkering systems shall be suitably designed, identified, and inspected to minimize the possibility of failure;

(ii) identification of vessels carrying cargoes of Hazardous Polluting Substances in bulk, containers, and package form, and of all such cargoes;

(iii) identification in vessel manifests of all Hazardous Polluting Substances;

(iv) carriage and stowage arrangements of all Hazardous Polluting Substances in packaged form using as a guide the *International Maritime Dangerous Goods Code*; and

(v) programs to ensure that merchant Vessel personnel are trained in all functions involving the use, handling, and stowage of Oil and Hazardous Polluting Substances; the abatement of pollution from Oil and Hazardous Polluting Substances; and the hazards associated with the handling of Oil and such substances;

2. Garbage:

(a) the discharge of garbage, except for cargo residue, shall be prohibited; and

(b) taking into account guidance issued by the IMO, the Parties may establish regulations that require reasonable measures to minimize the discharges of cargo residues;

3. Wastewater and Sewage:

(a) the discharge of wastewater in Harmful Quantities shall be prohibited;

(b) the Parties shall:

(i) control the discharge of sewage from vessels that may affect the quality of the Waters of the Great Lakes; and

(ii) develop and implement regulations to require that every vessel operating on the Great Lakes that is provided with toilet facilities shall be equipped with an approved device or devices to contain, incinerate, or treat sewage to an adequate degree; and

(c) critical use areas in the Great Lakes basin may be designated where the discharge of wastewater or sewage shall be limited or prohibited;

4. Biofouling:

The Parties shall undertake appropriate measures to prevent the release of Aquatic Invasive Species, and pathogens, as a result of biofouling, taking into account guidelines on biofouling developed by the IMO;

5. Antifouling Systems:

The Parties shall undertake appropriate measures to prevent harm in the Great Lakes basin from antifouling systems, considering standards and guidelines developed by the IMO;

6. Ballast Water:

(a) the Parties shall establish and implement programs and measures that protect the Great Lakes Basin Ecosystem from the discharge of Aquatic Invasive Species in Ballast Water, taking into account Annex 6 of this Agreement and, as appropriate, the standards set forth in the *International Convention for the Control and Management of Ship's Ballast Water and Sediments, 2004*, and associated guidance; and

(b) the Parties shall undertake scientific and economic analysis, when appropriate, on the following:

(i) risks posed by the discharge of Ballast Water from Vessels;

(ii) Ballast Water management systems in light of the unique characteristics (such as salinity and temperature) of the Great Lakes Basin Ecosystem; and

(iii) alternative technologies and approaches to protect the Great Lakes Basin Ecosystem from Aquatic Invasive Species in Ballast Water discharge.

Reception facilities

The Parties shall, as appropriate, ensure that adequate facilities are provided to receive, treat and dispose of vessel wastes such as Oil and Hazardous Polluting Substances, Garbage, Wastewater, and Sewage, and Ballast Water.

Review of discharges from Vessels

The Parties shall review services, systems, programs, recommendations, standards and regulations relating to shipping activities for the purpose of maintaining or improving the quality of the Waters of the Great Lakes. The review shall include, without limitation:

1. review of vessel equipment, manning, and navigation practices or procedures, and of aids to navigation and vessel traffic management, for the purpose of precluding casualties that may be deleterious to water quality;

2. review of any practices and procedures, shipboard technologies, research and development, effects on water quality, and possible preventative measures that would minimize deleterious effects on water quality for the following discharges:

   (a) Oil and Hazardous Polluting Substances;

   (b) Garbage;

   (c) Wastewater and Sewage;

   (d) Biofouling;

   (e) Antifouling Systems; and

   (f) Ballast Water;

3. review of the number, sufficiency and effectiveness of reception facilities provided for treatment, and subsequent disposal of garbage, sewage, or oil and Hazardous Polluting Substances from vessels; and

4. the Parties shall revise or adopt additional programs and measures, as appropriate, to address findings of the reviews.

C. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties.

The Parties, through their responsible authorities, may provide additional detailed reports to the International Joint Commission about the progress made under this Annex, prior to the International Joint Commission's Triennial Meeting on Great Lakes water quality. The Parties will make these reports available to the Public.

D. Definitions

In this Annex:

1. "Antifouling System" means a coating, paint, surface treatment, surface or device that is used on a vessel to control or prevent attachment of unwanted organisms;

2. "Ballast Water" means water with its suspended matter taken on board a vessel to control trim, list, draught, stability or stresses of the ship;

3. "Biofouling" means the accumulation of aquatic organisms such as micro-organisms, plants and animals on surfaces and structures immersed in or exposed to the aquatic environment;

4. "Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting or dumping; it does not include unavoidable direct discharges of Oil from a properly functioning vessel engine;

5. "Garbage" means all kinds of food waste, domestic waste and operational waste, all plastics, cargo residues, cooking oil, fishing gear, and animal carcasses generated during the normal operation of the Vessel and liable to be disposed of continuously or periodically;

6. "Harmful Quantity" means any quantity of a substance that if discharged into receiving water would be inconsistent with the achievement of the General or Specific Objectives of this Agreement;

7. "Harmful Quantity of Oil" means any quantity of Oil that, if discharged from a Vessel that is stationary into clear calm water on a clear day, would produce a film or a sheen upon, or discoloration of, the surface of the water or adjoining shoreline, or that would cause a sludge or emission to be deposited beneath the surface of the water or upon the adjoining shoreline;

8. "Hazardous Polluting Substance" means, subject to Canadian or United States national laws or regulations, any substance which, if introduced into marine or fresh waters is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the waters, and includes but is not limited to substances subject to control by the *International Convention for the Prevention of Pollution from Ships, 1973* as amended by the Protocol of 1978, and those substances subject to control by the *International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996,* when the latter comes into effect, the *Canada Shipping Act, 2001*, the *Federal Water Pollution Control Act* of 1972, as amended, the *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA), as amended, and the *Oil Pollution Act* (OPA) of 1990, as amended, but excluding Ballast Water, Oil, Garbage, and Sewage;

9. "Oil" means Oil of any kind or in any form, including, but not limited to, petroleum, fuel Oil, Oil sludge, Oil refuse, Oil mixed with ballast or bilge water and Oil mixed with waste other than dredged material;

10. "Sewage" means human or animal waste generated on board ship and includes wastes from water closets, toilets, urinals, hospital facilities, or any receptacles intended to receive or retain human or animal waste;

11. "Vessel" means any ship, barge, or other floating craft, whether or not self-propelled, used or capable of being used for marine transportation or navigation; and

12. "Wastewater" means water in combination with other substances, including water used for washing cargo holds, but excluding Ballast Water and water in combination with Oil, Hazardous Polluting Substances or Sewage.

ANNEX 6

AQUATIC INVASIVE SPECIES

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement. Through this Annex the Parties shall establish a binational strategy to prevent the introduction of Aquatic Invasive Species (AIS), to control or reduce the spread of existing AIS, and to eradicate, where feasible, existing AIS within the Great Lakes Basin Ecosystem.

B. Programs and Other Measures

The Parties shall develop and implement programs and other measures to eliminate new introductions of AIS through a binational prevention-based approach, informed by risk assessments. This approach takes into account that new species may pose a risk to the Great Lakes, even in the absence of scientific certainty.

The Parties, subject to their respective laws and regulations, and in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall:

1. implement ballast water discharge programs that are protective of the Great Lakes Basin Ecosystem, as provided for in Annex 5, Discharges from Vessels;

2. implement programs to prevent the introduction and spread of AIS by:

   (a) conducting proactive, binationally coordinated Risk Assessments on various Pathways such as:

      (i) the trade and importation of live organisms for various uses including, but not limited to, aquariums and gardens, bait fish, live fish food markets, and biological supply houses;

      (ii) recreation and other resource use including, but not limited to, boating and personal watercraft use, fishing, hunting, diving, and float plane aviation;

      (iii) connecting waterways, including intermittent waterways; and

      (iv) other Pathways and Vectors, as appropriate;

   (b) developing regulations or management strategies informed by these Risk Assessments;

   (c) coordinating the implementation of management strategies as appropriate;

   (d) undertaking education and outreach efforts;

   (e) establishing effective barriers that prevent the spread of AIS while allowing the movement of other ecosystem components (such as water and native species), as informed by Risk Assessments and where economically feasible; and

   (f) ensuring that any inter-basin transfer of water includes the appropriate consideration of the potential to introduce AIS;

3. within two years of entry into force of this Agreement, develop and implement an early detection and rapid response initiative that:

   (a) develops species watch lists;

   (b) identifies priority locations for surveillance;

   (c) develops monitoring protocols for surveillance;

   (d) establishes protocols for sharing information;

   (e) identifies new AIS; and

   (f) coordinates effective and timely domestic and, when necessary, binational response actions to prevent the establishment of newly detected AIS.

C. Science

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall undertake the following:

1. ecological assessments of the effectiveness of AIS prevention programs;

2. development and evaluation of technology and methods that increase the effectiveness of control and eradication efforts;

3. development and evaluation of technology and methods that improve the ability to achieve effective barriers that prevent the spread of AIS while allowing the movement of other ecosystem components through canals and waterways;

4. development and evaluation of technology and methods, including genetic techniques, that improve the ability to detect potential AIS at low levels of abundance;

5. determination of potential AIS habitat requirements and additional factors that would affect the establishment and spread of AIS;

6. assessment of the ecosystem impacts of both established and high-risk AIS in order to inform management regarding decisions for rapid response and control programs;

7. assessment of the potential impact of climate change on the introduction, survival, establishment, and spread of AIS; and

8. Risk Assessments of species, Pathways and Vectors as determined to be appropriate by the Parties.

D. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties.

E. Definitions

In this Annex:

1. "Aquatic Invasive Species" (AIS) means any non-indigenous species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that threatens or may threaten the diversity or abundance of aquatic native species, or the ecological stability, and thus water quality, or water quality of infested waters, or commercial, recreational, or other activities dependent on such waters;

2. "Pathways" means the broad corridors or routes by which AIS are transferred from one geographic area to another (such as transoceanic shipping);

3. "Risk Assessment" means a method of identifying threats and vulnerabilities by assessing the likelihood of introduction, survival, establishment, and spread of AIS, and by assessing the magnitude of any associated impacts; and

4. "Vectors" means the sub-corridors or routes within Pathways that are the physical means by which AIS are transported from one geographic area to another (such as Ballast Water).

ANNEX 7

HABITAT AND SPECIES

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement by conserving, protecting, maintaining, restoring and enhancing the resilience of native species and their habitat, as well as by supporting essential ecosystem services.

B. Programs and Other Measures

The Parties, subject to their respective laws and regulations, and in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall:

1. conduct a baseline survey of the existing habitat against which to establish a Great Lakes Basin Ecosystem target of net habitat gain and measure future progress;

2. within two years of entry into force of this Agreement, complete the development and begin implementation of lakewide habitat and species protection and restoration conservation strategies that use adaptive management approaches, identify conservation mechanisms, and address the most significant stressors to native species and habitat;

3. assess gaps in current binational and domestic programs and initiatives to conserve, protect, maintain, restore and enhance native species and habitat as a first step toward the development of a binational framework for prioritizing activities;

4. facilitate binational collaborative actions to reduce the loss of native species and habitat, recover populations of native species at risk, and restore degraded habitat;

5. renew and strengthen binational collaborative actions to conserve, protect, maintain, restore and enhance native species and habitat by identifying protected areas, conservation easements and other conservation mechanisms to recover populations of species at risk and to achieve the target of net habitat gain; and

6. increase awareness of native species and habitat and the methods to protect, conserve, maintain, restore and enhance their resilience.

These programs and other measures will also contribute to recovery of populations of species at risk, restoration of degraded native habitat and species, and a net gain in habitat.

The Lakewide Action and Management Plans will be the principal mechanisms for coordinating development and implementation of the lakewide habitat and species protection and restoration conservation strategies under this Annex.

C. Science

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall conduct research and monitoring, as needed, to implement prevention measures that consider the climate change impacts and other stressors and improve the resilience of native species and habitat.

D. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties.

E. Definition

In this Annex:

"Ecosystem Services" means the benefits people obtain from ecosystems such as: energy, food and water, biomedicines, flood prevention, biodiversity, climate regulation, erosion control, pest and pathogen control, soil formation, nutrient cycling, recreation, heritage, spiritual or personal fulfillment and other non-material benefits.

ANNEX 8

GROUNDWATER

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement by coordinating groundwater science and management actions.

B. Programs and Other Measures

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall:

1. within two years of entry into force of this Agreement, publish an initial report on the relevant and available groundwater science, and update this report at least once every six years;

2. identify priorities for science activities and actions for groundwater management, protection, and remediation, to achieve the General and Specific Objectives of this Agreement; and

3. coordinate binational activities under this Annex, together with domestic programs, to assess, protect, and manage the quality of groundwater, and to understand and manage groundwater-related stresses affecting the Waters of the Great Lakes.

C. Science

Recognizing the interconnection between groundwater and the Waters of the Great Lakes, the Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall:

1. identify groundwater impacts on the chemical, physical and biological integrity of the Waters of the Great Lakes;

2. analyze contaminants, including nutrients in groundwater, derived from both point and non-point sources impacting the Waters of the Great Lakes;

3. assess information gaps and science needs related to groundwater to protect the quality of the Waters of the Great Lakes; and

4. analyze other factors, such as climate change, that individually or cumulatively affect groundwater's impact on the quality of the Waters of the Great Lakes.

D. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties.

ANNEX 9

CLIMATE CHANGE IMPACTS

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement by coordinating efforts to identify, quantify, understand, and predict the climate change impacts on the quality of the Waters of the Great Lakes, and sharing information that Great Lakes resource managers need to proactively address these impacts.

B. Programs and Other Measures

The Parties shall take into account the climate change impacts on the chemical, physical and biological integrity of the Waters of the Great Lakes and shall consider such climate change impacts in the implementation of this Agreement.

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall use their domestic programs to address climate change impacts to achieve the objectives of this Agreement.

The Parties shall communicate and coordinate binationally regarding ongoing developments of domestic science, strategies and actions to build capacity to address the climate change impacts on the Great Lakes Basin Ecosystem.

Recognizing that climate change has an impact on Great Lakes water quality and water quantity, the Parties shall ensure that their actions taken pursuant to this Annex are coordinated, as appropriate, with the water quantity management actions taken by or in conjunction with the International Joint Commission.

C. Science

To identify and quantify the climate change impacts on the quality of the Waters the Great Lakes, the Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall:

1. develop and improve regional scale climate models to predict climate change in the Great Lakes Basin Ecosystem at appropriate temporal and spatial scales;

2. link the projected climate change outputs from the regional models to chemical, physical, biological models that are specific to the Great Lakes to better understand and predict the climate change impacts on the quality of the Waters of the Great Lakes;

3. enhance monitoring of relevant climate and Great Lakes variables to validate model predictions and to understand current climate change impacts;

4. develop and improve analytical tools to understand and predict the impacts, and risks to, and the vulnerabilities of, the quality of the Waters of the Great Lakes from anticipated climate change impacts; and

5. coordinate binational climate change science activities (including monitoring, modeling and analysis) to quantify, understand, and share information that Great Lakes resource managers need to address climate change impacts on the quality of the Waters of the Great Lakes and to achieve the objectives of this Agreement.

D. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties.

ANNEX 10

SCIENCE

A. Purpose

The purpose of this Annex is to contribute to the achievement of the General and Specific Objectives of this Agreement by enhancing the coordination, integration, synthesis, and assessment of science activities. Science, including monitoring, surveillance, observation, research, and modeling, may be supplemented by other bodies of knowledge, such as traditional ecological knowledge.

B. Programs and Other Measures

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall:

1. use adaptive management as a framework for organizing science to provide and monitor the effect of science-based management options;

2. undertake monitoring and surveillance to anticipate the need for further science activities and to address emerging environmental concerns; and

3. facilitate information management and sharing to improve knowledge, accessibility and exchange of relevant Great Lakes information.

C. Science Review, Priority-Setting and Coordination

The Parties, in cooperation and consultation with State and Provincial Governments, Tribal Governments, First Nations, Métis, Municipal Governments, watershed management agencies, other local public agencies, and the Public, shall:

1. undertake a review of available scientific information to inform management actions and policy development. Priority issues to be addressed through this review of available scientific information shall be established on a three-year basis by the Parties in consultation with the Great Lakes Executive Committee, considering advice developed by the Commission in consultation with the Great Lakes Science Advisory Board;

2. identify science priorities, taking into account recommendations of the Commission;

3. use their best efforts to ensure that agencies that fund scientific activities orient their research programs in response to research priorities identified by the Parties; and

4. coordinate scientific efforts in support of the restoration and protection of the chemical, physical, and biological integrity of the Waters of the Great Lakes to facilitate and evaluate achievement of the General and Specific Objectives of this Agreement.

D. Ecosystem Indicators

The Parties shall establish and maintain comprehensive, science-based ecosystem indicators to assess the state of the Great Lakes, to anticipate emerging threats and to measure progress in relation to achievement of the General and Specific Objectives of this Agreement. The indicators shall be periodically reviewed and updated as necessary.

E. Lake-Specific Science and Monitoring

In addition to ongoing science and monitoring activities that are routinely carried out by the Parties and other government and non-government entities, the Parties shall implement a cooperative science and monitoring initiative for each of the Great Lakes on a five-year rotational basis. The Parties shall focus monitoring activities on the science priorities identified through the Lakewide Management Process. The Parties will coordinate these activities across government and non-government organizations.

F. Reporting

The Parties shall report on progress toward implementation of this Annex every three years through the Progress Report of the Parties.

The Parties shall also issue, every three years, a State of the Great Lakes Report to the Commission and the Public, describing basin-wide environmental trends and lake-specific conditions using ecosystem indicators established by the Parties.

Annex 153

Consolidated version of the Treaty on the Functioning of the European Union, 26 October 2012, OJ C 326/47

CONSOLIDATED VERSION

OF

THE TREATY ON THE FUNCTIONING OF THE

EUROPEAN UNION

PREAMBLE

HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF THE ITALIAN REPUBLIC, HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG, HER MAJESTY THE QUEEN OF THE NETHERLANDS, [1]

DETERMINED to lay the foundations of an ever closer union among the peoples of Europe,

RESOLVED to ensure the economic and social progress of their States by common action to eliminate the barriers which divide Europe,

AFFIRMING as the essential objective of their efforts the constant improvements of the living and working conditions of their peoples,

RECOGNISING that the removal of existing obstacles calls for concerted action in order to guarantee steady expansion, balanced trade and fair competition,

ANXIOUS to strengthen the unity of their economies and to ensure their harmonious development by reducing the differences existing between the various regions and the backwardness of the less favoured regions,

DESIRING to contribute, by means of a common commercial policy, to the progressive abolition of restrictions on international trade,

INTENDING to confirm the solidarity which binds Europe and the overseas countries and desiring to ensure the development of their prosperity, in accordance with the principles of the Charter of the United Nations,

RESOLVED by thus pooling their resources to preserve and strengthen peace and liberty, and calling upon the other peoples of Europe who share their ideal to join in their efforts,

DETERMINED to promote the development of the highest possible level of knowledge for their peoples through a wide access to education and through its continuous updating,

and to this end HAVE DESIGNATED as their Plenipotentiaries:

(List of plenipotentiaries not reproduced)

WHO, having exchanged their full powers, found in good and due form, have agreed as follows.

[1] The Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland have since become members of the European Union.

PART ONE

PRINCIPLES

Article 1

1. This Treaty organises the functioning of the Union and determines the areas of, delimitation of, and arrangements for exercising its competences.

2. This Treaty and the Treaty on European Union constitute the Treaties on which the Union is founded. These two Treaties, which have the same legal value, shall be referred to as 'the Treaties'.

TITLE I

CATEGORIES AND AREAS OF UNION COMPETENCE

Article 2

1. When the Treaties confer on the Union exclusive competence in a specific area, only the Union may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the Union or for the implementation of Union acts.

2. When the Treaties confer on the Union a competence shared with the Member States in a specific area, the Union and the Member States may legislate and adopt legally binding acts in that area. The Member States shall exercise their competence to the extent that the Union has not exercised its competence. The Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence.

3. The Member States shall coordinate their economic and employment policies within arrangements as determined by this Treaty, which the Union shall have competence to provide.

4. The Union shall have competence, in accordance with the provisions of the Treaty on European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy.

5. In certain areas and under the conditions laid down in the Treaties, the Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States, without thereby superseding their competence in these areas.

Legally binding acts of the Union adopted on the basis of the provisions of the Treaties relating to these areas shall not entail harmonisation of Member States' laws or regulations.

6. The scope of and arrangements for exercising the Union's competences shall be determined by the provisions of the Treaties relating to each area.

Article 3

1. The Union shall have exclusive competence in the following areas:

(a) customs union;

(b) the establishing of the competition rules necessary for the functioning of the internal market;

(c) monetary policy for the Member States whose currency is the euro;

(d) the conservation of marine biological resources under the common fisheries policy;

(e) common commercial policy.

2. The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or in so far as its conclusion may affect common rules or alter their scope.

Article 4

1. The Union shall share competence with the Member States where the Treaties confer on it a competence which does not relate to the areas referred to in Articles 3 and 6.

2. Shared competence between the Union and the Member States applies in the following principal areas:

(a) internal market;

(b) social policy, for the aspects defined in this Treaty;

(c) economic, social and territorial cohesion;

(d) agriculture and fisheries, excluding the conservation of marine biological resources;

(e) environment;

(f) consumer protection;

(g) transport;

(h) trans-European networks;

(i) energy;

(j) area of freedom, security and justice;

(k) common safety concerns in public health matters, for the aspects defined in this Treaty.

3. In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

4. In the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs.

Article 5

1. The Member States shall coordinate their economic policies within the Union. To this end, the Council shall adopt measures, in particular broad guidelines for these policies.

Specific provisions shall apply to those Member States whose currency is the euro.

2. The Union shall take measures to ensure coordination of the employment policies of the Member States, in particular by defining guidelines for these policies.

3. The Union may take initiatives to ensure coordination of Member States' social policies.

Article 6

The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. The areas of such action shall, at European level, be:

(a) protection and improvement of human health;

(b) industry;

(c) culture;

(d) tourism;

(e) education, vocational training, youth and sport;

(f) civil protection;

(g) administrative cooperation.

TITLE II

PROVISIONS HAVING GENERAL APPLICATION

Article 7

The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers.

Article 8

(ex Article 3(2) TEC) [1]

In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.

Article 9

In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

Article 10

In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

Article 11

(ex Article 6 TEC)

Environmental protection requirements must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development.

[1] These references are merely indicative. For more ample information, please refer to the tables of equivalences between the old and the new numbering of the Treaties.

Article 12

(ex Article 153(2) TEC)

Consumer protection requirements shall be taken into account in defining and implementing other Union policies and activities.

Article 13

In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.

Article 14

(ex Article 16 TEC)

Without prejudice to Article 4 of the Treaty on European Union or to Articles 93, 106 and 107 of this Treaty, and given the place occupied by services of general economic interest in the shared values of the Union as well as their role in promoting social and territorial cohesion, the Union and the Member States, each within their respective powers and within the scope of application of the Treaties, shall take care that such services operate on the basis of principles and conditions, particularly economic and financial conditions, which enable them to fulfil their missions. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish these principles and set these conditions without prejudice to the competence of Member States, in compliance with the Treaties, to provide, to commission and to fund such services.

Article 15

(ex Article 255 TEC)

1. In order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies shall conduct their work as openly as possible.

2. The European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act.

3. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union's institutions, bodies, offices and agencies, whatever their medium, subject to the principles and the conditions to be defined in accordance with this paragraph.

General principles and limits on grounds of public or private interest governing this right of access to documents shall be determined by the European Parliament and the Council, by means of regulations, acting in accordance with the ordinary legislative procedure.

Each institution, body, office or agency shall ensure that its proceedings are transparent and shall elaborate in its own Rules of Procedure specific provisions regarding access to its documents, in accordance with the regulations referred to in the second subparagraph.

The Court of Justice of the European Union, the European Central Bank and the European Investment Bank shall be subject to this paragraph only when exercising their administrative tasks.

The European Parliament and the Council shall ensure publication of the documents relating to the legislative procedures under the terms laid down by the regulations referred to in the second subparagraph.

Article 16

(ex Article 286 TEC)

1. Everyone has the right to the protection of personal data concerning them.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the rules relating to the protection of individuals with regard to the processing of personal data by Union institutions, bodies, offices and agencies, and by the Member States when carrying out activities which fall within the scope of Union law, and the rules relating to the free movement of such data. Compliance with these rules shall be subject to the control of independent authorities.

The rules adopted on the basis of this Article shall be without prejudice to the specific rules laid down in Article 39 of the Treaty on European Union.

Article 17

1. The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.

2. The Union equally respects the status under national law of philosophical and non-confessional organisations.

3. Recognising their identity and their specific contribution, the Union shall maintain an open, transparent and regular dialogue with these churches and organisations.

PART TWO

NON-DISCRIMINATION AND CITIZENSHIP OF THE UNION

Article 18

(ex Article 12 TEC)

Within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt rules designed to prohibit such discrimination.

Article 19

(ex Article 13 TEC)

1. Without prejudice to the other provisions of the Treaties and within the limits of the powers conferred by them upon the Union, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

2. By way of derogation from paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt the basic principles of Union incentive measures, excluding any harmonisation of the laws and regulations of the Member States, to support action taken by the Member States in order to contribute to the achievement of the objectives referred to in paragraph 1.

Article 20

(ex Article 17 TEC)

1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship.

2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, inter alia:

(a) the right to move and reside freely within the territory of the Member States;

(b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;

(c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;

(d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder.

Article 21

(ex Article 18 TEC)

1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect.

2. If action by the Union should prove necessary to attain this objective and the Treaties have not provided the necessary powers, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1.

3. For the same purposes as those referred to in paragraph 1 and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt measures concerning social security or social protection. The Council shall act unanimously after consulting the European Parliament.

Article 22

(ex Article 19 TEC)

1. Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements adopted by the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.

2. Without prejudice to Article 223(1) and to the provisions adopted for its implementation, every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State. This right shall be exercised subject to detailed arrangements adopted by the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.

Article 23

(ex Article 20 TEC)

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that State. Member States shall adopt the necessary provisions and start the international negotiations required to secure this protection.

The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament, may adopt directives establishing the coordination and cooperation measures necessary to facilitate such protection.

Article 24

(ex Article 21 TEC)

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall adopt the provisions for the procedures and conditions required for a citizens' initiative within the meaning of Article 11 of the Treaty on European Union, including the minimum number of Member States from which such citizens must come.

Every citizen of the Union shall have the right to petition the European Parliament in accordance with Article 227.

Every citizen of the Union may apply to the Ombudsman established in accordance with Article 228.

Every citizen of the Union may write to any of the institutions or bodies referred to in this Article or in Article 13 of the Treaty on European Union in one of the languages mentioned in Article 55(1) of the Treaty on European Union and have an answer in the same language.

Article 25

(ex Article 22 TEC)

The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee every three years on the application of the provisions of this Part. This report shall take account of the development of the Union.

On this basis, and without prejudice to the other provisions of the Treaties, the Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, may adopt provisions to strengthen or to add to the rights listed in Article 20(2). These provisions shall enter into force after their approval by the Member States in accordance with their respective constitutional requirements.

PART THREE

UNION POLICIES AND INTERNAL ACTIONS

TITLE I

THE INTERNAL MARKET

Article 26

(ex Article 14 TEC)

1. The Union shall adopt measures with the aim of establishing or ensuring the functioning of the internal market, in accordance with the relevant provisions of the Treaties.

2. The internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured in accordance with the provisions of the Treaties.

3. The Council, on a proposal from the Commission, shall determine the guidelines and conditions necessary to ensure balanced progress in all the sectors concerned.

Article 27

(ex Article 15 TEC)

When drawing up its proposals with a view to achieving the objectives set out in Article 26, the Commission shall take into account the extent of the effort that certain economies showing differences in development will have to sustain for the establishment of the internal market and it may propose appropriate provisions.

If these provisions take the form of derogations, they must be of a temporary nature and must cause the least possible disturbance to the functioning of the internal market.

TITLE II

FREE MOVEMENT OF GOODS

Article 28

(ex Article 23 TEC)

1. The Union shall comprise a customs union which shall cover all trade in goods and which shall involve the prohibition between Member States of customs duties on imports and exports and of all charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries.

2. The provisions of Article 30 and of Chapter 3 of this Title shall apply to products originating in Member States and to products coming from third countries which are in free circulation in Member States.

Article 29

(ex Article 24 TEC)

Products coming from a third country shall be considered to be in free circulation in a Member State if the import formalities have been complied with and any customs duties or charges having equivalent effect which are payable have been levied in that Member State, and if they have not benefited from a total or partial drawback of such duties or charges.

CHAPTER 1

THE CUSTOMS UNION

Article 30

(ex Article 25 TEC)

Customs duties on imports and exports and charges having equivalent effect shall be prohibited between Member States. This prohibition shall also apply to customs duties of a fiscal nature.

Article 31

(ex Article 26 TEC)

Common Customs Tariff duties shall be fixed by the Council on a proposal from the Commission.

Article 32

(ex Article 27 TEC)

In carrying out the tasks entrusted to it under this Chapter the Commission shall be guided by:

(a) the need to promote trade between Member States and third countries;

(b) developments in conditions of competition within the Union in so far as they lead to an improvement in the competitive capacity of undertakings;

(c) the requirements of the Union as regards the supply of raw materials and semi-finished goods; in this connection the Commission shall take care to avoid distorting conditions of competition between Member States in respect of finished goods;

(d) the need to avoid serious disturbances in the economies of Member States and to ensure rational development of production and an expansion of consumption within the Union.

CHAPTER 2

CUSTOMS COOPERATION

Article 33

(ex Article 135 TEC)

Within the scope of application of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall take measures in order to strengthen customs cooperation between Member States and between the latter and the Commission.

CHAPTER 3

PROHIBITION OF QUANTITATIVE RESTRICTIONS BETWEEN MEMBER STATES

Article 34

(ex Article 28 TEC)

Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States.

Article 35

(ex Article 29 TEC)

Quantitative restrictions on exports, and all measures having equivalent effect, shall be prohibited between Member States.

Article 36

(ex Article 30 TEC)

The provisions of Articles 34 and 35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.

Article 37

(ex Article 31 TEC)

1. Member States shall adjust any State monopolies of a commercial character so as to ensure that no discrimination regarding the conditions under which goods are procured and marketed exists between nationals of Member States.

The provisions of this Article shall apply to any body through which a Member State, in law or in fact, either directly or indirectly supervises, determines or appreciably influences imports or exports between Member States. These provisions shall likewise apply to monopolies delegated by the State to others.

2. Member States shall refrain from introducing any new measure which is contrary to the principles laid down in paragraph 1 or which restricts the scope of the articles dealing with the prohibition of customs duties and quantitative restrictions between Member States.

3. If a State monopoly of a commercial character has rules which are designed to make it easier to dispose of agricultural products or obtain for them the best return, steps should be taken in applying the rules contained in this Article to ensure equivalent safeguards for the employment and standard of living of the producers concerned.

TITLE III

AGRICULTURE AND FISHERIES

Article 38

(ex Article 32 TEC)

1. The Union shall define and implement a common agriculture and fisheries policy.

The internal market shall extend to agriculture, fisheries and trade in agricultural products. 'Agricultural products' means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products. References to the common agricultural policy or to agriculture, and the use of the term 'agricultural', shall be understood as also referring to fisheries, having regard to the specific characteristics of this sector.

2. Save as otherwise provided in Articles 39 to 44, the rules laid down for the establishment and functioning of the internal market shall apply to agricultural products.

3. The products subject to the provisions of Articles 39 to 44 are listed in Annex I.

4. The operation and development of the internal market for agricultural products must be accompanied by the establishment of a common agricultural policy.

Article 39

(ex Article 33 TEC)

1. The objectives of the common agricultural policy shall be:

(a) to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilisation of the factors of production, in particular labour;

(b) thus to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture;

(c) to stabilise markets;

(d) to assure the availability of supplies;

(e) to ensure that supplies reach consumers at reasonable prices.

2. In working out the common agricultural policy and the special methods for its application, account shall be taken of:

(a) the particular nature of agricultural activity, which results from the social structure of agriculture and from structural and natural disparities between the various agricultural regions;

(b) the need to effect the appropriate adjustments by degrees;

(c) the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole.

Article 40
(ex Article 34 TEC)

1. In order to attain the objectives set out in Article 39, a common organisation of agricultural markets shall be established.

This organisation shall take one of the following forms, depending on the product concerned:

(a) common rules on competition;

(b) compulsory coordination of the various national market organisations;

(c) a European market organisation.

2. The common organisation established in accordance with paragraph 1 may include all measures required to attain the objectives set out in Article 39, in particular regulation of prices, aids for the production and marketing of the various products, storage and carryover arrangements and common machinery for stabilising imports or exports.

The common organisation shall be limited to pursuit of the objectives set out in Article 39 and shall exclude any discrimination between producers or consumers within the Union.

Any common price policy shall be based on common criteria and uniform methods of calculation.

3. In order to enable the common organisation referred to in paragraph 1 to attain its objectives, one or more agricultural guidance and guarantee funds may be set up.

Article 41

(ex Article 35 TEC)

To enable the objectives set out in Article 39 to be attained, provision may be made within the framework of the common agricultural policy for measures such as:

(a) an effective coordination of efforts in the spheres of vocational training, of research and of the dissemination of agricultural knowledge; this may include joint financing of projects or institutions;

(b) joint measures to promote consumption of certain products.

Article 42

(ex Article 36 TEC)

The provisions of the Chapter relating to rules on competition shall apply to production of and trade in agricultural products only to the extent determined by the European Parliament and the Council within the framework of Article 43(2) and in accordance with the procedure laid down therein, account being taken of the objectives set out in Article 39.

The Council, on a proposal from the Commission, may authorise the granting of aid:

(a) for the protection of enterprises handicapped by structural or natural conditions;

(b) within the framework of economic development programmes.

Article 43

(ex Article 37 TEC)

1. The Commission shall submit proposals for working out and implementing the common agricultural policy, including the replacement of the national organisations by one of the forms of common organisation provided for in Article 40(1), and for implementing the measures specified in this Title.

These proposals shall take account of the interdependence of the agricultural matters mentioned in this Title.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the common organisation of agricultural markets provided for in Article 40(1) and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy.

3. The Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.

4. In accordance with paragraph 2, the national market organisations may be replaced by the common organisation provided for in Article 40(1) if:

(a) the common organisation offers Member States which are opposed to this measure and which have an organisation of their own for the production in question equivalent safeguards for the employment and standard of living of the producers concerned, account being taken of the adjustments that will be possible and the specialisation that will be needed with the passage of time;

(b) such an organisation ensures conditions for trade within the Union similar to those existing in a national market.

5. If a common organisation for certain raw materials is established before a common organisation exists for the corresponding processed products, such raw materials as are used for processed products intended for export to third countries may be imported from outside the Union.

Article 44

(ex Article 38 TEC)

Where in a Member State a product is subject to a national market organisation or to internal rules having equivalent effect which affect the competitive position of similar production in another Member State, a countervailing charge shall be applied by Member States to imports of this product coming from the Member State where such organisation or rules exist, unless that State applies a countervailing charge on export.

The Commission shall fix the amount of these charges at the level required to redress the balance; it may also authorise other measures, the conditions and details of which it shall determine.

TITLE IV

FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL

CHAPTER 1

WORKERS

Article 45

(ex Article 39 TEC)

1. Freedom of movement for workers shall be secured within the Union.

2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.

3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:

(a) to accept offers of employment actually made;

(b) to move freely within the territory of Member States for this purpose;

(c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;

(d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in regulations to be drawn up by the Commission.

4. The provisions of this Article shall not apply to employment in the public service.

Article 46

(ex Article 40 TEC)

The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about freedom of movement for workers, as defined in Article 45, in particular:

(a) by ensuring close cooperation between national employment services;

(b) by abolishing those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers;

(c) by abolishing all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as imposed on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;

(d) by setting up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.

Article 47

(ex Article 41 TEC)

Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

Article 48

(ex Article 42 TEC)

The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, they shall make arrangements to secure for employed and self-employed migrant workers and their dependants:

(a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;

(b) payment of benefits to persons resident in the territories of Member States.

Where a member of the Council declares that a draft legislative act referred to in the first subparagraph would affect important aspects of its social security system, including its scope, cost or financial structure, or would affect the financial balance of that system, it may request that the matter be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, the European Council shall, within four months of this suspension, either:

(a) refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure; or

(b) take no action or request the Commission to submit a new proposal; in that case, the act originally proposed shall be deemed not to have been adopted.

CHAPTER 2

RIGHT OF ESTABLISHMENT

Article 49

(ex Article 43 TEC)

Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

Freedom of establishment shall include the right to take up and pursue activities as self-employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article 54, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of the Chapter relating to capital.

Article 50

(ex Article 44 TEC)

1. In order to attain freedom of establishment as regards a particular activity, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall act by means of directives.

2. The European Parliament, the Council and the Commission shall carry out the duties devolving upon them under the preceding provisions, in particular:

(a) by according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;

(b) by ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Union of the various activities concerned;

(c) by abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;

(d) by ensuring that workers of one Member State employed in the territory of another Member State may remain in that territory for the purpose of taking up activities therein as self-employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;

(e) by enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, in so far as this does not conflict with the principles laid down in Article 39(2);

(f) by effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and as regards the subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or subsidiaries;

(g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and others, are required by Member States of companies or firms within the meaning of the second paragraph of Article 54 with a view to making such safeguards equivalent throughout the Union;

(h) by satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.

Article 51

(ex Article 45 TEC)

The provisions of this Chapter shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may rule that the provisions of this Chapter shall not apply to certain activities.

Article 52

(ex Article 46 TEC)

1. The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.

2. The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, issue directives for the coordination of the abovementioned provisions.

Article 53

(ex Article 47 TEC)

1. In order to make it easier for persons to take up and pursue activities as self-employed persons, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualifications and for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking-up and pursuit of activities as self-employed persons.

2. In the case of the medical and allied and pharmaceutical professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for their exercise in the various Member States.

Article 54

(ex Article 48 TEC)

Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Union shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of Member States.

'Companies or firms' means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

Article 55

(ex Article 294 TEC)

Member States shall accord nationals of the other Member States the same treatment as their own nationals as regards participation in the capital of companies or firms within the meaning of Article 54, without prejudice to the application of the other provisions of the Treaties.

CHAPTER 3

SERVICES

Article 56

(ex Article 49 TEC)

Within the framework of the provisions set out below, restrictions on freedom to provide services within the Union shall be prohibited in respect of nationals of Member States who are established in a Member State other than that of the person for whom the services are intended.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may extend the provisions of the Chapter to nationals of a third country who provide services and who are established within the Union.

Article 57

(ex Article 50 TEC)

Services shall be considered to be 'services' within the meaning of the Treaties where they are normally provided for remuneration, in so far as they are not governed by the provisions relating to freedom of movement for goods, capital and persons.

'Services' shall in particular include:

(a) activities of an industrial character;

(b) activities of a commercial character;

(c) activities of craftsmen;

(d) activities of the professions.

Without prejudice to the provisions of the Chapter relating to the right of establishment, the person providing a service may, in order to do so, temporarily pursue his activity in the Member State where the service is provided, under the same conditions as are imposed by that State on its own nationals.

Article 58

(ex Article 51 TEC)

1. Freedom to provide services in the field of transport shall be governed by the provisions of the Title relating to transport.

2. The liberalisation of banking and insurance services connected with movements of capital shall be effected in step with the liberalisation of movement of capital.

Article 59

(ex Article 52 TEC)

1. In order to achieve the liberalisation of a specific service, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall issue directives.

2. As regards the directives referred to in paragraph 1, priority shall as a general rule be given to those services which directly affect production costs or the liberalisation of which helps to promote trade in goods.

Article 60

(ex Article 53 TEC)

The Member States shall endeavour to undertake the liberalisation of services beyond the extent required by the directives issued pursuant to Article 59(1), if their general economic situation and the situation of the economic sector concerned so permit.

To this end, the Commission shall make recommendations to the Member States concerned.

Article 61

(ex Article 54 TEC)

As long as restrictions on freedom to provide services have not been abolished, each Member State shall apply such restrictions without distinction on grounds of nationality or residence to all persons providing services within the meaning of the first paragraph of Article 56.

Article 62

(ex Article 55 TEC)

The provisions of Articles 51 to 54 shall apply to the matters covered by this Chapter.

CHAPTER 4

CAPITAL AND PAYMENTS

Article 63

(ex Article 56 TEC)

1. Within the framework of the provisions set out in this Chapter, all restrictions on the movement of capital between Member States and between Member States and third countries shall be prohibited.

2. Within the framework of the provisions set out in this Chapter, all restrictions on payments between Member States and between Member States and third countries shall be prohibited.

Article 64

(ex Article 57 TEC)

1. The provisions of Article 63 shall be without prejudice to the application to third countries of any restrictions which exist on 31 December 1993 under national or Union law adopted in respect of the movement of capital to or from third countries involving direct investment – including in real estate – establishment, the provision of financial services or the admission of securities to capital markets. In respect of restrictions existing under national law in Bulgaria, Estonia and Hungary, the relevant date shall be 31 December 1999.

2. Whilst endeavouring to achieve the objective of free movement of capital between Member States and third countries to the greatest extent possible and without prejudice to the other Chapters of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures on the movement of capital to or from third countries involving direct investment – including investment in real estate – establishment, the provision of financial services or the admission of securities to capital markets.

3. Notwithstanding paragraph 2, only the Council, acting in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament, adopt measures which constitute a step backwards in Union law as regards the liberalisation of the movement of capital to or from third countries.

Article 65

(ex Article 58 TEC)

1. The provisions of Article 63 shall be without prejudice to the right of Member States:

(a) to apply the relevant provisions of their tax law which distinguish between taxpayers who are not in the same situation with regard to their place of residence or with regard to the place where their capital is invested;

(b) to take all requisite measures to prevent infringements of national law and regulations, in particular in the field of taxation and the prudential supervision of financial institutions, or to lay down procedures for the declaration of capital movements for purposes of administrative or statistical information, or to take measures which are justified on grounds of public policy or public security.

2. The provisions of this Chapter shall be without prejudice to the applicability of restrictions on the right of establishment which are compatible with the Treaties.

3. The measures and procedures referred to in paragraphs 1 and 2 shall not constitute a means of arbitrary discrimination or a disguised restriction on the free movement of capital and payments as defined in Article 63.

4. In the absence of measures pursuant to Article 64(3), the Commission or, in the absence of a Commission decision within three months from the request of the Member State concerned, the Council, may adopt a decision stating that restrictive tax measures adopted by a Member State concerning one or more third countries are to be considered compatible with the Treaties in so far as they are justified by one of the objectives of the Union and compatible with the proper functioning of the internal market. The Council shall act unanimously on application by a Member State.

Article 66

(ex Article 59 TEC)

Where, in exceptional circumstances, movements of capital to or from third countries cause, or threaten to cause, serious difficulties for the operation of economic and monetary union, the Council, on a proposal from the Commission and after consulting the European Central Bank, may take safeguard measures with regard to third countries for a period not exceeding six months if such measures are strictly necessary.

TITLE V

AREA OF FREEDOM, SECURITY AND JUSTICE

CHAPTER 1

GENERAL PROVISIONS

Article 67

(ex Article 61 TEC and ex Article 29 TEU)

1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.

2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.

3. The Union shall endeavour to ensure a high level of security through measures to prevent and combat crime, racism and xenophobia, and through measures for coordination and cooperation between police and judicial authorities and other competent authorities, as well as through the mutual recognition of judgments in criminal matters and, if necessary, through the approximation of criminal laws.

4. The Union shall facilitate access to justice, in particular through the principle of mutual recognition of judicial and extrajudicial decisions in civil matters.

Article 68

The European Council shall define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice.

Article 69

National Parliaments ensure that the proposals and legislative initiatives submitted under Chapters 4 and 5 comply with the principle of subsidiarity, in accordance with the arrangements laid down by the Protocol on the application of the principles of subsidiarity and proportionality.

Article 70

Without prejudice to Articles 258, 259 and 260, the Council may, on a proposal from the Commission, adopt measures laying down the arrangements whereby Member States, in collaboration with the Commission, conduct objective and impartial evaluation of the implementation of the Union policies referred to in this Title by Member States' authorities, in particular in order to facilitate full application of the principle of mutual recognition. The European Parliament and national Parliaments shall be informed of the content and results of the evaluation.

Article 71

(ex Article 36 TEU)

A standing committee shall be set up within the Council in order to ensure that operational cooperation on internal security is promoted and strengthened within the Union. Without prejudice to Article 240, it shall facilitate coordination of the action of Member States' competent authorities. Representatives of the Union bodies, offices and agencies concerned may be involved in the proceedings of this committee. The European Parliament and national Parliaments shall be kept informed of the proceedings.

Article 72

(ex Article 64(1) TEC and ex Article 33 TEU)

This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

Article 73

It shall be open to Member States to organise between themselves and under their responsibility such forms of cooperation and coordination as they deem appropriate between the competent departments of their administrations responsible for safeguarding national security.

Article 74

(ex Article 66 TEC)

The Council shall adopt measures to ensure administrative cooperation between the relevant departments of the Member States in the areas covered by this Title, as well as between those departments and the Commission. It shall act on a Commission proposal, subject to Article 76, and after consulting the European Parliament.

Article 75

(ex Article 60 TEC)

Where necessary to achieve the objectives set out in Article 67, as regards preventing and combating terrorism and related activities, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall define a framework for administrative measures with regard to capital movements and payments, such as the freezing of funds, financial assets or economic gains belonging to, or owned or held by, natural or legal persons, groups or non-State entities.

The Council, on a proposal from the Commission, shall adopt measures to implement the framework referred to in the first paragraph.

The acts referred to in this Article shall include necessary provisions on legal safeguards.

Article 76

The acts referred to in Chapters 4 and 5, together with the measures referred to in Article 74 which ensure administrative cooperation in the areas covered by these Chapters, shall be adopted:

(a) on a proposal from the Commission, or

(b) on the initiative of a quarter of the Member States.

CHAPTER 2

POLICIES ON BORDER CHECKS, ASYLUM AND IMMIGRATION

Article 77

(ex Article 62 TEC)

1. The Union shall develop a policy with a view to:

(a) ensuring the absence of any controls on persons, whatever their nationality, when crossing internal borders;

(b) carrying out checks on persons and efficient monitoring of the crossing of external borders;

(c) the gradual introduction of an integrated management system for external borders.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures concerning:

(a) the common policy on visas and other short-stay residence permits;

(b) the checks to which persons crossing external borders are subject;

(c) the conditions under which nationals of third countries shall have the freedom to travel within the Union for a short period;

(d) any measure necessary for the gradual establishment of an integrated management system for external borders;

(e) the absence of any controls on persons, whatever their nationality, when crossing internal borders.

3. If action by the Union should prove necessary to facilitate the exercise of the right referred to in Article 20(2)(a), and if the Treaties have not provided the necessary powers, the Council, acting in accordance with a special legislative procedure, may adopt provisions concerning passports, identity cards, residence permits or any other such document. The Council shall act unanimously after consulting the European Parliament.

4. This Article shall not affect the competence of the Member States concerning the geographical demarcation of their borders, in accordance with international law.

Article 78

(ex Articles 63, points 1 and 2, and 64(2) TEC)

1. The Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of *non-refoulement*. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for a common European asylum system comprising:

(a) a uniform status of asylum for nationals of third countries, valid throughout the Union;

(b) a uniform status of subsidiary protection for nationals of third countries who, without obtaining European asylum, are in need of international protection;

(c) a common system of temporary protection for displaced persons in the event of a massive inflow;

(d) common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status;

(e) criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection;

(f) standards concerning the conditions for the reception of applicants for asylum or subsidiary protection;

(g) partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection.

3. In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament.

Article 79

(ex Article 63, points 3 and 4, TEC)

1. The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas:

(a) the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunification;

(b) the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;

(c) illegal immigration and unauthorised residence, including removal and repatriation of persons residing without authorisation;

(d) combating trafficking in persons, in particular women and children.

3. The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States.

4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to provide incentives and support for the action of Member States with a view to promoting the integration of third-country nationals residing legally in their territories, excluding any harmonisation of the laws and regulations of the Member States.

5. This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed.

Article 80

The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle.

CHAPTER 3

JUDICIAL COOPERATION IN CIVIL MATTERS

Article 81

(ex Article 65 TEC)

1. The Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and of decisions in extrajudicial cases. Such cooperation may include the adoption of measures for the approximation of the laws and regulations of the Member States.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures, particularly when necessary for the proper functioning of the internal market, aimed at ensuring:

(a) the mutual recognition and enforcement between Member States of judgments and of decisions in extrajudicial cases;

(b) the cross-border service of judicial and extrajudicial documents;

(c) the compatibility of the rules applicable in the Member States concerning conflict of laws and of jurisdiction;

(d) cooperation in the taking of evidence;

(e) effective access to justice;

(f) the elimination of obstacles to the proper functioning of civil proceedings, if necessary by promoting the compatibility of the rules on civil procedure applicable in the Member States;

(g) the development of alternative methods of dispute settlement;

(h) support for the training of the judiciary and judicial staff.

3. Notwithstanding paragraph 2, measures concerning family law with cross-border implications shall be established by the Council, acting in accordance with a special legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The Council, on a proposal from the Commission, may adopt a decision determining those aspects of family law with cross-border implications which may be the subject of acts adopted by the ordinary legislative procedure. The Council shall act unanimously after consulting the European Parliament.

The proposal referred to in the second subparagraph shall be notified to the national Parliaments. If a national Parliament makes known its opposition within six months of the date of such notification, the decision shall not be adopted. In the absence of opposition, the Council may adopt the decision.

CHAPTER 4

JUDICIAL COOPERATION IN CRIMINAL MATTERS

Article 82

(ex Article 31 TEU)

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article 83.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures to:

(a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;

(b) prevent and settle conflicts of jurisdiction between Member States;

(c) support the training of the judiciary and judicial staff;

(d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

(a) mutual admissibility of evidence between Member States;

(b) the rights of individuals in criminal procedure;

(c) the rights of victims of crime;

(d) any other specific aspects of criminal procedure which the Council has identified in advance by a decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament.

Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

Article 83

(ex Article 31 TEU)

1. The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.

On the basis of developments in crime, the Council may adopt a decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament.

2. If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted by the same ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article 76.

3. Where a member of the Council considers that a draft directive as referred to in paragraph 1 or 2 would affect fundamental aspects of its criminal justice system, it may request that the draft directive be referred to the European Council. In that case, the ordinary legislative procedure shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council, which shall terminate the suspension of the ordinary legislative procedure.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft directive concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

Article 84

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States.

Article 85

(ex Article 31 TEU)

1. Eurojust's mission shall be to support and strengthen coordination and cooperation between national investigating and prosecuting authorities in relation to serious crime affecting two or more Member States or requiring a prosecution on common bases, on the basis of operations conducted and information supplied by the Member States' authorities and by Europol.

In this context, the European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Eurojust's structure, operation, field of action and tasks. These tasks may include:

(a) the initiation of criminal investigations, as well as proposing the initiation of prosecutions conducted by competent national authorities, particularly those relating to offences against the financial interests of the Union;

(b) the coordination of investigations and prosecutions referred to in point (a);

(c) the strengthening of judicial cooperation, including by resolution of conflicts of jurisdiction and by close cooperation with the European Judicial Network.

These regulations shall also determine arrangements for involving the European Parliament and national Parliaments in the evaluation of Eurojust's activities.

2. In the prosecutions referred to in paragraph 1, and without prejudice to Article 86, formal acts of judicial procedure shall be carried out by the competent national officials.

Article 86

1. In order to combat crimes affecting the financial interests of the Union, the Council, by means of regulations adopted in accordance with a special legislative procedure, may establish a European Public Prosecutor's Office from Eurojust. The Council shall act unanimously after obtaining the consent of the European Parliament.

In the absence of unanimity in the Council, a group of at least nine Member States may request that the draft regulation be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft regulation concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

2. The European Public Prosecutor's Office shall be responsible for investigating, prosecuting and bringing to judgment, where appropriate in liaison with Europol, the perpetrators of, and accomplices in, offences against the Union's financial interests, as determined by the regulation provided for in paragraph 1. It shall exercise the functions of prosecutor in the competent courts of the Member States in relation to such offences.

3. The regulations referred to in paragraph 1 shall determine the general rules applicable to the European Public Prosecutor's Office, the conditions governing the performance of its functions, the rules of procedure applicable to its activities, as well as those governing the admissibility of evidence, and the rules applicable to the judicial review of procedural measures taken by it in the performance of its functions.

4. The European Council may, at the same time or subsequently, adopt a decision amending paragraph 1 in order to extend the powers of the European Public Prosecutor's Office to include serious crime having a cross-border dimension and amending accordingly paragraph 2 as regards the perpetrators of, and accomplices in, serious crimes affecting more than one Member State. The European Council shall act unanimously after obtaining the consent of the European Parliament and after consulting the Commission.

CHAPTER 5

POLICE COOPERATION

Article 87

(ex Article 30 TEU)

1. The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences.

2. For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning:

(a) the collection, storage, processing, analysis and exchange of relevant information;

(b) support for the training of staff, and cooperation on the exchange of staff, on equipment and on research into crime-detection;

(c) common investigative techniques in relation to the detection of serious forms of organised crime.

3. The Council, acting in accordance with a special legislative procedure, may establish measures concerning operational cooperation between the authorities referred to in this Article. The Council shall act unanimously after consulting the European Parliament.

In case of the absence of unanimity in the Council, a group of at least nine Member States may request that the draft measures be referred to the European Council. In that case, the procedure in the Council shall be suspended. After discussion, and in case of a consensus, the European Council shall, within four months of this suspension, refer the draft back to the Council for adoption.

Within the same timeframe, in case of disagreement, and if at least nine Member States wish to establish enhanced cooperation on the basis of the draft measures concerned, they shall notify the European Parliament, the Council and the Commission accordingly. In such a case, the authorisation to proceed with enhanced cooperation referred to in Article 20(2) of the Treaty on European Union and Article 329(1) of this Treaty shall be deemed to be granted and the provisions on enhanced cooperation shall apply.

The specific procedure provided for in the second and third subparagraphs shall not apply to acts which constitute a development of the Schengen *acquis*.

Article 88

(ex Article 30 TEU)

1. Europol's mission shall be to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism and forms of crime which affect a common interest covered by a Union policy.

2. The European Parliament and the Council, by means of regulations adopted in accordance with the ordinary legislative procedure, shall determine Europol's structure, operation, field of action and tasks. These tasks may include:

(a) the collection, storage, processing, analysis and exchange of information, in particular that forwarded by the authorities of the Member States or third countries or bodies;

(b) the coordination, organisation and implementation of investigative and operational action carried out jointly with the Member States' competent authorities or in the context of joint investigative teams, where appropriate in liaison with Eurojust.

These regulations shall also lay down the procedures for scrutiny of Europol's activities by the European Parliament, together with national Parliaments.

3. Any operational action by Europol must be carried out in liaison and in agreement with the authorities of the Member State or States whose territory is concerned. The application of coercive measures shall be the exclusive responsibility of the competent national authorities.

Article 89

(ex Article 32 TEU)

The Council, acting in accordance with a special legislative procedure, shall lay down the conditions and limitations under which the competent authorities of the Member States referred to in Articles 82 and 87 may operate in the territory of another Member State in liaison and in agreement with the authorities of that State. The Council shall act unanimously after consulting the European Parliament.

TITLE VI

TRANSPORT

Article 90

(ex Article 70 TEC)

The objectives of the Treaties shall, in matters governed by this Title, be pursued within the framework of a common transport policy.

Article 91

(ex Article 71 TEC)

1. For the purpose of implementing Article 90, and taking into account the distinctive features of transport, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, lay down:

(a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more Member States;

(b) the conditions under which non-resident carriers may operate transport services within a Member State;

(c) measures to improve transport safety;

(d) any other appropriate provisions.

2. When the measures referred to in paragraph 1 are adopted, account shall be taken of cases where their application might seriously affect the standard of living and level of employment in certain regions, and the operation of transport facilities.

Article 92

(ex Article 72 TEC)

Until the provisions referred to in Article 91(1) have been laid down, no Member State may, unless the Council has unanimously adopted a measure granting a derogation, make the various provisions governing the subject on 1 January 1958 or, for acceding States, the date of their accession less favourable in their direct or indirect effect on carriers of other Member States as compared with carriers who are nationals of that State.

Article 93

(ex Article 73 TEC)

Aids shall be compatible with the Treaties if they meet the needs of coordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service.

Article 94

(ex Article 74 TEC)

Any measures taken within the framework of the Treaties in respect of transport rates and conditions shall take account of the economic circumstances of carriers.

Article 95

(ex Article 75 TEC)

1. In the case of transport within the Union, discrimination which takes the form of carriers charging different rates and imposing different conditions for the carriage of the same goods over the same transport links on grounds of the country of origin or of destination of the goods in question shall be prohibited.

2. Paragraph 1 shall not prevent the European Parliament and the Council from adopting other measures pursuant to Article 91(1).

3. The Council shall, on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, lay down rules for implementing the provisions of paragraph 1.

The Council may in particular lay down the provisions needed to enable the institutions of the Union to secure compliance with the rule laid down in paragraph 1 and to ensure that users benefit from it to the full.

4. The Commission shall, acting on its own initiative or on application by a Member State, investigate any cases of discrimination falling within paragraph 1 and, after consulting any Member State concerned, shall take the necessary decisions within the framework of the rules laid down in accordance with the provisions of paragraph 3.

Article 96

(ex Article 76 TEC)

1. The imposition by a Member State, in respect of transport operations carried out within the Union, of rates and conditions involving any element of support or protection in the interest of one or more particular undertakings or industries shall be prohibited, unless authorised by the Commission.

2. The Commission shall, acting on its own initiative or on application by a Member State, examine the rates and conditions referred to in paragraph 1, taking account in particular of the requirements of an appropriate regional economic policy, the needs of underdeveloped areas and the problems of areas seriously affected by political circumstances on the one hand, and of the effects of such rates and conditions on competition between the different modes of transport on the other.

After consulting each Member State concerned, the Commission shall take the necessary decisions.

3. The prohibition provided for in paragraph 1 shall not apply to tariffs fixed to meet competition.

Article 97

(ex Article 77 TEC)

Charges or dues in respect of the crossing of frontiers which are charged by a carrier in addition to the transport rates shall not exceed a reasonable level after taking the costs actually incurred thereby into account.

Member States shall endeavour to reduce these costs progressively.

The Commission may make recommendations to Member States for the application of this Article.

Article 98

(ex Article 78 TEC)

The provisions of this Title shall not form an obstacle to the application of measures taken in the Federal Republic of Germany to the extent that such measures are required in order to compensate for the economic disadvantages caused by the division of Germany to the economy of certain areas of the Federal Republic affected by that division. Five years after the entry into force of the Treaty of Lisbon, the Council, acting on a proposal from the Commission, may adopt a decision repealing this Article.

Article 99

(ex Article 79 TEC)

An Advisory Committee consisting of experts designated by the governments of Member States shall be attached to the Commission. The Commission, whenever it considers it desirable, shall consult the Committee on transport matters.

Article 100

(ex Article 80 TEC)

1. The provisions of this Title shall apply to transport by rail, road and inland waterway.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may lay down appropriate provisions for sea and air transport. They shall act after consulting the Economic and Social Committee and the Committee of the Regions.

TITLE VII

COMMON RULES ON COMPETITION, TAXATION AND APPROXIMATION OF LAWS

CHAPTER 1

RULES ON COMPETITION

SECTION 1

RULES APPLYING TO UNDERTAKINGS

Article 101

(ex Article 81 TEC)

1. The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

(a) directly or indirectly fix purchase or selling prices or any other trading conditions;

(b) limit or control production, markets, technical development, or investment;

(c) share markets or sources of supply;

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

— any agreement or category of agreements between undertakings,

— any decision or category of decisions by associations of undertakings,

— any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article 102

(ex Article 82 TEC)

Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

(b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Article 103

(ex Article 83 TEC)

1. The appropriate regulations or directives to give effect to the principles set out in Articles 101 and 102 shall be laid down by the Council, on a proposal from the Commission and after consulting the European Parliament.

2. The regulations or directives referred to in paragraph 1 shall be designed in particular:

(a) to ensure compliance with the prohibitions laid down in Article 101(1) and in Article 102 by making provision for fines and periodic penalty payments;

(b) to lay down detailed rules for the application of Article 101(3), taking into account the need to ensure effective supervision on the one hand, and to simplify administration to the greatest possible extent on the other;

(c) to define, if need be, in the various branches of the economy, the scope of the provisions of Articles 101 and 102;

(d) to define the respective functions of the Commission and of the Court of Justice of the European Union in applying the provisions laid down in this paragraph;

(e) to determine the relationship between national laws and the provisions contained in this Section or adopted pursuant to this Article.

Article 104

(ex Article 84 TEC)

Until the entry into force of the provisions adopted in pursuance of Article 103, the authorities in Member States shall rule on the admissibility of agreements, decisions and concerted practices and on abuse of a dominant position in the internal market in accordance with the law of their country and with the provisions of Article 101, in particular paragraph 3, and of Article 102.

Article 105

(ex Article 85 TEC)

1. Without prejudice to Article 104, the Commission shall ensure the application of the principles laid down in Articles 101 and 102. On application by a Member State or on its own initiative, and in cooperation with the competent authorities in the Member States, which shall give it their assistance, the Commission shall investigate cases of suspected infringement of these principles. If it finds that there has been an infringement, it shall propose appropriate measures to bring it to an end.

2. If the infringement is not brought to an end, the Commission shall record such infringement of the principles in a reasoned decision. The Commission may publish its decision and authorise Member States to take the measures, the conditions and details of which it shall determine, needed to remedy the situation.

3. The Commission may adopt regulations relating to the categories of agreement in respect of which the Council has adopted a regulation or a directive pursuant to Article 103(2)(b).

Article 106

(ex Article 86 TEC)

1. In the case of public undertakings and undertakings to which Member States grant special or exclusive rights, Member States shall neither enact nor maintain in force any measure contrary to the rules contained in the Treaties, in particular to those rules provided for in Article 18 and Articles 101 to 109.

2. Undertakings entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly shall be subject to the rules contained in the Treaties, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Union.

3. The Commission shall ensure the application of the provisions of this Article and shall, where necessary, address appropriate directives or decisions to Member States.

SECTION 2

AIDS GRANTED BY STATES

Article 107

(ex Article 87 TEC)

1. Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

2. The following shall be compatible with the internal market:

(a) aid having a social character, granted to individual consumers, provided that such aid is granted without discrimination related to the origin of the products concerned;

(b) aid to make good the damage caused by natural disasters or exceptional occurrences;

(c) aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division. Five years after the entry into force of the Treaty of Lisbon, the Council, acting on a proposal from the Commission, may adopt a decision repealing this point.

3. The following may be considered to be compatible with the internal market:

(a) aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation;

(b) aid to promote the execution of an important project of common European interest or to remedy a serious disturbance in the economy of a Member State;

(c) aid to facilitate the development of certain economic activities or of certain economic areas, where such aid does not adversely affect trading conditions to an extent contrary to the common interest;

(d) aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Union to an extent that is contrary to the common interest;

(e) such other categories of aid as may be specified by decision of the Council on a proposal from the Commission.

Article 108

(ex Article 88 TEC)

1. The Commission shall, in cooperation with Member States, keep under constant review all systems of aid existing in those States. It shall propose to the latter any appropriate measures required by the progressive development or by the functioning of the internal market.

2. If, after giving notice to the parties concerned to submit their comments, the Commission finds that aid granted by a State or through State resources is not compatible with the internal market having regard to Article 107, or that such aid is being misused, it shall decide that the State concerned shall abolish or alter such aid within a period of time to be determined by the Commission.

If the State concerned does not comply with this decision within the prescribed time, the Commission or any other interested State may, in derogation from the provisions of Articles 258 and 259, refer the matter to the Court of Justice of the European Union direct.

On application by a Member State, the Council may, acting unanimously, decide that aid which that State is granting or intends to grant shall be considered to be compatible with the internal market, in derogation from the provisions of Article 107 or from the regulations provided for in Article 109, if such a decision is justified by exceptional circumstances. If, as regards the aid in question, the Commission has already initiated the procedure provided for in the first subparagraph of this paragraph, the fact that the State concerned has made its application to the Council shall have the effect of suspending that procedure until the Council has made its attitude known.

If, however, the Council has not made its attitude known within three months of the said application being made, the Commission shall give its decision on the case.

3. The Commission shall be informed, in sufficient time to enable it to submit its comments, of any plans to grant or alter aid. If it considers that any such plan is not compatible with the internal market having regard to Article 107, it shall without delay initiate the procedure provided for in paragraph 2. The Member State concerned shall not put its proposed measures into effect until this procedure has resulted in a final decision.

4. The Commission may adopt regulations relating to the categories of State aid that the Council has, pursuant to Article 109, determined may be exempted from the procedure provided for by paragraph 3 of this Article.

Article 109

(ex Article 89 TEC)

The Council, on a proposal from the Commission and after consulting the European Parliament, may make any appropriate regulations for the application of Articles 107 and 108 and may in particular determine the conditions in which Article 108(3) shall apply and the categories of aid exempted from this procedure.

CHAPTER 2

TAX PROVISIONS

Article 110

(ex Article 90 TEC)

No Member State shall impose, directly or indirectly, on the products of other Member States any internal taxation of any kind in excess of that imposed directly or indirectly on similar domestic products.

Furthermore, no Member State shall impose on the products of other Member States any internal taxation of such a nature as to afford indirect protection to other products.

Article 111

(ex Article 91 TEC)

Where products are exported to the territory of any Member State, any repayment of internal taxation shall not exceed the internal taxation imposed on them whether directly or indirectly.

Article 112

(ex Article 92 TEC)

In the case of charges other than turnover taxes, excise duties and other forms of indirect taxation, remissions and repayments in respect of exports to other Member States may not be granted and countervailing charges in respect of imports from Member States may not be imposed unless the measures contemplated have been previously approved for a limited period by the Council on a proposal from the Commission.

Article 113

(ex Article 93 TEC)

The Council shall, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, adopt provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition.

CHAPTER 3

APPROXIMATION OF LAWS

Article 114

(ex Article 95 TEC)

1. Save where otherwise provided in the Treaties, the following provisions shall apply for the achievement of the objectives set out in Article 26. The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

2. Paragraph 1 shall not apply to fiscal provisions, to those relating to the free movement of persons nor to those relating to the rights and interests of employed persons.

3. The Commission, in its proposals envisaged in paragraph 1 concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.

4. If, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to maintain national provisions on grounds of major needs referred to in Article 36, or relating to the protection of the environment or the working environment, it shall notify the Commission of these provisions as well as the grounds for maintaining them.

5. Moreover, without prejudice to paragraph 4, if, after the adoption of a harmonisation measure by the European Parliament and the Council, by the Council or by the Commission, a Member State deems it necessary to introduce national provisions based on new scientific evidence relating to the protection of the environment or the working environment on grounds of a problem specific to that Member State arising after the adoption of the harmonisation measure, it shall notify the Commission of the envisaged provisions as well as the grounds for introducing them.

6. The Commission shall, within six months of the notifications as referred to in paragraphs 4 and 5, approve or reject the national provisions involved after having verified whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market.

In the absence of a decision by the Commission within this period the national provisions referred to in paragraphs 4 and 5 shall be deemed to have been approved.

When justified by the complexity of the matter and in the absence of danger for human health, the Commission may notify the Member State concerned that the period referred to in this paragraph may be extended for a further period of up to six months.

7. When, pursuant to paragraph 6, a Member State is authorised to maintain or introduce national provisions derogating from a harmonisation measure, the Commission shall immediately examine whether to propose an adaptation to that measure.

8. When a Member State raises a specific problem on public health in a field which has been the subject of prior harmonisation measures, it shall bring it to the attention of the Commission which shall immediately examine whether to propose appropriate measures to the Council.

9. By way of derogation from the procedure laid down in Articles 258 and 259, the Commission and any Member State may bring the matter directly before the Court of Justice of the European Union if it considers that another Member State is making improper use of the powers provided for in this Article.

10. The harmonisation measures referred to above shall, in appropriate cases, include a safeguard clause authorising the Member States to take, for one or more of the non-economic reasons referred to in Article 36, provisional measures subject to a Union control procedure.

Article 115

(ex Article 94 TEC)

Without prejudice to Article 114, the Council shall, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, issue directives for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market.

Article 116

(ex Article 96 TEC)

Where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market and that the resultant distortion needs to be eliminated, it shall consult the Member States concerned.

If such consultation does not result in an agreement eliminating the distortion in question, the European, Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall issue the necessary directives. Any other appropriate measures provided for in the Treaties may be adopted.

Article 117

(ex Article 97 TEC)

1. Where there is a reason to fear that the adoption or amendment of a provision laid down by law, regulation or administrative action may cause distortion within the meaning of Article 116, a Member State desiring to proceed therewith shall consult the Commission. After consulting the Member States, the Commission shall recommend to the States concerned such measures as may be appropriate to avoid the distortion in question.

2. If a State desiring to introduce or amend its own provisions does not comply with the recommendation addressed to it by the Commission, other Member States shall not be required, pursuant to Article 116, to amend their own provisions in order to eliminate such distortion. If the Member State which has ignored the recommendation of the Commission causes distortion detrimental only to itself, the provisions of Article 116 shall not apply.

Article 118

In the context of the establishment and functioning of the internal market, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish measures for the creation of European intellectual property rights to provide uniform protection of intellectual property rights throughout the Union and for the setting up of centralised Union-wide authorisation, coordination and supervision arrangements.

The Council, acting in accordance with a special legislative procedure, shall by means of regulations establish language arrangements for the European intellectual property rights. The Council shall act unanimously after consulting the European Parliament.

TITLE VIII

ECONOMIC AND MONETARY POLICY

Article 119

(ex Article 4 TEC)

1. For the purposes set out in Article 3 of the Treaty on European Union, the activities of the Member States and the Union shall include, as provided in the Treaties, the adoption of an economic policy which is based on the close coordination of Member States' economic policies, on the internal market and on the definition of common objectives, and conducted in accordance with the principle of an open market economy with free competition.

2. Concurrently with the foregoing, and as provided in the Treaties and in accordance with the procedures set out therein, these activities shall include a single currency, the euro, and the definition and conduct of a single monetary policy and exchange-rate policy the primary objective of both of which shall be to maintain price stability and, without prejudice to this objective, to support the general economic policies in the Union, in accordance with the principle of an open market economy with free competition.

3. These activities of the Member States and the Union shall entail compliance with the following guiding principles: stable prices, sound public finances and monetary conditions and a sustainable balance of payments.

CHAPTER 1

ECONOMIC POLICY

Article 120

(ex Article 98 TEC)

Member States shall conduct their economic policies with a view to contributing to the achievement of the objectives of the Union, as defined in Article 3 of the Treaty on European Union, and in the context of the broad guidelines referred to in Article 121(2). The Member States and the Union shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 119.

Article 121

(ex Article 99 TEC)

1. Member States shall regard their economic policies as a matter of common concern and shall coordinate them within the Council, in accordance with the provisions of Article 120.

2. The Council shall, on a recommendation from the Commission, formulate a draft for the broad guidelines of the economic policies of the Member States and of the Union, and shall report its findings to the European Council.

The European Council shall, acting on the basis of the report from the Council, discuss a conclusion on the broad guidelines of the economic policies of the Member States and of the Union.

On the basis of this conclusion, the Council shall adopt a recommendation setting out these broad guidelines. The Council shall inform the European Parliament of its recommendation.

3. In order to ensure closer coordination of economic policies and sustained convergence of the economic performances of the Member States, the Council shall, on the basis of reports submitted by the Commission, monitor economic developments in each of the Member States and in the Union as well as the consistency of economic policies with the broad guidelines referred to in paragraph 2, and regularly carry out an overall assessment.

For the purpose of this multilateral surveillance, Member States shall forward information to the Commission about important measures taken by them in the field of their economic policy and such other information as they deem necessary.

4. Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned. The Council may, on a proposal from the Commission, decide to make its recommendations public.

Within the scope of this paragraph, the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with Article 238(3)(a).

5. The President of the Council and the Commission shall report to the European Parliament on the results of multilateral surveillance. The President of the Council may be invited to appear before the competent committee of the European Parliament if the Council has made its recommendations public.

6. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, may adopt detailed rules for the multilateral surveillance procedure referred to in paragraphs 3 and 4.

Article 122

(ex Article 100 TEC)

1. Without prejudice to any other procedures provided for in the Treaties, the Council, on a proposal from the Commission, may decide, in a spirit of solidarity between Member States, upon the measures appropriate to the economic situation, in particular if severe difficulties arise in the supply of certain products, notably in the area of energy.

2. Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, on a proposal from the Commission, may grant, under certain conditions, Union financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision taken.

Article 123

(ex Article 101 TEC)

1. Overdraft facilities or any other type of credit facility with the European Central Bank or with the central banks of the Member States (hereinafter referred to as 'national central banks') in favour of Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States shall be prohibited, as shall the purchase directly from them by the European Central Bank or national central banks of debt instruments.

2. Paragraph 1 shall not apply to publicly owned credit institutions which, in the context of the supply of reserves by central banks, shall be given the same treatment by national central banks and the European Central Bank as private credit institutions.

Article 124

(ex Article 102 TEC)

Any measure, not based on prudential considerations, establishing privileged access by Union institutions, bodies, offices or agencies, central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of Member States to financial institutions, shall be prohibited.

Article 125

(ex Article 103 TEC)

1. The Union shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of any Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project. A Member State shall not be liable for or assume the commitments of central governments, regional, local or other public authorities, other bodies governed by public law, or public undertakings of another Member State, without prejudice to mutual financial guarantees for the joint execution of a specific project.

2. The Council, on a proposal from the Commission and after consulting the European Parliament, may, as required, specify definitions for the application of the prohibitions referred to in Articles 123 and 124 and in this Article.

Article 126

(ex Article 104 TEC)

1. Member States shall avoid excessive government deficits.

2. The Commission shall monitor the development of the budgetary situation and of the stock of government debt in the Member States with a view to identifying gross errors. In particular it shall examine compliance with budgetary discipline on the basis of the following two criteria:

(a) whether the ratio of the planned or actual government deficit to gross domestic product exceeds a reference value, unless:

— either the ratio has declined substantially and continuously and reached a level that comes close to the reference value,

— or, alternatively, the excess over the reference value is only exceptional and temporary and the ratio remains close to the reference value;

(b) whether the ratio of government debt to gross domestic product exceeds a reference value, unless the ratio is sufficiently diminishing and approaching the reference value at a satisfactory pace.

The reference values are specified in the Protocol on the excessive deficit procedure annexed to the Treaties.

3. If a Member State does not fulfil the requirements under one or both of these criteria, the Commission shall prepare a report. The report of the Commission shall also take into account whether the government deficit exceeds government investment expenditure and take into account all other relevant factors, including the medium-term economic and budgetary position of the Member State.

The Commission may also prepare a report if, notwithstanding the fulfilment of the requirements under the criteria, it is of the opinion that there is a risk of an excessive deficit in a Member State.

4. The Economic and Financial Committee shall formulate an opinion on the report of the Commission.

5. If the Commission considers that an excessive deficit in a Member State exists or may occur, it shall address an opinion to the Member State concerned and shall inform the Council accordingly.

6. The Council shall, on a proposal from the Commission, and having considered any observations which the Member State concerned may wish to make, decide after an overall assessment whether an excessive deficit exists.

7. Where the Council decides, in accordance with paragraph 6, that an excessive deficit exists, it shall adopt, without undue delay, on a recommendation from the Commission, recommendations addressed to the Member State concerned with a view to bringing that situation to an end within a given period. Subject to the provisions of paragraph 8, these recommendations shall not be made public.

8. Where it establishes that there has been no effective action in response to its recommendations within the period laid down, the Council may make its recommendations public.

9. If a Member State persists in failing to put into practice the recommendations of the Council, the Council may decide to give notice to the Member State to take, within a specified time limit, measures for the deficit reduction which is judged necessary by the Council in order to remedy the situation.

In such a case, the Council may request the Member State concerned to submit reports in accordance with a specific timetable in order to examine the adjustment efforts of that Member State.

10. The rights to bring actions provided for in Articles 258 and 259 may not be exercised within the framework of paragraphs 1 to 9 of this Article.

11. As long as a Member State fails to comply with a decision taken in accordance with paragraph 9, the Council may decide to apply or, as the case may be, intensify one or more of the following measures:

— to require the Member State concerned to publish additional information, to be specified by the Council, before issuing bonds and securities,

— to invite the European Investment Bank to reconsider its lending policy towards the Member State concerned,

— to require the Member State concerned to make a non-interest-bearing deposit of an appropriate size with the Union until the excessive deficit has, in the view of the Council, been corrected,

— to impose fines of an appropriate size.

The President of the Council shall inform the European Parliament of the decisions taken.

12. The Council shall abrogate some or all of its decisions or recommendations referred to in paragraphs 6 to 9 and 11 to the extent that the excessive deficit in the Member State concerned has, in the view of the Council, been corrected. If the Council has previously made public recommendations, it shall, as soon as the decision under paragraph 8 has been abrogated, make a public statement that an excessive deficit in the Member State concerned no longer exists.

13. When taking the decisions or recommendations referred to in paragraphs 8, 9, 11 and 12, the Council shall act on a recommendation from the Commission.

When the Council adopts the measures referred to in paragraphs 6 to 9, 11 and 12, it shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the other members of the Council shall be defined in accordance with Article 238(3)(a).

14. Further provisions relating to the implementation of the procedure described in this Article are set out in the Protocol on the excessive deficit procedure annexed to the Treaties.

The Council shall, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the European Central Bank, adopt the appropriate provisions which shall then replace the said Protocol.

Subject to the other provisions of this paragraph, the Council shall, on a proposal from the Commission and after consulting the European Parliament, lay down detailed rules and definitions for the application of the provisions of the said Protocol.

CHAPTER 2

MONETARY POLICY

Article 127

(ex Article 105 TEC)

1. The primary objective of the European System of Central Banks (hereinafter referred to as 'the ESCB') shall be to maintain price stability. Without prejudice to the objective of price stability, the ESCB shall support the general economic policies in the Union with a view to contributing to the achievement of the objectives of the Union as laid down in Article 3 of the Treaty on European Union. The ESCB shall act in accordance with the principle of an open market economy with free competition, favouring an efficient allocation of resources, and in compliance with the principles set out in Article 119.

2. The basic tasks to be carried out through the ESCB shall be:

— to define and implement the monetary policy of the Union,

— to conduct foreign-exchange operations consistent with the provisions of Article 219,

— to hold and manage the official foreign reserves of the Member States,

— to promote the smooth operation of payment systems.

3. The third indent of paragraph 2 shall be without prejudice to the holding and management by the governments of Member States of foreign-exchange working balances.

4. The European Central Bank shall be consulted:

— on any proposed Union act in its fields of competence,

— by national authorities regarding any draft legislative provision in its fields of competence, but within the limits and under the conditions set out by the Council in accordance with the procedure laid down in Article 129(4).

The European Central Bank may submit opinions to the appropriate Union institutions, bodies, offices or agencies or to national authorities on matters in its fields of competence.

5. The ESCB shall contribute to the smooth conduct of policies pursued by the competent authorities relating to the prudential supervision of credit institutions and the stability of the financial system.

6. The Council, acting by means of regulations in accordance with a special legislative procedure, may unanimously, and after consulting the European Parliament and the European Central Bank, confer specific tasks upon the European Central Bank concerning policies relating to the prudential supervision of credit institutions and other financial institutions with the exception of insurance undertakings.

Article 128

(ex Article 106 TEC)

1. The European Central Bank shall have the exclusive right to authorise the issue of euro banknotes within the Union. The European Central Bank and the national central banks may issue such notes. The banknotes issued by the European Central Bank and the national central banks shall be the only such notes to have the status of legal tender within the Union.

2. Member States may issue euro coins subject to approval by the European Central Bank of the volume of the issue. The Council, on a proposal from the Commission and after consulting the European Parliament and the European Central Bank, may adopt measures to harmonise the denominations and technical specifications of all coins intended for circulation to the extent necessary to permit their smooth circulation within the Union.

Article 129

(ex Article 107 TEC)

1. The ESCB shall be governed by the decision-making bodies of the European Central Bank which shall be the Governing Council and the Executive Board.

2. The Statute of the European System of Central Banks and of the European Central Bank (hereinafter referred to as 'the Statute of the ESCB and of the ECB') is laid down in a Protocol annexed to the Treaties.

3. Articles 5.1, 5.2, 5.3, 17, 18, 19.1, 22, 23, 24, 26, 32.2, 32.3, 32.4, 32.6, 33.1(a) and 36 of the Statute of the ESCB and of the ECB may be amended by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure. They shall act either on a recommendation from the European Central Bank and after consulting the Commission or on a proposal from the Commission and after consulting the European Central Bank.

4. The Council, either on a proposal from the Commission and after consulting the European Parliament and the European Central Bank or on a recommendation from the European Central Bank and after consulting the European Parliament and the Commission, shall adopt the provisions referred to in Articles 4, 5.4, 19.2, 20, 28.1, 29.2, 30.4 and 34.3 of the Statute of the ESCB and of the ECB.

Article 130

(ex Article 108 TEC)

When exercising the powers and carrying out the tasks and duties conferred upon them by the Treaties and the Statute of the ESCB and of the ECB, neither the European Central Bank, nor a national central bank, nor any member of their decision-making bodies shall seek or take instructions from Union institutions, bodies, offices or agencies, from any government of a Member State or from any other body. The Union institutions, bodies, offices or agencies and the governments of the Member States undertake to respect this principle and not to seek to influence the members of the decision-making bodies of the European Central Bank or of the national central banks in the performance of their tasks.

Article 131

(ex Article 109 TEC)

Each Member State shall ensure that its national legislation including the statutes of its national central bank is compatible with the Treaties and the Statute of the ESCB and of the ECB.

Article 132

(ex Article 110 TEC)

1. In order to carry out the tasks entrusted to the ESCB, the European Central Bank shall, in accordance with the provisions of the Treaties and under the conditions laid down in the Statute of the ESCB and of the ECB:

— make regulations to the extent necessary to implement the tasks defined in Article 3.1, first indent, Articles 19.1, 22 and 25.2 of the Statute of the ESCB and of the ECB in cases which shall be laid down in the acts of the Council referred to in Article 129(4),

— take decisions necessary for carrying out the tasks entrusted to the ESCB under the Treaties and the Statute of the ESCB and of the ECB,

— make recommendations and deliver opinions.

2. The European Central Bank may decide to publish its decisions, recommendations and opinions.

3. Within the limits and under the conditions adopted by the Council under the procedure laid down in Article 129(4), the European Central Bank shall be entitled to impose fines or periodic penalty payments on undertakings for failure to comply with obligations under its regulations and decisions.

Article 133

Without prejudice to the powers of the European Central Bank, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall lay down the measures necessary for the use of the euro as the single currency. Such measures shall be adopted after consultation of the European Central Bank.

CHAPTER 3

INSTITUTIONAL PROVISIONS

Article 134

(ex Article 114 TEC)

1. In order to promote coordination of the policies of Member States to the full extent needed for the functioning of the internal market, an Economic and Financial Committee is hereby set up.

2. The Economic and Financial Committee shall have the following tasks:

— to deliver opinions at the request of the Council or of the Commission, or on its own initiative for submission to those institutions,

— to keep under review the economic and financial situation of the Member States and of the Union and to report regularly thereon to the Council and to the Commission, in particular on financial relations with third countries and international institutions,

— without prejudice to Article 240, to contribute to the preparation of the work of the Council referred to in Articles 66, 75, 121(2), (3), (4) and (6), 122, 124, 125, 126, 127(6), 128(2), 129(3) and (4), 138, 140(2) and (3), 143, 144(2) and (3), and in Article 219, and to carry out other advisory and preparatory tasks assigned to it by the Council,

— to examine, at least once a year, the situation regarding the movement of capital and the freedom of payments, as they result from the application of the Treaties and of measures adopted by the Council; the examination shall cover all measures relating to capital movements and payments; the Committee shall report to the Commission and to the Council on the outcome of this examination.

The Member States, the Commission and the European Central Bank shall each appoint no more than two members of the Committee.

3. The Council shall, on a proposal from the Commission and after consulting the European Central Bank and the Committee referred to in this Article, lay down detailed provisions concerning the composition of the Economic and Financial Committee. The President of the Council shall inform the European Parliament of such a decision.

4. In addition to the tasks set out in paragraph 2, if and as long as there are Member States with a derogation as referred to in Article 139, the Committee shall keep under review the monetary and financial situation and the general payments system of those Member States and report regularly thereon to the Council and to the Commission.

Article 135

(ex Article 115 TEC)

For matters within the scope of Articles 121(4), 126 with the exception of paragraph 14, 138, 140(1), 140(2), first subparagraph, 140(3) and 219, the Council or a Member State may request the Commission to make a recommendation or a proposal, as appropriate. The Commission shall examine this request and submit its conclusions to the Council without delay.

CHAPTER 4

PROVISIONS SPECIFIC TO MEMBER STATES WHOSE CURRENCY IS THE EURO

Article 136

1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Treaties, the Council shall, in accordance with the relevant procedure from among those referred to in Articles 121 and 126, with the exception of the procedure set out in Article 126(14), adopt measures specific to those Member States whose currency is the euro:

(a) to strengthen the coordination and surveillance of their budgetary discipline;

(b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.

2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 238(3)(a).

Article 137

Arrangements for meetings between ministers of those Member States whose currency is the euro are laid down by the Protocol on the Euro Group.

Article 138

(ex Article 111(4), TEC)

1. In order to secure the euro's place in the international monetary system, the Council, on a proposal from the Commission, shall adopt a decision establishing common positions on matters of particular interest for economic and monetary union within the competent international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

2. The Council, on a proposal from the Commission, may adopt appropriate measures to ensure unified representation within the international financial institutions and conferences. The Council shall act after consulting the European Central Bank.

3. For the measures referred to in paragraphs 1 and 2, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 238(3)(a).

CHAPTER 5

TRANSITIONAL PROVISIONS

Article 139

1. Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as 'Member States with a derogation'.

2. The following provisions of the Treaties shall not apply to Member States with a derogation:

(a) adoption of the parts of the broad economic policy guidelines which concern the euro area generally (Article 121(2));

(b) coercive means of remedying excessive deficits (Article 126(9) and (11));

(c) the objectives and tasks of the ESCB (Article 127(1) to (3) and (5));

(d) issue of the euro (Article 128);

(e) acts of the European Central Bank (Article 132);

(f) measures governing the use of the euro (Article 133);

(g) monetary agreements and other measures relating to exchange-rate policy (Article 219);

(h) appointment of members of the Executive Board of the European Central Bank (Article 283(2));

(i) decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences (Article 138(1));

(j) measures to ensure unified representation within the international financial institutions and conferences (Article 138(2)).

In the Articles referred to in points (a) to (j), 'Member States' shall therefore mean Member States whose currency is the euro.

3. Under Chapter IX of the Statute of the ESCB and of the ECB, Member States with a derogation and their national central banks are excluded from rights and obligations within the ESCB.

4. The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:

(a) recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article 121(4));

(b) measures relating to excessive deficits concerning those Member States whose currency is the euro (Article 126(6), (7), (8), (12) and (13)).

A qualified majority of the other members of the Council shall be defined in accordance with Article 238(3)(a).

Article 140

(ex Articles 121(1), 122(2), second sentence, and 123(5) TEC)

1. At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of

economic and monetary union. These reports shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its national central bank, and Articles 130 and 131 and the Statute of the ESCB and of the ECB. The reports shall also examine the achievement of a high degree of sustainable convergence by reference to the fulfilment by each Member State of the following criteria:

— the achievement of a high degree of price stability; this will be apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability,

— the sustainability of the government financial position; this will be apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article 126(6),

— the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System, for at least two years, without devaluing against the euro,

— the durability of convergence achieved by the Member State with a derogation and of its participation in the exchange-rate mechanism being reflected in the long-term interest-rate levels.

The four criteria mentioned in this paragraph and the relevant periods over which they are to be respected are developed further in a Protocol annexed to the Treaties. The reports of the Commission and the European Central Bank shall also take account of the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

2. After consulting the European Parliament and after discussion in the European Council, the Council shall, on a proposal from the Commission, decide which Member States with a derogation fulfil the necessary conditions on the basis of the criteria set out in paragraph 1, and abrogate the derogations of the Member States concerned.

The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.

The qualified majority of the said members, as referred to in the second subparagraph, shall be defined in accordance with Article 238(3)(a).

3. If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation, the Council shall, acting with the unanimity of the Member States whose currency is the euro and the Member State concerned, on a proposal from the Commission and after consulting

the European Central Bank, irrevocably fix the rate at which the euro shall be substituted for the currency of the Member State concerned, and take the other measures necessary for the introduction of the euro as the single currency in the Member State concerned.

Article 141

(ex Articles 123(3) and 117(2) first five indents, TEC)

1. If and as long as there are Member States with a derogation, and without prejudice to Article 129(1), the General Council of the European Central Bank referred to in Article 44 of the Statute of the ESCB and of the ECB shall be constituted as a third decision-making body of the European Central Bank.

2. If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:

— strengthen cooperation between the national central banks,

— strengthen the coordination of the monetary policies of the Member States, with the aim of ensuring price stability,

— monitor the functioning of the exchange-rate mechanism,

— hold consultations concerning issues falling within the competence of the national central banks and affecting the stability of financial institutions and markets,

— carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute.

Article 142

(ex Article 124(1) TEC)

Each Member State with a derogation shall treat its exchange-rate policy as a matter of common interest. In so doing, Member States shall take account of the experience acquired in cooperation within the framework of the exchange-rate mechanism.

Article 143

(ex Article 119 TEC)

1. Where a Member State with a derogation is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the internal market or the implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the provisions of the Treaties. The Commission shall state what measures it recommends the State concerned to take.

If the action taken by a Member State with a derogation and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Economic and Financial Committee, recommend to the Council the granting of mutual assistance and appropriate methods therefor.

The Commission shall keep the Council regularly informed of the situation and of how it is developing.

2. The Council shall grant such mutual assistance; it shall adopt directives or decisions laying down the conditions and details of such assistance, which may take such forms as:

(a) a concerted approach to or within any other international organisations to which Member States with a derogation may have recourse;

(b) measures needed to avoid deflection of trade where the Member State with a derogation which is in difficulties maintains or reintroduces quantitative restrictions against third countries;

(c) the granting of limited credits by other Member States, subject to their agreement.

3. If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorise the Member State with a derogation which is in difficulties to take protective measures, the conditions and details of which the Commission shall determine.

Such authorisation may be revoked and such conditions and details may be changed by the Council.

Article 144

(ex Article 120 TEC)

1. Where a sudden crisis in the balance of payments occurs and a decision within the meaning of Article 143(2) is not immediately taken, a Member State with a derogation may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the internal market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

2. The Commission and the other Member States shall be informed of such protective measures not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article 143.

3. After the Commission has delivered a recommendation and the Economic and Financial Committee has been consulted, the Council may decide that the Member State concerned shall amend, suspend or abolish the protective measures referred to above.

TITLE IX

EMPLOYMENT

Article 145

(ex Article 125 TEC)

Member States and the Union shall, in accordance with this Title, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in Article 3 of the Treaty on European Union.

Article 146

(ex Article 126 TEC)

1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article 145 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Union adopted pursuant to Article 121(2).

2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with the provisions of Article 148.

Article 147

(ex Article 127 TEC)

1. The Union shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competences of the Member States shall be respected.

2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Union policies and activities.

Article 148

(ex Article 128 TEC)

1. The European Council shall each year consider the employment situation in the Union and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.

2. On the basis of the conclusions of the European Council, the Council, on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee referred to in Article 150, shall each year draw up guidelines which the Member States shall take into account in their employment policies. These guidelines shall be consistent with the broad guidelines adopted pursuant to Article 121(2).

3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.

4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, on a recommendation from the Commission, may, if it considers it appropriate in the light of that examination, make recommendations to Member States.

5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Union and on the implementation of the guidelines for employment.

Article 149

(ex Article 129 TEC)

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, may adopt incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects.

Those measures shall not include harmonisation of the laws and regulations of the Member States.

Article 150

(ex Article 130 TEC)

The Council, acting by a simple majority after consulting the European Parliament, shall establish an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. The tasks of the Committee shall be:

— to monitor the employment situation and employment policies in the Member States and the Union,

— without prejudice to Article 240, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article 148.

In fulfilling its mandate, the Committee shall consult management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

TITLE X

SOCIAL POLICY

Article 151

(ex Article 136 TEC)

The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Union and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.

They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Treaties and from the approximation of provisions laid down by law, regulation or administrative action.

Article 152

The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy.

The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue.

Article 153

(ex Article 137 TEC)

1. With a view to achieving the objectives of Article 151, the Union shall support and complement the activities of the Member States in the following fields:

(a) improvement in particular of the working environment to protect workers' health and safety;

(b) working conditions;

(c) social security and social protection of workers;

(d) protection of workers where their employment contract is terminated;

(e) the information and consultation of workers;

(f) representation and collective defence of the interests of workers and employers, including co-determination, subject to paragraph 5;

(g) conditions of employment for third-country nationals legally residing in Union territory;

(h) the integration of persons excluded from the labour market, without prejudice to Article 166;

(i) equality between men and women with regard to labour market opportunities and treatment at work;

(j) the combating of social exclusion;

(k) the modernisation of social protection systems without prejudice to point (c).

2. To this end, the European Parliament and the Council:

(a) may adopt measures designed to encourage cooperation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;

(b) may adopt, in the fields referred to in paragraph 1(a) to (i), by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The European Parliament and the Council shall act in accordance with the ordinary legislative procedure after consulting the Economic and Social Committee and the Committee of the Regions.

In the fields referred to in paragraph 1(c), (d), (f) and (g), the Council shall act unanimously, in accordance with a special legislative procedure, after consulting the European Parliament and the said Committees.

The Council, acting unanimously on a proposal from the Commission, after consulting the European Parliament, may decide to render the ordinary legislative procedure applicable to paragraph 1(d), (f) and (g).

3. A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraph 2, or, where appropriate, with the implementation of a Council decision adopted in accordance with Article 155.

In this case, it shall ensure that, no later than the date on which a directive or a decision must be transposed or implemented, management and labour have introduced the necessary measures by agreement, the Member State concerned being required to take any necessary measure enabling it at any time to be in a position to guarantee the results imposed by that directive or that decision.

4. The provisions adopted pursuant to this Article:

— shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof,

— shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with the Treaties.

5. The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Article 154

(ex Article 138 TEC)

1. The Commission shall have the task of promoting the consultation of management and labour at Union level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.

2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Union action.

3. If, after such consultation, the Commission considers Union action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.

4. On the occasion of the consultation referred to in paragraphs 2 and 3, management and labour may inform the Commission of their wish to initiate the process provided for in Article 155. The duration of this process shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

Article 155

(ex Article 139 TEC)

1. Should management and labour so desire, the dialogue between them at Union level may lead to contractual relations, including agreements.

2. Agreements concluded at Union level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 153, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission. The European Parliament shall be informed.

The Council shall act unanimously where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to Article 153(2).

Article 156

(ex Article 140 TEC)

With a view to achieving the objectives of Article 151 and without prejudice to the other provisions of the Treaties, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this Chapter, particularly in matters relating to:

— employment,

— labour law and working conditions,

— basic and advanced vocational training,

— social security,

— prevention of occupational accidents and diseases,

— occupational hygiene,

— the right of association and collective bargaining between employers and workers.

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

Before delivering the opinions provided for in this Article, the Commission shall consult the Economic and Social Committee.

Article 157

(ex Article 141 TEC)

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.

2. For the purpose of this Article, 'pay' means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

Article 158

(ex Article 142 TEC)

Member States shall endeavour to maintain the existing equivalence between paid holiday schemes.

Article 159

(ex Article 143 TEC)

The Commission shall draw up a report each year on progress in achieving the objectives of Article 151, including the demographic situation in the Union. It shall forward the report to the European Parliament, the Council and the Economic and Social Committee.

Article 160

(ex Article 144 TEC)

The Council, acting by a simple majority after consulting the European Parliament, shall establish a Social Protection Committee with advisory status to promote cooperation on social protection policies between Member States and with the Commission. The tasks of the Committee shall be:

— to monitor the social situation and the development of social protection policies in the Member States and the Union,

— to promote exchanges of information, experience and good practice between Member States and with the Commission,

— without prejudice to Article 240, to prepare reports, formulate opinions or undertake other work within its fields of competence, at the request of either the Council or the Commission or on its own initiative.

In fulfilling its mandate, the Committee shall establish appropriate contacts with management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

Article 161

(ex Article 145 TEC)

The Commission shall include a separate chapter on social developments within the Union in its annual report to the European Parliament.

The European Parliament may invite the Commission to draw up reports on any particular problems concerning social conditions.

TITLE XI

THE EUROPEAN SOCIAL FUND

Article 162

(ex Article 146 TEC)

In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established in accordance with the provisions set out below; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Union, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.

Article 163

(ex Article 147 TEC)

The Fund shall be administered by the Commission.

The Commission shall be assisted in this task by a Committee presided over by a Member of the Commission and composed of representatives of governments, trade unions and employers' organisations.

Article 164

(ex Article 148 TEC)

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt implementing regulations relating to the European Social Fund.

TITLE XII

EDUCATION, VOCATIONAL TRAINING, YOUTH AND SPORT

Article 165

(ex Article 149 TEC)

1. The Union shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

The Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function.

2. Union action shall be aimed at:

— developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States,

— encouraging mobility of students and teachers, by encouraging inter alia, the academic recognition of diplomas and periods of study,

— promoting cooperation between educational establishments,

— developing exchanges of information and experience on issues common to the education systems of the Member States,

— encouraging the development of youth exchanges and of exchanges of socio-educational instructors, and encouraging the participation of young people in democratic life in Europe,

— encouraging the development of distance education,

— developing the European dimension in sport, by promoting fairness and openness in sporting competitions and cooperation between bodies responsible for sports, and by protecting the physical and moral integrity of sportsmen and sportswomen, especially the youngest sportsmen and sportswomen.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education and sport, in particular the Council of Europe.

4. In order to contribute to the achievement of the objectives referred to in this Article:

— the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States,

— the Council, on a proposal from the Commission, shall adopt recommendations.

Article 166

(ex Article 150 TEC)

1. The Union shall implement a vocational training policy which shall support and supplement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.

2. Union action shall aim to:

— facilitate adaptation to industrial changes, in particular through vocational training and retraining,

— improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market,

— facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people,

— stimulate cooperation on training between educational or training establishments and firms,

— develop exchanges of information and experience on issues common to the training systems of the Member States.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training.

4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt measures to contribute to the achievement of the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States, and the Council, on a proposal from the Commission, shall adopt recommendations.

TITLE XIII

CULTURE

Article 167

(ex Article 151 TEC)

1. The Union shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.

2. Action by the Union shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in the following areas:

— improvement of the knowledge and dissemination of the culture and history of the European peoples,

— conservation and safeguarding of cultural heritage of European significance,

— non-commercial cultural exchanges,

— artistic and literary creation, including in the audiovisual sector.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture, in particular the Council of Europe.

4. The Union shall take cultural aspects into account in its action under other provisions of the Treaties, in particular in order to respect and to promote the diversity of its cultures.

5. In order to contribute to the achievement of the objectives referred to in this Article:

— the European Parliament and the Council acting in accordance with the ordinary legislative procedure and after consulting the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States,

— the Council, on a proposal from the Commission, shall adopt recommendations.

TITLE XIV

PUBLIC HEALTH

Article 168

(ex Article 152 TEC)

1. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

Union action, which shall complement national policies, shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education, and monitoring, early warning of and combating serious cross-border threats to health.

The Union shall complement the Member States' action in reducing drugs-related health damage, including information and prevention.

2. The Union shall encourage cooperation between the Member States in the areas referred to in this Article and, if necessary, lend support to their action. It shall in particular encourage cooperation between the Member States to improve the complementarity of their health services in cross-border areas.

Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

3. The Union and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

4. By way of derogation from Article 2(5) and Article 6(a) and in accordance with Article 4(2)(k) the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, shall contribute to the achievement of the objectives referred to in this Article through adopting in order to meet common safety concerns:

(a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives; these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;

(b) measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;

(c) measures setting high standards of quality and safety for medicinal products and devices for medical use.

5. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, may also adopt incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, measures concerning monitoring, early warning of and combating serious cross-border threats to health, and measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States.

6. The Council, on a proposal from the Commission, may also adopt recommendations for the purposes set out in this Article.

7. Union action shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. The

responsibilities of the Member States shall include the management of health services and medical care and the allocation of the resources assigned to them. The measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.

TITLE XV

CONSUMER PROTECTION

Article 169

(ex Article 153 TEC)

1. In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.

2. The Union shall contribute to the attainment of the objectives referred to in paragraph 1 through:

(a) measures adopted pursuant to Article 114 in the context of the completion of the internal market;

(b) measures which support, supplement and monitor the policy pursued by the Member States.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall adopt the measures referred to in paragraph 2(b).

4. Measures adopted pursuant to paragraph 3 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with the Treaties. The Commission shall be notified of them.

TITLE XVI

TRANS-EUROPEAN NETWORKS

Article 170

(ex Article 154 TEC)

1. To help achieve the objectives referred to in Articles 26 and 174 and to enable citizens of the Union, economic operators and regional and local communities to derive full benefit from the setting-up of an area without internal frontiers, the Union shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures.

2. Within the framework of a system of open and competitive markets, action by the Union shall aim at promoting the interconnection and interoperability of national networks as well as access to such networks. It shall take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the Union.

Article 171

(ex Article 155 TEC)

1. In order to achieve the objectives referred to in Article 170, the Union:

— shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks; these guidelines shall identify projects of common interest,

— shall implement any measures that may prove necessary to ensure the interoperability of the networks, in particular in the field of technical standardisation,

— may support projects of common interest supported by Member States, which are identified in the framework of the guidelines referred to in the first indent, particularly through feasibility studies, loan guarantees or interest-rate subsidies; the Union may also contribute, through the Cohesion Fund set up pursuant to Article 177, to the financing of specific projects in Member States in the area of transport infrastructure.

The Union's activities shall take into account the potential economic viability of the projects.

2. Member States shall, in liaison with the Commission, coordinate among themselves the policies pursued at national level which may have a significant impact on the achievement of the objectives referred to in Article 170. The Commission may, in close cooperation with the Member State, take any useful initiative to promote such coordination.

3. The Union may decide to cooperate with third countries to promote projects of mutual interest and to ensure the interoperability of networks.

Article 172

(ex Article 156 TEC)

The guidelines and other measures referred to in Article 171(1) shall be adopted by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions.

Guidelines and projects of common interest which relate to the territory of a Member State shall require the approval of the Member State concerned.

TITLE XVII

INDUSTRY

Article 173

(ex Article 157 TEC)

1. The Union and the Member States shall ensure that the conditions necessary for the competitiveness of the Union's industry exist.

For that purpose, in accordance with a system of open and competitive markets, their action shall be aimed at:

— speeding up the adjustment of industry to structural changes,

— encouraging an environment favourable to initiative and to the development of undertakings throughout the Union, particularly small and medium-sized undertakings,

— encouraging an environment favourable to cooperation between undertakings,

— fostering better exploitation of the industrial potential of policies of innovation, research and technological development.

2. The Member States shall consult each other in liaison with the Commission and, where necessary, shall coordinate their action. The Commission may take any useful initiative to promote such coordination, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

3. The Union shall contribute to the achievement of the objectives set out in paragraph 1 through the policies and activities it pursues under other provisions of the Treaties. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, may decide on specific measures in support of action taken in the Member States to achieve the objectives set out in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States.

This Title shall not provide a basis for the introduction by the Union of any measure which could lead to a distortion of competition or contains tax provisions or provisions relating to the rights and interests of employed persons.

TITLE XVIII

ECONOMIC, SOCIAL AND TERRITORIAL COHESION

Article 174

(ex Article 158 TEC)

In order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion.

In particular, the Union shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions.

Among the regions concerned, particular attention shall be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.

Article 175

(ex Article 159 TEC)

Member States shall conduct their economic policies and shall coordinate them in such a way as, in addition, to attain the objectives set out in Article 174. The formulation and implementation of the Union's policies and actions and the implementation of the internal market shall take into account the objectives set out in Article 174 and shall contribute to their achievement. The Union shall also support the achievement of these objectives by the action it takes through the Structural Funds (European Agricultural Guidance and Guarantee Fund, Guidance Section; European Social Fund; European Regional Development Fund), the European Investment Bank and the other existing Financial Instruments.

The Commission shall submit a report to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions every three years on the progress made towards achieving economic, social and territorial cohesion and on the manner in which the various means provided for in this Article have contributed to it. This report shall, if necessary, be accompanied by appropriate proposals.

If specific actions prove necessary outside the Funds and without prejudice to the measures decided upon within the framework of the other Union policies, such actions may be adopted by the European Parliament and the Council acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions.

Article 176

(ex Article 160 TEC)

The European Regional Development Fund is intended to help to redress the main regional imbalances in the Union through participation in the development and structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions.

Article 177

(ex Article 161 TEC)

Without prejudice to Article 178, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure and consulting the Economic and Social Committee and the Committee of the Regions, shall define the tasks, priority objectives and the organisation of the Structural Funds, which may involve grouping the Funds. The general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing Financial Instruments shall also be defined by the same procedure.

A Cohesion Fund set up in accordance with the same procedure shall provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.

Article 178

(ex Article 162 TEC)

Implementing regulations relating to the European Regional Development Fund shall be taken by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions.

With regard to the European Agricultural Guidance and Guarantee Fund, Guidance Section, and the European Social Fund, Articles 43 and 164 respectively shall continue to apply.

TITLE XIX

RESEARCH AND TECHNOLOGICAL DEVELOPMENT AND SPACE

Article 179

(ex Article 163 TEC)

1. The Union shall have the objective of strengthening its scientific and technological bases by achieving a European research area in which researchers, scientific knowledge and technology circulate freely, and encouraging it to become more competitive, including in its industry, while promoting all the research activities deemed necessary by virtue of other Chapters of the Treaties.

2. For this purpose the Union shall, throughout the Union, encourage undertakings, including small and medium-sized undertakings, research centres and universities in their research and technological development activities of high quality; it shall support their efforts to cooperate with one another, aiming, notably, at permitting researchers to cooperate freely across borders and at enabling undertakings to exploit the internal market potential to the full, in particular through the opening-up of national public contracts, the definition of common standards and the removal of legal and fiscal obstacles to that cooperation.

3. All Union activities under the Treaties in the area of research and technological development, including demonstration projects, shall be decided on and implemented in accordance with the provisions of this Title.

Article 180

(ex Article 164 TEC)

In pursuing these objectives, the Union shall carry out the following activities, complementing the activities carried out in the Member States:

(a) implementation of research, technological development and demonstration programmes, by promoting cooperation with and between undertakings, research centres and universities;

(b) promotion of cooperation in the field of Union research, technological development and demonstration with third countries and international organisations;

(c) dissemination and optimisation of the results of activities in Union research, technological development and demonstration;

(d) stimulation of the training and mobility of researchers in the Union.

Article 181

(ex Article 165 TEC)

1. The Union and the Member States shall coordinate their research and technological development activities so as to ensure that national policies and Union policy are mutually consistent.

2. In close cooperation with the Member State, the Commission may take any useful initiative to promote the coordination referred to in paragraph 1, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed.

Article 182

(ex Article 166 TEC)

1. A multiannual framework programme, setting out all the activities of the Union, shall be adopted by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure after consulting the Economic and Social Committee.

The framework programme shall:

— establish the scientific and technological objectives to be achieved by the activities provided for in Article 180 and fix the relevant priorities,

— indicate the broad lines of such activities,

— fix the maximum overall amount and the detailed rules for Union financial participation in the framework programme and the respective shares in each of the activities provided for.

2. The framework programme shall be adapted or supplemented as the situation changes.

3. The framework programme shall be implemented through specific programmes developed within each activity. Each specific programme shall define the detailed rules for implementing it, fix its duration and provide for the means deemed necessary. The sum of the amounts deemed necessary, fixed in the specific programmes, may not exceed the overall maximum amount fixed for the framework programme and each activity.

4. The Council, acting in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, shall adopt the specific programmes.

5. As a complement to the activities planned in the multiannual framework programme, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall establish the measures necessary for the implementation of the European research area.

Article 183

(ex Article 167 TEC)

For the implementation of the multiannual framework programme the Union shall:

— determine the rules for the participation of undertakings, research centres and universities,

— lay down the rules governing the dissemination of research results.

Article 184

(ex Article 168 TEC)

In implementing the multiannual framework programme, supplementary programmes may be decided on involving the participation of certain Member States only, which shall finance them subject to possible Union participation.

The Union shall adopt the rules applicable to supplementary programmes, particularly as regards the dissemination of knowledge and access by other Member States.

Article 185

(ex Article 169 TEC)

In implementing the multiannual framework programme, the Union may make provision, in agreement with the Member States concerned, for participation in research and development programmes undertaken by several Member States, including participation in the structures created for the execution of those programmes.

Article 186

(ex Article 170 TEC)

In implementing the multiannual framework programme the Union may make provision for cooperation in Union research, technological development and demonstration with third countries or international organisations.

The detailed arrangements for such cooperation may be the subject of agreements between the Union and the third parties concerned.

Article 187

(ex Article 171 TEC)

The Union may set up joint undertakings or any other structure necessary for the efficient execution of Union research, technological development and demonstration programmes.

Article 188

(ex Article 172 TEC)

The Council, on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, shall adopt the provisions referred to in Article 187.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee, shall adopt the provisions referred to in Articles 183, 184 and 185. Adoption of the supplementary programmes shall require the agreement of the Member States concerned.

Article 189

1. To promote scientific and technical progress, industrial competitiveness and the implementation of its policies, the Union shall draw up a European space policy. To this end, it may promote joint initiatives, support research and technological development and coordinate the efforts needed for the exploration and exploitation of space.

2. To contribute to attaining the objectives referred to in paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the necessary measures, which may take the form of a European space programme, excluding any harmonisation of the laws and regulations of the Member States.

3. The Union shall establish any appropriate relations with the European Space Agency.

4. This Article shall be without prejudice to the other provisions of this Title.

Article 190

(ex Article 173 TEC)

At the beginning of each year the Commission shall send a report to the European Parliament and to the Council. The report shall include information on research and technological development activities and the dissemination of results during the previous year, and the work programme for the current year.

TITLE XX

ENVIRONMENT

Article 191

(ex Article 174 TEC)

1. Union policy on the environment shall contribute to pursuit of the following objectives:

— preserving, protecting and improving the quality of the environment,

— protecting human health,

— prudent and rational utilisation of natural resources,

— promoting measures at international level to deal with regional or worldwide environmental problems, and in particular combating climate change.

2. Union policy on the environment shall aim at a high level of protection taking into account the diversity of situations in the various regions of the Union. It shall be based on the precautionary principle and on the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay.

In this context, harmonisation measures answering environmental protection requirements shall include, where appropriate, a safeguard clause allowing Member States to take provisional measures, for non-economic environmental reasons, subject to a procedure of inspection by the Union.

3. In preparing its policy on the environment, the Union shall take account of:

— available scientific and technical data,

— environmental conditions in the various regions of the Union,

— the potential benefits and costs of action or lack of action,

— the economic and social development of the Union as a whole and the balanced development of its regions.

4. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and with the competent international organisations. The arrangements for Union cooperation may be the subject of agreements between the Union and the third parties concerned.

The previous subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude international agreements.

Article 192

(ex Article 175 TEC)

1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, shall decide what action is to be taken by the Union in order to achieve the objectives referred to in Article 191.

2. By way of derogation from the decision-making procedure provided for in paragraph 1 and without prejudice to Article 114, the Council acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, shall adopt:

(a) provisions primarily of a fiscal nature;

(b) measures affecting:

— town and country planning,

— quantitative management of water resources or affecting, directly or indirectly, the availability of those resources,

— land use, with the exception of waste management;

(c) measures significantly affecting a Member State's choice between different energy sources and the general structure of its energy supply.

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee and the Committee of the Regions, may make the ordinary legislative procedure applicable to the matters referred to in the first subparagraph.

3. General action programmes setting out priority objectives to be attained shall be adopted by the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions.

The measures necessary for the implementation of these programmes shall be adopted under the terms of paragraph 1 or 2, as the case may be.

4. Without prejudice to certain measures adopted by the Union, the Member States shall finance and implement the environment policy.

5. Without prejudice to the principle that the polluter should pay, if a measure based on the provisions of paragraph 1 involves costs deemed disproportionate for the public authorities of a Member State, such measure shall lay down appropriate provisions in the form of:

— temporary derogations, and/or

— financial support from the Cohesion Fund set up pursuant to Article 177.

Article 193

(ex Article 176 TEC)

The protective measures adopted pursuant to Article 192 shall not prevent any Member State from maintaining or introducing more stringent protective measures. Such measures must be compatible with the Treaties. They shall be notified to the Commission.

TITLE XXI

ENERGY

Article 194

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim, in a spirit of solidarity between Member States, to:

(a) ensure the functioning of the energy market;

(b) ensure security of energy supply in the Union;

(c) promote energy efficiency and energy saving and the development of new and renewable forms of energy; and

(d) promote the interconnection of energy networks.

2. Without prejudice to the application of other provisions of the Treaties, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures necessary to achieve the objectives in paragraph 1. Such measures shall be adopted after consultation of the Economic and Social Committee and the Committee of the Regions.

Such measures shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article 192(2)(c).

3. By way of derogation from paragraph 2, the Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament, establish the measures referred to therein when they are primarily of a fiscal nature.

TITLE XXII

TOURISM

Article 195

1. The Union shall complement the action of the Member States in the tourism sector, in particular by promoting the competitiveness of Union undertakings in that sector.

To that end, Union action shall be aimed at:

(a) encouraging the creation of a favourable environment for the development of undertakings in this sector;

(b) promoting cooperation between the Member States, particularly by the exchange of good practice.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish specific measures to complement actions within the Member States to achieve the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.

TITLE XXIII

CIVIL PROTECTION

Article 196

1. The Union shall encourage cooperation between Member States in order to improve the effectiveness of systems for preventing and protecting against natural or man-made disasters.

Union action shall aim to:

(a) support and complement Member States' action at national, regional and local level in risk prevention, in preparing their civil-protection personnel and in responding to natural or man-made disasters within the Union;

(b) promote swift, effective operational cooperation within the Union between national civil-protection services;

(c) promote consistency in international civil-protection work.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure shall establish the measures necessary to help achieve the objectives referred to in paragraph 1, excluding any harmonisation of the laws and regulations of the Member States.

TITLE XXIV

ADMINISTRATIVE COOPERATION

Article 197

1. Effective implementation of Union law by the Member States, which is essential for the proper functioning of the Union, shall be regarded as a matter of common interest.

2. The Union may support the efforts of Member States to improve their administrative capacity to implement Union law. Such action may include facilitating the exchange of information and of civil servants as well as supporting training schemes. No Member State shall be obliged to avail itself of such support. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish the necessary measures to this end, excluding any harmonisation of the laws and regulations of the Member States.

3. This Article shall be without prejudice to the obligations of the Member States to implement Union law or to the prerogatives and duties of the Commission. It shall also be without prejudice to other provisions of the Treaties providing for administrative cooperation among the Member States and between them and the Union.

PART FOUR

ASSOCIATION OF THE OVERSEAS COUNTRIES AND TERRITORIES

Article 198

(ex Article 182 TEC)

The Member States agree to associate with the Union the non-European countries and territories which have special relations with Denmark, France, the Netherlands and the United Kingdom. These countries and territories (hereinafter called the 'countries and territories') are listed in Annex II.

The purpose of association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Union as a whole.

In accordance with the principles set out in the preamble to this Treaty, association shall serve primarily to further the interests and prosperity of the inhabitants of these countries and territories in order to lead them to the economic, social and cultural development to which they aspire.

Article 199

(ex Article 183 TEC)

Association shall have the following objectives.

1. Member States shall apply to their trade with the countries and territories the same treatment as they accord each other pursuant to the Treaties.

2. Each country or territory shall apply to its trade with Member States and with the other countries and territories the same treatment as that which it applies to the European State with which is has special relations.

3. The Member States shall contribute to the investments required for the progressive development of these countries and territories.

4. For investments financed by the Union, participation in tenders and supplies shall be open on equal terms to all natural and legal persons who are nationals of a Member State or of one of the countries and territories.

5. In relations between Member States and the countries and territories the right of establishment of nationals and companies or firms shall be regulated in accordance with the provisions and procedures laid down in the Chapter relating to the right of establishment and on a non-discriminatory basis, subject to any special provisions laid down pursuant to Article 203.

Article 200

(ex Article 184 TEC)

1. Customs duties on imports into the Member States of goods originating in the countries and territories shall be prohibited in conformity with the prohibition of customs duties between Member States in accordance with the provisions of the Treaties.

2. Customs duties on imports into each country or territory from Member States or from the other countries or territories shall be prohibited in accordance with the provisions of Article 30.

3. The countries and territories may, however, levy customs duties which meet the needs of their development and industrialisation or produce revenue for their budgets.

The duties referred to in the preceding subparagraph may not exceed the level of those imposed on imports of products from the Member State with which each country or territory has special relations.

4. Paragraph 2 shall not apply to countries and territories which, by reason of the particular international obligations by which they are bound, already apply a non-discriminatory customs tariff.

5. The introduction of or any change in customs duties imposed on goods imported into the countries and territories shall not, either in law or in fact, give rise to any direct or indirect discrimination between imports from the various Member States.

Article 201

(ex Article 185 TEC)

If the level of the duties applicable to goods from a third country on entry into a country or territory is liable, when the provisions of Article 200(1) have been applied, to cause deflections of trade to the detriment of any Member State, the latter may request the Commission to propose to the other Member States the measures needed to remedy the situation.

Article 202

(ex Article 186 TEC)

Subject to the provisions relating to public health, public security or public policy, freedom of movement within Member States for workers from the countries and territories, and within the countries and territories for workers from Member States, shall be regulated by acts adopted in accordance with Article 203.

Article 203

(ex Article 187 TEC)

The Council, acting unanimously on a proposal from the Commission, shall, on the basis of the experience acquired under the association of the countries and territories with the Union and of the principles set out in the Treaties, lay down provisions as regards the detailed rules and the procedure for the association of the countries and territories with the Union. Where the provisions in question are adopted by the Council in accordance with a special legislative procedure, it shall act unanimously on a proposal from the Commission and after consulting the European Parliament.

Article 204

(ex Article 188 TEC)

The provisions of Articles 198 to 203 shall apply to Greenland, subject to the specific provisions for Greenland set out in the Protocol on special arrangements for Greenland, annexed to the Treaties.

PART FIVE

THE UNION'S EXTERNAL ACTION

TITLE I

GENERAL PROVISIONS ON THE UNION'S EXTERNAL ACTION

Article 205

The Union's action on the international scene, pursuant to this Part, shall be guided by the principles, pursue the objectives and be conducted in accordance with the general provisions laid down in Chapter 1 of Title V of the Treaty on European Union.

TITLE II

COMMON COMMERCIAL POLICY

Article 206

(ex Article 131 TEC)

By establishing a customs union in accordance with Articles 28 to 32, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.

Article 207

(ex Article 133 TEC)

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.

2. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall adopt the measures defining the framework for implementing the common commercial policy.

3. Where agreements with one or more third countries or international organisations need to be negotiated and concluded, Article 218 shall apply, subject to the special provisions of this Article.

The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority.

For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.

The Council shall also act unanimously for the negotiation and conclusion of agreements:

(a) in the field of trade in cultural and audiovisual services, where these agreements risk prejudicing the Union's cultural and linguistic diversity;

(b) in the field of trade in social, education and health services, where these agreements risk seriously disturbing the national organisation of such services and prejudicing the responsibility of Member States to deliver them.

5. The negotiation and conclusion of international agreements in the field of transport shall be subject to Title VI of Part Three and to Article 218.

6. The exercise of the competences conferred by this Article in the field of the common commercial policy shall not affect the delimitation of competences between the Union and the Member States, and shall not lead to harmonisation of legislative or regulatory provisions of the Member States in so far as the Treaties exclude such harmonisation.

TITLE III

COOPERATION WITH THIRD COUNTRIES AND HUMANITARIAN AID

CHAPTER 1

DEVELOPMENT COOPERATION

Article 208

(ex Article 177 TEC)

1. Union policy in the field of development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action. The Union's development cooperation policy and that of the Member States complement and reinforce each other.

Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty. The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries.

2. The Union and the Member States shall comply with the commitments and take account of the objectives they have approved in the context of the United Nations and other competent international organisations.

Article 209

(ex Article 179 TEC)

1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of development cooperation policy, which may relate to multiannual cooperation programmes with developing countries or programmes with a thematic approach.

2. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in Article 21 of the Treaty on European Union and in Article 208 of this Treaty.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

3. The European Investment Bank shall contribute, under the terms laid down in its Statute, to the implementation of the measures referred to in paragraph 1.

Article 210

(ex Article 180 TEC)

1. In order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies on development cooperation and shall consult each other on their aid programmes, including in international organisations and during international conferences. They may undertake joint action. Member States shall contribute if necessary to the implementation of Union aid programmes.

2. The Commission may take any useful initiative to promote the coordination referred to in paragraph 1.

Article 211

(ex Article 181 TEC)

Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and with the competent international organisations.

CHAPTER 2

ECONOMIC, FINANCIAL AND TECHNICAL COOPERATION WITH THIRD COUNTRIES

Article 212

(ex Article 181*a* TEC)

1. Without prejudice to the other provisions of the Treaties, and in particular Articles 208 to 211, the Union shall carry out economic, financial and technical cooperation measures, including assistance, in particular financial assistance, with third countries other than developing countries. Such measures shall be consistent with the development policy of the Union and shall be carried out within the framework of the principles and objectives of its external action. The Union's operations and those of the Member States shall complement and reinforce each other.

2. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt the measures necessary for the implementation of paragraph 1.

3. Within their respective spheres of competence, the Union and the Member States shall cooperate with third countries and the competent international organisations. The arrangements for Union cooperation may be the subject of agreements between the Union and the third parties concerned.

The first subparagraph shall be without prejudice to the Member States' competence to negotiate in international bodies and to conclude international agreements.

Article 213

When the situation in a third country requires urgent financial assistance from the Union, the Council shall adopt the necessary decisions on a proposal from the Commission.

CHAPTER 3

HUMANITARIAN AID

Article 214

1. The Union's operations in the field of humanitarian aid shall be conducted within the framework of the principles and objectives of the external action of the Union. Such operations shall be intended to provide *ad hoc* assistance and relief and protection for people in third countries who are victims of natural or man-made disasters, in order to meet the humanitarian needs resulting from these different situations. The Union's measures and those of the Member States shall complement and reinforce each other.

2. Humanitarian aid operations shall be conducted in compliance with the principles of international law and with the principles of impartiality, neutrality and non-discrimination.

3. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall establish the measures defining the framework within which the Union's humanitarian aid operations shall be implemented.

4. The Union may conclude with third countries and competent international organisations any agreement helping to achieve the objectives referred to in paragraph 1 and in Article 21 of the Treaty on European Union.

The first subparagraph shall be without prejudice to Member States' competence to negotiate in international bodies and to conclude agreements.

5. In order to establish a framework for joint contributions from young Europeans to the humanitarian aid operations of the Union, a European Voluntary Humanitarian Aid Corps shall be set up. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall determine the rules and procedures for the operation of the Corps.

6. The Commission may take any useful initiative to promote coordination between actions of the Union and those of the Member States, in order to enhance the efficiency and complementarity of Union and national humanitarian aid measures.

7. The Union shall ensure that its humanitarian aid operations are coordinated and consistent with those of international organisations and bodies, in particular those forming part of the United Nations system.

TITLE IV

RESTRICTIVE MEASURES

Article 215

(ex Article 301 TEC)

1. Where a decision, adopted in accordance with Chapter 2 of Title V of the Treaty on European Union, provides for the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries, the Council, acting by a qualified majority on a joint proposal from the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, shall adopt the necessary measures. It shall inform the European Parliament thereof.

2. Where a decision adopted in accordance with Chapter 2 of Title V of the Treaty on European Union so provides, the Council may adopt restrictive measures under the procedure referred to in paragraph 1 against natural or legal persons and groups or non-State entities.

3. The acts referred to in this Article shall include necessary provisions on legal safeguards.

TITLE V

INTERNATIONAL AGREEMENTS

Article 216

1. The Union may conclude an agreement with one or more third countries or international organisations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope.

2. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States.

Article 217

(ex Article 310 TEC)

The Union may conclude with one or more third countries or international organisations agreements establishing an association involving reciprocal rights and obligations, common action and special procedure.

Article 218

(ex Article 300 TEC)

1. Without prejudice to the specific provisions laid down in Article 207, agreements between the Union and third countries or international organisations shall be negotiated and concluded in accordance with the following procedure.

2. The Council shall authorise the opening of negotiations, adopt negotiating directives, authorise the signing of agreements and conclude them.

3. The Commission, or the High Representative of the Union for Foreign Affairs and Security Policy where the agreement envisaged relates exclusively or principally to the common foreign and security policy, shall submit recommendations to the Council, which shall adopt a decision authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or the head of the Union's negotiating team.

4. The Council may address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

5. The Council, on a proposal by the negotiator, shall adopt a decision authorising the signing of the agreement and, if necessary, its provisional application before entry into force.

6. The Council, on a proposal by the negotiator, shall adopt a decision concluding the agreement.

Except where agreements relate exclusively to the common foreign and security policy, the Council shall adopt the decision concluding the agreement:

(a) after obtaining the consent of the European Parliament in the following cases:

(i) association agreements;

(ii) agreement on Union accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms;

(iii) agreements establishing a specific institutional framework by organising cooperation procedures;

(iv) agreements with important budgetary implications for the Union;

(v) agreements covering fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required.

The European Parliament and the Council may, in an urgent situation, agree upon a time-limit for consent.

(b) after consulting the European Parliament in other cases. The European Parliament shall deliver its opinion within a time-limit which the Council may set depending on the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act.

7. When concluding an agreement, the Council may, by way of derogation from paragraphs 5, 6 and 9, authorise the negotiator to approve on the Union's behalf modifications to the agreement where it provides for them to be adopted by a simplified procedure or by a body set up by the agreement. The Council may attach specific conditions to such authorisation.

8. The Council shall act by a qualified majority throughout the procedure.

However, it shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act as well as for association agreements and the agreements referred to in Article 212 with the States which are candidates for accession. The Council shall also act unanimously for the agreement on accession of the Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms; the decision concluding this agreement shall enter into force after it has been approved by the Member States in accordance with their respective constitutional requirements.

9. The Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision suspending application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.

10. The European Parliament shall be immediately and fully informed at all stages of the procedure.

11. A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Treaties. Where the opinion of the Court is adverse, the agreement envisaged may not enter into force unless it is amended or the Treaties are revised.

Article 219

(ex Article 111(1) to (3) and (5) TEC)

1. By way of derogation from Article 218, the Council, either on a recommendation from the European Central Bank or on a recommendation from the Commission and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, may conclude formal agreements on an exchange-rate system for the euro in relation to the currencies of third States. The Council shall act unanimously after consulting the European Parliament and in accordance with the procedure provided for in paragraph 3.

The Council may, either on a recommendation from the European Central Bank or on a recommendation from the Commission, and after consulting the European Central Bank, in an endeavour to reach a consensus consistent with the objective of price stability, adopt, adjust or abandon the central rates of the euro within the exchange-rate system. The President of the Council shall inform the European Parliament of the adoption, adjustment or abandonment of the euro central rates.

2. In the absence of an exchange-rate system in relation to one or more currencies of third States as referred to in paragraph 1, the Council, either on a recommendation from the Commission and after consulting the European Central Bank or on a recommendation from the European Central Bank, may formulate general orientations for exchange-rate policy in relation to these currencies. These general orientations shall be without prejudice to the primary objective of the ESCB to maintain price stability.

3. By way of derogation from Article 218, where agreements concerning monetary or foreign exchange regime matters need to be negotiated by the Union with one or more third States or international organisations, the Council, on a recommendation from the Commission and after consulting the European Central Bank, shall decide the arrangements for the negotiation and for the conclusion of such agreements. These arrangements shall ensure that the Union expresses a single position. The Commission shall be fully associated with the negotiations.

4. Without prejudice to Union competence and Union agreements as regards economic and monetary union, Member States may negotiate in international bodies and conclude international agreements.

TITLE VI

THE UNION'S RELATIONS WITH INTERNATIONAL ORGANISATIONS AND THIRD COUNTRIES AND UNION DELEGATIONS

Article 220

(ex Articles 302 to 304 TEC)

1. The Union shall establish all appropriate forms of cooperation with the organs of the United Nations and its specialised agencies, the Council of Europe, the Organisation for Security and Cooperation in Europe and the Organisation for Economic Cooperation and Development.

The Union shall also maintain such relations as are appropriate with other international organisations.

2. The High Representative of the Union for Foreign Affairs and Security Policy and the Commission shall implement this Article.

Article 221

1. Union delegations in third countries and at international organisations shall represent the Union.

2. Union delegations shall be placed under the authority of the High Representative of the Union for Foreign Affairs and Security Policy. They shall act in close cooperation with Member States' diplomatic and consular missions.

TITLE VII

SOLIDARITY CLAUSE

Article 222

1. The Union and its Member States shall act jointly in a spirit of solidarity if a Member State is the object of a terrorist attack or the victim of a natural or man-made disaster. The Union shall mobilise all the instruments at its disposal, including the military resources made available by the Member States, to:

(a) — prevent the terrorist threat in the territory of the Member States;

— protect democratic institutions and the civilian population from any terrorist attack;

— assist a Member State in its territory, at the request of its political authorities, in the event of a terrorist attack;

(b) assist a Member State in its territory, at the request of its political authorities, in the event of a natural or man-made disaster.

2. Should a Member State be the object of a terrorist attack or the victim of a natural or man-made disaster, the other Member States shall assist it at the request of its political authorities. To that end, the Member States shall coordinate between themselves in the Council.

3. The arrangements for the implementation by the Union of the solidarity clause shall be defined by a decision adopted by the Council acting on a joint proposal by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy. The Council shall act in accordance with Article 31(1) of the Treaty on European Union where this decision has defence implications. The European Parliament shall be informed.

For the purposes of this paragraph and without prejudice to Article 240, the Council shall be assisted by the Political and Security Committee with the support of the structures developed in the context of the common security and defence policy and by the Committee referred to in Article 71; the two committees shall, if necessary, submit joint opinions.

4. The European Council shall regularly assess the threats facing the Union in order to enable the Union and its Member States to take effective action.

PART SIX

INSTITUTIONAL AND FINANCIAL PROVISIONS

TITLE I

INSTITUTIONAL PROVISIONS

CHAPTER 1

THE INSTITUTIONS

SECTION 1

THE EUROPEAN PARLIAMENT

Article 223

(ex Article 190(4) and (5) TEC)

1. The European Parliament shall draw up a proposal to lay down the provisions necessary for the election of its Members by direct universal suffrage in accordance with a uniform procedure in all Member States or in accordance with principles common to all Member States.

The Council, acting unanimously in accordance with a special legislative procedure and after obtaining the consent of the European Parliament, which shall act by a majority of its component Members, shall lay down the necessary provisions. These provisions shall enter into force following their approval by the Member States in accordance with their respective constitutional requirements.

2. The European Parliament, acting by means of regulations on its own initiative in accordance with a special legislative procedure after seeking an opinion from the Commission and with the consent of the Council, shall lay down the regulations and general conditions governing the performance of the duties of its Members. All rules or conditions relating to the taxation of Members or former Members shall require unanimity within the Council.

Article 224

(ex Article 191, second subparagraph, TEC)

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, by means of regulations, shall lay down the regulations governing political parties at European level referred to in Article 10(4) of the Treaty on European Union and in particular the rules regarding their funding.

Article 225

(ex Article 192, second subparagraph, TEC)

The European Parliament may, acting by a majority of its component Members, request the Commission to submit any appropriate proposal on matters on which it considers that a Union act is required for the purpose of implementing the Treaties. If the Commission does not submit a proposal, it shall inform the European Parliament of the reasons.

Article 226

(ex Article 193 TEC)

In the course of its duties, the European Parliament may, at the request of a quarter of its component Members, set up a temporary Committee of Inquiry to investigate, without prejudice to the powers conferred by the Treaties on other institutions or bodies, alleged contraventions or maladministration in the implementation of Union law, except where the alleged facts are being examined before a court and while the case is still subject to legal proceedings.

The temporary Committee of Inquiry shall cease to exist on the submission of its report.

The detailed provisions governing the exercise of the right of inquiry shall be determined by the European Parliament, acting by means of regulations on its own initiative in accordance with a special legislative procedure, after obtaining the consent of the Council and the Commission.

Article 227

(ex Article 194 TEC)

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have the right to address, individually or in association with other citizens or persons, a petition to the European Parliament on a matter which comes within the Union's fields of activity and which affects him, her or it directly.

Article 228

(ex Article 195 TEC)

1. A European Ombudsman, elected by the European Parliament, shall be empowered to receive complaints from any citizen of the Union or any natural or legal person residing or having its registered office in a Member State concerning instances of maladministration in the activities of the Union institutions, bodies, offices or agencies, with the exception of the Court of Justice of the European Union acting in its judicial role. He or she shall examine such complaints and report on them.

In accordance with his duties, the Ombudsman shall conduct inquiries for which he finds grounds, either on his own initiative or on the basis of complaints submitted to him direct or through a Member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings. Where the Ombudsman establishes an instance of maladministration, he shall refer the matter to the institution, body, office or agency concerned, which shall have a period of three months in which to inform him of its views. The Ombudsman shall then forward a report to the European Parliament and the institution, body, office or agency concerned. The person lodging the complaint shall be informed of the outcome of such inquiries.

The Ombudsman shall submit an annual report to the European Parliament on the outcome of his inquiries.

2. The Ombudsman shall be elected after each election of the European Parliament for the duration of its term of office. The Ombudsman shall be eligible for reappointment.

The Ombudsman may be dismissed by the Court of Justice at the request of the European Parliament if he no longer fulfils the conditions required for the performance of his duties or if he is guilty of serious misconduct.

3. The Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties he shall neither seek nor take instructions from any Government, institution, body, office or entity. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not.

4. The European Parliament acting by means of regulations on its own initiative in accordance with a special legislative procedure shall, after seeking an opinion from the Commission and with the consent of the Council, lay down the regulations and general conditions governing the performance of the Ombudsman's duties.

Article 229

(ex Article 196 TEC)

The European Parliament shall hold an annual session. It shall meet, without requiring to be convened, on the second Tuesday in March.

The European Parliament may meet in extraordinary part-session at the request of a majority of its component Members or at the request of the Council or of the Commission.

Article 230

(ex Article 197, second, third and fourth paragraph, TEC)

The Commission may attend all the meetings and shall, at its request, be heard.

The Commission shall reply orally or in writing to questions put to it by the European Parliament or by its Members.

The European Council and the Council shall be heard by the European Parliament in accordance with the conditions laid down in the Rules of Procedure of the European Council and those of the Council.

Article 231

(ex Article 198 TEC)

Save as otherwise provided in the Treaties, the European Parliament shall act by a majority of the votes cast.

The Rules of Procedure shall determine the quorum.

Article 232

(ex Article 199 TEC)

The European Parliament shall adopt its Rules of Procedure, acting by a majority of its Members.

The proceedings of the European Parliament shall be published in the manner laid down in the Treaties and in its Rules of Procedure.

Article 233

(ex Article 200 TEC)

The European Parliament shall discuss in open session the annual general report submitted to it by the Commission.

Article 234

(ex Article 201 TEC)

If a motion of censure on the activities of the Commission is tabled before it, the European Parliament shall not vote thereon until at least three days after the motion has been tabled and only by open vote.

If the motion of censure is carried by a two-thirds majority of the votes cast, representing a majority of the component Members of the European Parliament, the members of the Commission shall resign as a body and the High Representative of the Union for Foreign Affairs and Security Policy shall resign from duties that he or she carries out in the Commission. They shall remain in office and continue to deal with current business until they are replaced in accordance with Article 17 of the Treaty on European Union. In this case, the term of office of the members of the Commission appointed to replace them shall expire on the date on which the term of office of the members of the Commission obliged to resign as a body would have expired.

SECTION 2

THE EUROPEAN COUNCIL

Article 235

1. Where a vote is taken, any member of the European Council may also act on behalf of not more than one other member.

Article 16(4) of the Treaty on European Union and Article 238(2) of this Treaty shall apply to the European Council when it is acting by a qualified majority. Where the European Council decides by vote, its President and the President of the Commission shall not take part in the vote.

Abstentions by members present in person or represented shall not prevent the adoption by the European Council of acts which require unanimity.

2. The President of the European Parliament may be invited to be heard by the European Council.

3. The European Council shall act by a simple majority for procedural questions and for the adoption of its Rules of Procedure.

4. The European Council shall be assisted by the General Secretariat of the Council.

Article 236

The European Council shall adopt by a qualified majority:

(a) a decision establishing the list of Council configurations, other than those of the General Affairs Council and of the Foreign Affairs Council, in accordance with Article 16(6) of the Treaty on European Union;

(b) a decision on the Presidency of Council configurations, other than that of Foreign Affairs, in accordance with Article 16(9) of the Treaty on European Union.

SECTION 3

THE COUNCIL

Article 237

(ex Article 204 TEC)

The Council shall meet when convened by its President on his own initiative or at the request of one of its Members or of the Commission.

Article 238

(ex Article 205(1) and (2), TEC)

1. Where it is required to act by a simple majority, the Council shall act by a majority of its component members.

2. By way of derogation from Article 16(4) of the Treaty on European Union, as from 1 November 2014 and subject to the provisions laid down in the Protocol on transitional provisions,

where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council, representing Member States comprising at least 65 % of the population of the Union.

3. As from 1 November 2014 and subject to the provisions laid down in the Protocol on transitional provisions, in cases where, under the Treaties, not all the members of the Council participate in voting, a qualified majority shall be defined as follows:

(a) A qualified majority shall be defined as at least 55 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained;

(b) By way of derogation from point (a), where the Council does not act on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, the qualified majority shall be defined as at least 72 % of the members of the Council representing the participating Member States, comprising at least 65 % of the population of these States.

4. Abstentions by Members present in person or represented shall not prevent the adoption by the Council of acts which require unanimity.

Article 239

(ex Article 206 TEC)

Where a vote is taken, any Member of the Council may also act on behalf of not more than one other member.

Article 240

(ex Article 207 TEC)

1. A committee consisting of the Permanent Representatives of the Governments of the Member States shall be responsible for preparing the work of the Council and for carrying out the tasks assigned to it by the latter. The Committee may adopt procedural decisions in cases provided for in the Council's Rules of Procedure.

2. The Council shall be assisted by a General Secretariat, under the responsibility of a Secretary-General appointed by the Council.

The Council shall decide on the organisation of the General Secretariat by a simple majority.

3. The Council shall act by a simple majority regarding procedural matters and for the adoption of its Rules of Procedure.

Article 241

(ex Article 208 TEC)

The Council, acting by a simple majority, may request the Commission to undertake any studies the Council considers desirable for the attainment of the common objectives, and to submit to it any appropriate proposals. If the Commission does not submit a proposal, it shall inform the Council of the reasons.

Article 242

(ex Article 209 TEC)

The Council, acting by a simple majority shall, after consulting the Commission, determine the rules governing the committees provided for in the Treaties.

Article 243

(ex Article 210 TEC)

The Council shall determine the salaries, allowances and pensions of the President of the European Council, the President of the Commission, the High Representative of the Union for Foreign Affairs and Security Policy, the Members of the Commission, the Presidents, Members and Registrars of the Court of Justice of the European Union, and the Secretary-General of the Council. It shall also determine any payment to be made instead of remuneration.

SECTION 4

THE COMMISSION

Article 244

In accordance with Article 17(5) of the Treaty on European Union, the Members of the Commission shall be chosen on the basis of a system of rotation established unanimously by the European Council and on the basis of the following principles:

(a) Member States shall be treated on a strictly equal footing as regards determination of the sequence of, and the time spent by, their nationals as members of the Commission; consequently, the difference between the total number of terms of office held by nationals of any given pair of Member States may never be more than one;

(b) subject to point (a), each successive Commission shall be so composed as to reflect satisfactorily the demographic and geographical range of all the Member States.

Article 245

(ex Article 213 TEC)

The Members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and shall not seek to influence them in the performance of their tasks.

The Members of the Commission may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits. In the event of any breach of these obligations, the Court of Justice may, on application by the Council acting by a simple majority or the Commission, rule that the Member concerned be, according to the circumstances, either compulsorily retired in accordance with Article 247 or deprived of his right to a pension or other benefits in its stead.

Article 246

(ex Article 215 TEC)

Apart from normal replacement, or death, the duties of a Member of the Commission shall end when he resigns or is compulsorily retired.

A vacancy caused by resignation, compulsory retirement or death shall be filled for the remainder of the Member's term of office by a new Member of the same nationality appointed by the Council, by common accord with the President of the Commission, after consulting the European Parliament and in accordance with the criteria set out in the second subparagraph of Article 17(3) of the Treaty on European Union.

The Council may, acting unanimously on a proposal from the President of the Commission, decide that such a vacancy need not be filled, in particular when the remainder of the Member's term of office is short.

In the event of resignation, compulsory retirement or death, the President shall be replaced for the remainder of his term of office. The procedure laid down in the first subparagraph of Article 17(7) of the Treaty on European Union shall be applicable for the replacement of the President.

In the event of resignation, compulsory retirement or death, the High Representative of the Union for Foreign Affairs and Security Policy shall be replaced, for the remainder of his or her term of office, in accordance with Article 18(1) of the Treaty on European Union.

In the case of the resignation of all the Members of the Commission, they shall remain in office and continue to deal with current business until they have been replaced, for the remainder of their term of office, in accordance with Article 17 of the Treaty on European Union.

Article 247

(ex Article 216 TEC)

If any Member of the Commission no longer fulfils the conditions required for the performance of his duties or if he has been guilty of serious misconduct, the Court of Justice may, on application by the Council acting by a simple majority or the Commission, compulsorily retire him.

Article 248

(ex Article 217(2) TEC)

Without prejudice to Article 18(4) of the Treaty on European Union, the responsibilities incumbent upon the Commission shall be structured and allocated among its members by its President, in accordance with Article 17(6) of that Treaty. The President may reshuffle the allocation of those responsibilities during the Commission's term of office. The Members of the Commission shall carry out the duties devolved upon them by the President under his authority.

Article 249

(ex Articles 218(2) and 212 TEC)

1. The Commission shall adopt its Rules of Procedure so as to ensure that both it and its departments operate. It shall ensure that these Rules are published.

2. The Commission shall publish annually, not later than one month before the opening of the session of the European Parliament, a general report on the activities of the Union.

Article 250

(ex Article 219 TEC)

The Commission shall act by a majority of its Members.

Its Rules of Procedure shall determine the quorum.

SECTION 5

THE COURT OF JUSTICE OF THE EUROPEAN UNION

Article 251

(ex Article 221 TEC)

The Court of Justice shall sit in chambers or in a Grand Chamber, in accordance with the rules laid down for that purpose in the Statute of the Court of Justice of the European Union.

When provided for in the Statute, the Court of Justice may also sit as a full Court.

Article 252

(ex Article 222 TEC)

The Court of Justice shall be assisted by eight Advocates-General. Should the Court of Justice so request, the Council, acting unanimously, may increase the number of Advocates-General.

It shall be the duty of the Advocate-General, acting with complete impartiality and independence, to make, in open court, reasoned submissions on cases which, in accordance with the Statute of the Court of Justice of the European Union, require his involvement.

Article 253

(ex Article 223 TEC)

The Judges and Advocates-General of the Court of Justice shall be chosen from persons whose independence is beyond doubt and who possess the qualifications required for appointment to the highest judicial offices in their respective countries or who are jurisconsults of recognised competence; they shall be appointed by common accord of the governments of the Member States for a term of six years, after consultation of the panel provided for in Article 255.

Every three years there shall be a partial replacement of the Judges and Advocates-General, in accordance with the conditions laid down in the Statute of the Court of Justice of the European Union.

The Judges shall elect the President of the Court of Justice from among their number for a term of three years. He may be re-elected.

Retiring Judges and Advocates-General may be reappointed.

The Court of Justice shall appoint its Registrar and lay down the rules governing his service.

The Court of Justice shall establish its Rules of Procedure. Those Rules shall require the approval of the Council.

Article 254

(ex Article 224 TEC)

The number of Judges of the General Court shall be determined by the Statute of the Court of Justice of the European Union. The Statute may provide for the General Court to be assisted by Advocates-General.

The members of the General Court shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to high judicial office. They shall be appointed by common accord of the governments of the Member States for a term of six years, after consultation of the panel provided for in Article 255. The membership shall be partially renewed every three years. Retiring members shall be eligible for reappointment.

The Judges shall elect the President of the General Court from among their number for a term of three years. He may be re-elected.

The General Court shall appoint its Registrar and lay down the rules governing his service.

The General Court shall establish its Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council.

Unless the Statute of the Court of Justice of the European Union provides otherwise, the provisions of the Treaties relating to the Court of Justice shall apply to the General Court.

Article 255

A panel shall be set up in order to give an opinion on candidates' suitability to perform the duties of Judge and Advocate-General of the Court of Justice and the General Court before the governments of the Member States make the appointments referred to in Articles 253 and 254.

The panel shall comprise seven persons chosen from among former members of the Court of Justice and the General Court, members of national supreme courts and lawyers of recognised competence, one of whom shall be proposed by the European Parliament. The Council shall adopt a decision establishing the panel's operating rules and a decision appointing its members. It shall act on the initiative of the President of the Court of Justice.

Article 256

(ex Article 225 TEC)

1. The General Court shall have jurisdiction to hear and determine at first instance actions or proceedings referred to in Articles 263, 265, 268, 270 and 272, with the exception of those assigned to a specialised court set up under Article 257 and those reserved in the Statute for the Court of Justice. The Statute may provide for the General Court to have jurisdiction for other classes of action or proceeding.

Decisions given by the General Court under this paragraph may be subject to a right of appeal to the Court of Justice on points of law only, under the conditions and within the limits laid down by the Statute.

2. The General Court shall have jurisdiction to hear and determine actions or proceedings brought against decisions of the specialised courts.

Decisions given by the General Court under this paragraph may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Union law being affected.

3. The General Court shall have jurisdiction to hear and determine questions referred for a preliminary ruling under Article 267, in specific areas laid down by the Statute.

Where the General Court considers that the case requires a decision of principle likely to affect the unity or consistency of Union law, it may refer the case to the Court of Justice for a ruling.

Decisions given by the General Court on questions referred for a preliminary ruling may exceptionally be subject to review by the Court of Justice, under the conditions and within the limits laid down by the Statute, where there is a serious risk of the unity or consistency of Union law being affected.

Article 257

(ex Article 225*a* TEC)

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish specialised courts attached to the General Court to hear and determine at first instance certain classes of action or proceeding brought in specific areas. The European Parliament and the Council shall act by means of regulations either on a proposal from the Commission after consultation of the Court of Justice or at the request of the Court of Justice after consultation of the Commission.

The regulation establishing a specialised court shall lay down the rules on the organisation of the court and the extent of the jurisdiction conferred upon it.

Decisions given by specialised courts may be subject to a right of appeal on points of law only or, when provided for in the regulation establishing the specialised court, a right of appeal also on matters of fact, before the General Court.

The members of the specialised courts shall be chosen from persons whose independence is beyond doubt and who possess the ability required for appointment to judicial office. They shall be appointed by the Council, acting unanimously.

The specialised courts shall establish their Rules of Procedure in agreement with the Court of Justice. Those Rules shall require the approval of the Council.

Unless the regulation establishing the specialised court provides otherwise, the provisions of the Treaties relating to the Court of Justice of the European Union and the provisions of the Statute of the Court of Justice of the European Union shall apply to the specialised courts. Title I of the Statute and Article 64 thereof shall in any case apply to the specialised courts.

Article 258

(ex Article 226 TEC)

If the Commission considers that a Member State has failed to fulfil an obligation under the Treaties, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations.

If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union.

Article 259

(ex Article 227 TEC)

A Member State which considers that another Member State has failed to fulfil an obligation under the Treaties may bring the matter before the Court of Justice of the European Union.

Before a Member State brings an action against another Member State for an alleged infringement of an obligation under the Treaties, it shall bring the matter before the Commission.

The Commission shall deliver a reasoned opinion after each of the States concerned has been given the opportunity to submit its own case and its observations on the other party's case both orally and in writing.

If the Commission has not delivered an opinion within three months of the date on which the matter was brought before it, the absence of such opinion shall not prevent the matter from being brought before the Court.

Article 260

(ex Article 228 TEC)

1. If the Court of Justice of the European Union finds that a Member State has failed to fulfil an obligation under the Treaties, the State shall be required to take the necessary measures to comply with the judgment of the Court.

2. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the judgment of the Court, it may bring the case before the Court after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that the Member State concerned has not complied with its judgment it may impose a lump sum or penalty payment on it.

This procedure shall be without prejudice to Article 259.

3. When the Commission brings a case before the Court pursuant to Article 258 on the grounds that the Member State concerned has failed to fulfil its obligation to notify measures transposing a directive adopted under a legislative procedure, it may, when it deems appropriate, specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances.

If the Court finds that there is an infringement it may impose a lump sum or penalty payment on the Member State concerned not exceeding the amount specified by the Commission. The payment obligation shall take effect on the date set by the Court in its judgment.

Article 261

(ex Article 229 TEC)

Regulations adopted jointly by the European Parliament and the Council, and by the Council, pursuant to the provisions of the Treaties, may give the Court of Justice of the European Union unlimited jurisdiction with regard to the penalties provided for in such regulations.

Article 262

(ex Article 229*a* TEC)

Without prejudice to the other provisions of the Treaties, the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament, may adopt provisions to confer jurisdiction, to the extent that it shall determine, on the Court of Justice of the European Union in disputes relating to the application of acts adopted on the basis of the Treaties which create European intellectual property rights. These provisions shall enter into force after their approval by the Member States in accordance with their respective constitutional requirements.

Article 263

(ex Article 230 TEC)

The Court of Justice of the European Union shall review the legality of legislative acts, of acts of the Council, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament and of the European Council intended to produce legal effects *vis-à-vis* third parties. It shall also review the legality of acts of bodies, offices or agencies of the Union intended to produce legal effects *vis-à-vis* third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the Treaties or of any rule of law relating to their application, or misuse of powers.

The Court shall have jurisdiction under the same conditions in actions brought by the Court of Auditors, by the European Central Bank and by the Committee of the Regions for the purpose of protecting their prerogatives.

Any natural or legal person may, under the conditions laid down in the first and second paragraphs, institute proceedings against an act addressed to that person or which is of direct and individual concern to them, and against a regulatory act which is of direct concern to them and does not entail implementing measures.

Acts setting up bodies, offices and agencies of the Union may lay down specific conditions and arrangements concerning actions brought by natural or legal persons against acts of these bodies, offices or agencies intended to produce legal effects in relation to them.

The proceedings provided for in this Article shall be instituted within two months of the publication of the measure, or of its notification to the plaintiff, or, in the absence thereof, of the day on which it came to the knowledge of the latter, as the case may be.

Article 264

(ex Article 231 TEC)

If the action is well founded, the Court of Justice of the European Union shall declare the act concerned to be void.

However, the Court shall, if it considers this necessary, state which of the effects of the act which it has declared void shall be considered as definitive.

Article 265

(ex Article 232 TEC)

Should the European Parliament, the European Council, the Council, the Commission or the European Central Bank, in infringement of the Treaties, fail to act, the Member States and the other institutions of the Union may bring an action before the Court of Justice of the European Union to have the infringement established. This Article shall apply, under the same conditions, to bodies, offices and agencies of the Union which fail to act.

The action shall be admissible only if the institution, body, office or agency concerned has first been called upon to act. If, within two months of being so called upon, the institution, body, office or agency concerned has not defined its position, the action may be brought within a further period of two months.

Any natural or legal person may, under the conditions laid down in the preceding paragraphs, complain to the Court that an institution, body, office or agency of the Union has failed to address to that person any act other than a recommendation or an opinion.

Article 266

(ex Article 233 TEC)

The institution whose act has been declared void or whose failure to act has been declared contrary to the Treaties shall be required to take the necessary measures to comply with the judgment of the Court of Justice of the European Union.

This obligation shall not affect any obligation which may result from the application of the second paragraph of Article 340.

Article 267

(ex Article 234 TEC)

The Court of Justice of the European Union shall have jurisdiction to give preliminary rulings concerning:

(a) the interpretation of the Treaties;

(b) the validity and interpretation of acts of the institutions, bodies, offices or agencies of the Union;

Where such a question is raised before any court or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, request the Court to give a ruling thereon.

Where any such question is raised in a case pending before a court or tribunal of a Member State against whose decisions there is no judicial remedy under national law, that court or tribunal shall bring the matter before the Court.

If such a question is raised in a case pending before a court or tribunal of a Member State with regard to a person in custody, the Court of Justice of the European Union shall act with the minimum of delay.

Article 268

(ex Article 235 TEC)

The Court of Justice of the European Union shall have jurisdiction in disputes relating to compensation for damage provided for in the second and third paragraphs of Article 340.

Article 269

The Court of Justice shall have jurisdiction to decide on the legality of an act adopted by the European Council or by the Council pursuant to Article 7 of the Treaty on European Union solely at the request of the Member State concerned by a determination of the European Council or of the Council and in respect solely of the procedural stipulations contained in that Article.

Such a request must be made within one month from the date of such determination. The Court shall rule within one month from the date of the request.

Article 270

(ex Article 236 TEC)

The Court of Justice of the European Union shall have jurisdiction in any dispute between the Union and its servants within the limits and under the conditions laid down in the Staff Regulations of Officials and the Conditions of Employment of other servants of the Union.

Article 271

(ex Article 237 TEC)

The Court of Justice of the European Union shall, within the limits hereinafter laid down, have jurisdiction in disputes concerning:

(a) the fulfilment by Member States of obligations under the Statute of the European Investment Bank. In this connection, the Board of Directors of the Bank shall enjoy the powers conferred upon the Commission by Article 258;

(b) measures adopted by the Board of Governors of the European Investment Bank. In this connection, any Member State, the Commission or the Board of Directors of the Bank may institute proceedings under the conditions laid down in Article 263;

(c) measures adopted by the Board of Directors of the European Investment Bank. Proceedings against such measures may be instituted only by Member States or by the Commission, under the conditions laid down in Article 263, and solely on the grounds of non-compliance with the procedure provided for in Article 19(2), (5), (6) and (7) of the Statute of the Bank;

(d) the fulfilment by national central banks of obligations under the Treaties and the Statute of the ESCB and of the ECB. In this connection the powers of the Governing Council of the European Central Bank in respect of national central banks shall be the same as those conferred upon the Commission in respect of Member States by Article 258. If the Court finds that a national central bank has failed to fulfil an obligation under the Treaties, that bank shall be required to take the necessary measures to comply with the judgment of the Court.

Article 272

(ex Article 238 TEC)

The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by or on behalf of the Union, whether that contract be governed by public or private law.

Article 273

(ex Article 239 TEC)

The Court of Justice shall have jurisdiction in any dispute between Member States which relates to the subject matter of the Treaties if the dispute is submitted to it under a special agreement between the parties.

Article 274

(ex Article 240 TEC)

Save where jurisdiction is conferred on the Court of Justice of the European Union by the Treaties, disputes to which the Union is a party shall not on that ground be excluded from the jurisdiction of the courts or tribunals of the Member States.

Article 275

The Court of Justice of the European Union shall not have jurisdiction with respect to the provisions relating to the common foreign and security policy nor with respect to acts adopted on the basis of those provisions.

However, the Court shall have jurisdiction to monitor compliance with Article 40 of the Treaty on European Union and to rule on proceedings, brought in accordance with the conditions laid down in the fourth paragraph of Article 263 of this Treaty, reviewing the legality of decisions providing for restrictive measures against natural or legal persons adopted by the Council on the basis of Chapter 2 of Title V of the Treaty on European Union.

Article 276

In exercising its powers regarding the provisions of Chapters 4 and 5 of Title V of Part Three relating to the area of freedom, security and justice, the Court of Justice of the European Union shall have no jurisdiction to review the validity or proportionality of operations carried out by the police or other law-enforcement services of a Member State or the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

Article 277

(ex Article 241 TEC)

Notwithstanding the expiry of the period laid down in Article 263, sixth paragraph, any party may, in proceedings in which an act of general application adopted by an institution, body, office or agency of the Union is at issue, plead the grounds specified in Article 263, second paragraph, in order to invoke before the Court of Justice of the European Union the inapplicability of that act.

Article 278

(ex Article 242 TEC)

Actions brought before the Court of Justice of the European Union shall not have suspensory effect. The Court may, however, if it considers that circumstances so require, order that application of the contested act be suspended.

Article 279

(ex Article 243 TEC)

The Court of Justice of the European Union may in any cases before it prescribe any necessary interim measures.

Article 280

(ex Article 244 TEC)

The judgments of the Court of Justice of the European Union shall be enforceable under the conditions laid down in Article 299.

Article 281

(ex Article 245 TEC)

The Statute of the Court of Justice of the European Union shall be laid down in a separate Protocol.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may amend the provisions of the Statute, with the exception of Title I and Article 64. The European Parliament and the Council shall act either at the request of the Court of Justice and after consultation of the Commission, or on a proposal from the Commission and after consultation of the Court of Justice.

SECTION 6

THE EUROPEAN CENTRAL BANK

Article 282

1. The European Central Bank, together with the national central banks, shall constitute the European System of Central Banks (ESCB). The European Central Bank, together with the national central banks of the Member States whose currency is the euro, which constitute the Eurosystem, shall conduct the monetary policy of the Union.

2. The ESCB shall be governed by the decision-making bodies of the European Central Bank. The primary objective of the ESCB shall be to maintain price stability. Without prejudice to that objective, it shall support the general economic policies in the Union in order to contribute to the achievement of the latter's objectives.

3. The European Central Bank shall have legal personality. It alone may authorise the issue of the euro. It shall be independent in the exercise of its powers and in the management of its finances. Union institutions, bodies, offices and agencies and the governments of the Member States shall respect that independence.

4. The European Central Bank shall adopt such measures as are necessary to carry out its tasks in accordance with Articles 127 to 133, with Article 138, and with the conditions laid down in the Statute of the ESCB and of the ECB. In accordance with these same Articles, those Member States whose currency is not the euro, and their central banks, shall retain their powers in monetary matters.

5. Within the areas falling within its responsibilities, the European Central Bank shall be consulted on all proposed Union acts, and all proposals for regulation at national level, and may give an opinion.

Article 283

(ex Article 112 TEC)

1. The Governing Council of the European Central Bank shall comprise the members of the Executive Board of the European Central Bank and the Governors of the national central banks of the Member States whose currency is the euro.

2. The Executive Board shall comprise the President, the Vice-President and four other members.

The President, the Vice-President and the other members of the Executive Board shall be appointed by the European Council, acting by a qualified majority, from among persons of recognised standing and professional experience in monetary or banking matters, on a recommendation from the Council, after it has consulted the European Parliament and the Governing Council of the European Central Bank.

Their term of office shall be eight years and shall not be renewable.

Only nationals of Member States may be members of the Executive Board.

Article 284

(ex Article 113 TEC)

1. The President of the Council and a Member of the Commission may participate, without having the right to vote, in meetings of the Governing Council of the European Central Bank.

The President of the Council may submit a motion for deliberation to the Governing Council of the European Central Bank.

2. The President of the European Central Bank shall be invited to participate in Council meetings when the Council is discussing matters relating to the objectives and tasks of the ESCB.

3. The European Central Bank shall address an annual report on the activities of the ESCB and on the monetary policy of both the previous and current year to the European Parliament, the Council and the Commission, and also to the European Council. The President of the European Central Bank shall present this report to the Council and to the European Parliament, which may hold a general debate on that basis.

The President of the European Central Bank and the other members of the Executive Board may, at the request of the European Parliament or on their own initiative, be heard by the competent committees of the European Parliament.

SECTION 7

THE COURT OF AUDITORS

Article 285

(ex Article 246 TEC)

The Court of Auditors shall carry out the Union's audit.

It shall consist of one national of each Member State. Its Members shall be completely independent in the performance of their duties, in the Union's general interest.

Article 286

(ex Article 247 TEC)

1. The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective States to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

2. The Members of the Court of Auditors shall be appointed for a term of six years. The Council, after consulting the European Parliament, shall adopt the list of Members drawn up in accordance with the proposals made by each Member State. The term of office of the Members of the Court of Auditors shall be renewable.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

3. In the performance of these duties, the Members of the Court of Auditors shall neither seek nor take instructions from any government or from any other body. The Members of the Court of Auditors shall refrain from any action incompatible with their duties.

4. The Members of the Court of Auditors may not, during their term of office, engage in any other occupation, whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

5. Apart from normal replacement, or death, the duties of a Member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 6.

The vacancy thus caused shall be filled for the remainder of the Member's term of office.

Save in the case of compulsory retirement, Members of the Court of Auditors shall remain in office until they have been replaced.

6. A Member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

7. The Council shall determine the conditions of employment of the President and the Members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also determine any payment to be made instead of remuneration.

8. The provisions of the Protocol on the privileges and immunities of the European Union applicable to the Judges of the Court of Justice of the European Union shall also apply to the Members of the Court of Auditors.

Article 287

(ex Article 248 TEC)

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Union. It shall also examine the accounts of all revenue and expenditure of all bodies, offices or agencies set up by the Union in so far as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions which shall be published in the *Official Journal of the European Union*. This statement may be supplemented by specific assessments for each major area of Union activity.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound. In doing so, it shall report in particular on any cases of irregularity.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Union.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Union, on the premises of any body, office or agency which manages revenue or expenditure on behalf of the Union and in the Member States, including on the premises of any natural or legal person in receipt of payments from the budget. In the Member States the audit shall be carried out in liaison with national audit bodies or, if these do not have the necessary powers, with the competent national departments. The Court of Auditors and the national audit bodies of the Member States shall cooperate in a spirit of trust while maintaining their independence. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions of the Union, any bodies, offices or agencies managing revenue or expenditure on behalf of the Union, any natural or legal person in receipt of payments from the budget, and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the Court of Auditors, at its request, any document or information necessary to carry out its task.

In respect of the European Investment Bank's activity in managing Union expenditure and revenue, the Court's rights of access to information held by the Bank shall be governed by an agreement between the Court, the Bank and the Commission. In the absence of an agreement, the Court shall nevertheless have access to information necessary for the audit of Union expenditure and revenue managed by the Bank.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Union and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Union*.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Union.

It shall adopt its annual reports, special reports or opinions by a majority of its Members. However, it may establish internal chambers in order to adopt certain categories of reports or opinions under the conditions laid down by its Rules of Procedure.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

The Court of Auditors shall draw up its Rules of Procedure. Those rules shall require the approval of the Council.

CHAPTER 2

LEGAL ACTS OF THE UNION, ADOPTION PROCEDURES AND OTHER PROVISIONS

SECTION 1

THE LEGAL ACTS OF THE UNION

Article 288

(ex Article 249 TEC)

To exercise the Union's competences, the institutions shall adopt regulations, directives, decisions, recommendations and opinions.

A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A decision shall be binding in its entirety. A decision which specifies those to whom it is addressed shall be binding only on them.

Recommendations and opinions shall have no binding force.

Article 289

1. The ordinary legislative procedure shall consist in the joint adoption by the European Parliament and the Council of a regulation, directive or decision on a proposal from the Commission. This procedure is defined in Article 294.

2. In the specific cases provided for by the Treaties, the adoption of a regulation, directive or decision by the European Parliament with the participation of the Council, or by the latter with the participation of the European Parliament, shall constitute a special legislative procedure.

3. Legal acts adopted by legislative procedure shall constitute legislative acts.

4. In the specific cases provided for by the Treaties, legislative acts may be adopted on the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.

Article 290

1. A legislative act may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act.

The objectives, content, scope and duration of the delegation of power shall be explicitly defined in the legislative acts. The essential elements of an area shall be reserved for the legislative act and accordingly shall not be the subject of a delegation of power.

2. Legislative acts shall explicitly lay down the conditions to which the delegation is subject; these conditions may be as follows:

(a) the European Parliament or the Council may decide to revoke the delegation;

(b) the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act.

For the purposes of (a) and (b), the European Parliament shall act by a majority of its component members, and the Council by a qualified majority.

3. The adjective 'delegated' shall be inserted in the title of delegated acts.

Article 291

1. Member States shall adopt all measures of national law necessary to implement legally binding Union acts.

2. Where uniform conditions for implementing legally binding Union acts are needed, those acts shall confer implementing powers on the Commission, or, in duly justified specific cases and in the cases provided for in Articles 24 and 26 of the Treaty on European Union, on the Council.

3. For the purposes of paragraph 2, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

4. The word 'implementing' shall be inserted in the title of implementing acts.

Article 292

The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the Treaties provide that it shall adopt acts on a proposal from the Commission. It shall act unanimously in those areas in which unanimity is required for the adoption of a Union act. The Commission, and the European Central Bank in the specific cases provided for in the Treaties, shall adopt recommendations.

SECTION 2

PROCEDURES FOR THE ADOPTION OF ACTS AND OTHER PROVISIONS

Article 293

(ex Article 250 TEC)

1. Where, pursuant to the Treaties, the Council acts on a proposal from the Commission, it may amend that proposal only by acting unanimously, except in the cases referred to in paragraphs 10 and 13 of Article 294, in Articles 310, 312 and 314 and in the second paragraph of Article 315.

2. As long as the Council has not acted, the Commission may alter its proposal at any time during the procedures leading to the adoption of a Union act.

Article 294

(ex Article 251 TEC)

1. Where reference is made in the Treaties to the ordinary legislative procedure for the adoption of an act, the following procedure shall apply.

2. The Commission shall submit a proposal to the European Parliament and the Council.

First reading

3. The European Parliament shall adopt its position at first reading and communicate it to the Council.

4. If the Council approves the European Parliament's position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.

5. If the Council does not approve the European Parliament's position, it shall adopt its position at first reading and communicate it to the European Parliament.

6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

Second reading

7. If, within three months of such communication, the European Parliament:

(a) approves the Council's position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;

(b) rejects, by a majority of its component members, the Council's position at first reading, the proposed act shall be deemed not to have been adopted;

(c) proposes, by a majority of its component members, amendments to the Council's position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.

8. If, within three months of receiving the European Parliament's amendments, the Council, acting by a qualified majority:

(a) approves all those amendments, the act in question shall be deemed to have been adopted;

(b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.

9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.

Conciliation

10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.

11. The Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.

Third reading

13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.

14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.

Special provisions

15. Where, in the cases provided for in the Treaties, a legislative act is submitted to the ordinary legislative procedure on the initiative of a group of Member States, on a recommendation by the European Central Bank, or at the request of the Court of Justice, paragraph 2, the second sentence of paragraph 6, and paragraph 9 shall not apply.

In such cases, the European Parliament and the Council shall communicate the proposed act to the Commission with their positions at first and second readings. The European Parliament or the Council may request the opinion of the Commission throughout the procedure, which the Commission may also deliver on its own initiative. It may also, if it deems it necessary, take part in the Conciliation Committee in accordance with paragraph 11.

Article 295

The European Parliament, the Council and the Commission shall consult each other and by common agreement make arrangements for their cooperation. To that end, they may, in compliance with the Treaties, conclude interinstitutional agreements which may be of a binding nature.

Article 296

(ex Article 253 TEC)

Where the Treaties do not specify the type of act to be adopted, the institutions shall select it on a case-by-case basis, in compliance with the applicable procedures and with the principle of proportionality.

Legal acts shall state the reasons on which they are based and shall refer to any proposals, initiatives, recommendations, requests or opinions required by the Treaties.

When considering draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for by the relevant legislative procedure in the area in question.

Article 297

(ex Article 254 TEC)

1. Legislative acts adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and by the President of the Council.

Legislative acts adopted under a special legislative procedure shall be signed by the President of the institution which adopted them.

Legislative acts shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

2. Non-legislative acts adopted in the form of regulations, directives or decisions, when the latter do not specify to whom they are addressed, shall be signed by the President of the institution which adopted them.

Regulations and directives which are addressed to all Member States, as well as decisions which do not specify to whom they are addressed, shall be published in the *Official Journal of the European Union*. They shall enter into force on the date specified in them or, in the absence thereof, on the twentieth day following that of their publication.

Other directives, and decisions which specify to whom they are addressed, shall be notified to those to whom they are addressed and shall take effect upon such notification.

Article 298

1. In carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration.

2. In compliance with the Staff Regulations and the Conditions of Employment adopted on the basis of Article 336, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish provisions to that end.

Article 299

(ex Article 256 TEC)

Acts of the Council, the Commission or the European Central Bank which impose a pecuniary obligation on persons other than States, shall be enforceable.

Enforcement shall be governed by the rules of civil procedure in force in the State in the territory of which it is carried out. The order for its enforcement shall be appended to the decision, without other formality than verification of the authenticity of the decision, by the national authority which the government of each Member State shall designate for this purpose and shall make known to the Commission and to the Court of Justice of the European Union.

When these formalities have been completed on application by the party concerned, the latter may proceed to enforcement in accordance with the national law, by bringing the matter directly before the competent authority.

Enforcement may be suspended only by a decision of the Court. However, the courts of the country concerned shall have jurisdiction over complaints that enforcement is being carried out in an irregular manner.

CHAPTER 3

THE UNION'S ADVISORY BODIES

Article 300

1. The European Parliament, the Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions, exercising advisory functions.

2. The Economic and Social Committee shall consist of representatives of organisations of employers, of the employed, and of other parties representative of civil society, notably in socio-economic, civic, professional and cultural areas.

3. The Committee of the Regions shall consist of representatives of regional and local bodies who either hold a regional or local authority electoral mandate or are politically accountable to an elected assembly.

4. The members of the Economic and Social Committee and of the Committee of the Regions shall not be bound by any mandatory instructions. They shall be completely independent in the performance of their duties, in the Union's general interest.

5. The rules referred to in paragraphs 2 and 3 governing the nature of the composition of the Committees shall be reviewed at regular intervals by the Council to take account of economic, social and demographic developments within the Union. The Council, on a proposal from the Commission, shall adopt decisions to that end.

SECTION 1

THE ECONOMIC AND SOCIAL COMMITTEE

Article 301

(ex Article 258 TEC)

The number of members of the Economic and Social Committee shall not exceed 350.

The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition.

The Council shall determine the allowances of members of the Committee.

Article 302

(ex Article 259 TEC)

1. The members of the Committee shall be appointed for five years The Council shall adopt the list of members drawn up in accordance with the proposals made by each Member State. The term of office of the members of the Committee shall be renewable.

2. The Council shall act after consulting the Commission. It may obtain the opinion of European bodies which are representative of the various economic and social sectors and of civil society to which the Union's activities are of concern.

Article 303

(ex Article 260 TEC)

The Committee shall elect its chairman and officers from among its members for a term of two and a half years.

It shall adopt its Rules of Procedure.

The Committee shall be convened by its chairman at the request of the European Parliament, the Council or of the Commission. It may also meet on its own initiative.

Article 304

(ex Article 262 TEC)

The Committee shall be consulted by the European Parliament, by the Council or by the Commission where the Treaties so provide. The Committee may be consulted by these institutions in all cases in which they consider it appropriate. It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

The opinion of the Committee, together with a record of the proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.

SECTION 2

THE COMMITTEE OF THE REGIONS

Article 305

(ex Article 263, second, third and fourth paragraphs, TEC)

The number of members of the Committee of the Regions shall not exceed 350.

The Council, acting unanimously on a proposal from the Commission, shall adopt a decision determining the Committee's composition.

The members of the Committee and an equal number of alternate members shall be appointed for five years. Their term of office shall be renewable. The Council shall adopt the list of members and alternate members drawn up in accordance with the proposals made by each Member State. When the mandate referred to in Article 300(3) on the basis of which they were proposed comes to an end, the term of office of members of the Committee shall terminate automatically and they shall then be replaced for the remainder of the said term of office in accordance with the same procedure. No member of the Committee shall at the same time be a Member of the European Parliament.

Article 306

(ex Article 264 TEC)

The Committee of the Regions shall elect its chairman and officers from among its members for a term of two and a half years.

It shall adopt its Rules of Procedure.

The Committee shall be convened by its chairman at the request of the European Parliament, the Council or of the Commission. It may also meet on its own initiative.

Article 307

(ex Article 265 TEC)

The Committee of the Regions shall be consulted by the European Parliament, by the Council or by the Commission where the Treaties so provide and in all other cases, in particular those which concern cross-border cooperation, in which one of these institutions considers it appropriate.

The European Parliament, the Council or the Commission shall, if it considers it necessary, set the Committee, for the submission of its opinion, a time limit which may not be less than one month from the date on which the chairman receives notification to this effect. Upon expiry of the time limit, the absence of an opinion shall not prevent further action.

Where the Economic and Social Committee is consulted pursuant to Article 304, the Committee of the Regions shall be informed by the European Parliament, the Council or the Commission of the request for an opinion. Where it considers that specific regional interests are involved, the Committee of the Regions may issue an opinion on the matter.

It may issue an opinion on its own initiative in cases in which it considers such action appropriate.

The opinion of the Committee, together with a record of the proceedings, shall be forwarded to the European Parliament, to the Council and to the Commission.

CHAPTER 4

THE EUROPEAN INVESTMENT BANK

Article 308

(ex Article 266 TEC)

The European Investment Bank shall have legal personality.

The members of the European Investment Bank shall be the Member States.

The Statute of the European Investment Bank is laid down in a Protocol annexed to the Treaties. The Council acting unanimously in accordance with a special legislative procedure, at the request of the European Investment Bank and after consulting the European Parliament and the Commission, or on a proposal from the Commission and after consulting the European Parliament and the European Investment Bank, may amend the Statute of the Bank.

Article 309

(ex Article 267 TEC)

The task of the European Investment Bank shall be to contribute, by having recourse to the capital market and utilising its own resources, to the balanced and steady development of the internal market in the interest of the Union. For this purpose the Bank shall, operating on a non-profit-making basis, grant loans and give guarantees which facilitate the financing of the following projects in all sectors of the economy:

(a) projects for developing less-developed regions;

(b) projects for modernising or converting undertakings or for developing fresh activities called for by the establishment or functioning of the internal market, where these projects are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States;

(c) projects of common interest to several Member States which are of such a size or nature that they cannot be entirely financed by the various means available in the individual Member States.

In carrying out its task, the Bank shall facilitate the financing of investment programmes in conjunction with assistance from the Structural Funds and other Union Financial Instruments.

TITLE II

FINANCIAL PROVISIONS

Article 310

(ex Article 268 TEC)

1. All items of revenue and expenditure of the Union shall be included in estimates to be drawn up for each financial year and shall be shown in the budget.

The Union's annual budget shall be established by the European Parliament and the Council in accordance with Article 314.

The revenue and expenditure shown in the budget shall be in balance.

2. The expenditure shown in the budget shall be authorised for the annual budgetary period in accordance with the regulation referred to in Article 322.

3. The implementation of expenditure shown in the budget shall require the prior adoption of a legally binding Union act providing a legal basis for its action and for the implementation of the corresponding expenditure in accordance with the regulation referred to in Article 322, except in cases for which that law provides.

4. With a view to maintaining budgetary discipline, the Union shall not adopt any act which is likely to have appreciable implications for the budget without providing an assurance that the expenditure arising from such an act is capable of being financed within the limit of the Union's own resources and in compliance with the multiannual financial framework referred to in Article 312.

5. The budget shall be implemented in accordance with the principle of sound financial management. Member States shall cooperate with the Union to ensure that the appropriations entered in the budget are used in accordance with this principle.

6. The Union and the Member States, in accordance with Article 325, shall counter fraud and any other illegal activities affecting the financial interests of the Union.

CHAPTER 1

THE UNION'S OWN RESOURCES

Article 311

(ex Article 269 TEC)

The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

Without prejudice to other revenue, the budget shall be financed wholly from own resources.

The Council, acting in accordance with a special legislative procedure, shall unanimously and after consulting the European Parliament adopt a decision laying down the provisions relating to the system of own resources of the Union. In this context it may establish new categories of own resources or abolish an existing category. That decision shall not enter into force until it is approved by the Member States in accordance with their respective constitutional requirements.

The Council, acting by means of regulations in accordance with a special legislative procedure, shall lay down implementing measures for the Union's own resources system in so far as this is provided for in the decision adopted on the basis of the third paragraph. The Council shall act after obtaining the consent of the European Parliament.

CHAPTER 2

THE MULTIANNUAL FINANCIAL FRAMEWORK

Article 312

1. The multiannual financial framework shall ensure that Union expenditure develops in an orderly manner and within the limits of its own resources.

It shall be established for a period of at least five years.

The annual budget of the Union shall comply with the multiannual financial framework.

2. The Council, acting in accordance with a special legislative procedure, shall adopt a regulation laying down the multiannual financial framework. The Council shall act unanimously after obtaining the consent of the European Parliament, which shall be given by a majority of its component members.

The European Council may, unanimously, adopt a decision authorising the Council to act by a qualified majority when adopting the regulation referred to in the first subparagraph.

3. The financial framework shall determine the amounts of the annual ceilings on commitment appropriations by category of expenditure and of the annual ceiling on payment appropriations. The categories of expenditure, limited in number, shall correspond to the Union's major sectors of activity.

The financial framework shall lay down any other provisions required for the annual budgetary procedure to run smoothly.

4. Where no Council regulation determining a new financial framework has been adopted by the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until such time as that act is adopted.

5. Throughout the procedure leading to the adoption of the financial framework, the European Parliament, the Council and the Commission shall take any measure necessary to facilitate its adoption.

CHAPTER 3

THE UNION'S ANNUAL BUDGET

Article 313

(ex Article 272(1), TEC)

The financial year shall run from 1 January to 31 December.

Article 314

(ex Article 272(2) to (10), TEC)

The European Parliament and the Council, acting in accordance with a special legislative procedure, shall establish the Union's annual budget in accordance with the following provisions.

1. With the exception of the European Central Bank, each institution shall, before 1 July, draw up estimates of its expenditure for the following financial year. The Commission shall consolidate these estimates in a draft budget. which may contain different estimates.

The draft budget shall contain an estimate of revenue and an estimate of expenditure.

2. The Commission shall submit a proposal containing the draft budget to the European Parliament and to the Council not later than 1 September of the year preceding that in which the budget is to be implemented.

The Commission may amend the draft budget during the procedure until such time as the Conciliation Committee, referred to in paragraph 5, is convened.

3. The Council shall adopt its position on the draft budget and forward it to the European Parliament not later than 1 October of the year preceding that in which the budget is to be implemented. The Council shall inform the European Parliament in full of the reasons which led it to adopt its position.

4. If, within forty-two days of such communication, the European Parliament:

(a) approves the position of the Council, the budget shall be adopted;

(b) has not taken a decision, the budget shall be deemed to have been adopted;

(c) adopts amendments by a majority of its component members, the amended draft shall be forwarded to the Council and to the Commission. The President of the European Parliament, in agreement with the President of the Council, shall immediately convene a meeting of the

Conciliation Committee. However, if within ten days of the draft being forwarded the Council informs the European Parliament that it has approved all its amendments, the Conciliation Committee shall not meet.

5. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of the European Parliament within twenty-one days of its being convened, on the basis of the positions of the European Parliament and the Council.

The Commission shall take part in the Conciliation Committee's proceedings and shall take all the necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

6. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee agrees on a joint text, the European Parliament and the Council shall each have a period of fourteen days from the date of that agreement in which to approve the joint text.

7. If, within the period of fourteen days referred to in paragraph 6:

(a) the European Parliament and the Council both approve the joint text or fail to take a decision, or if one of these institutions approves the joint text while the other one fails to take a decision, the budget shall be deemed to be definitively adopted in accordance with the joint text; or

(b) the European Parliament, acting by a majority of its component members, and the Council both reject the joint text, or if one of these institutions rejects the joint text while the other one fails to take a decision, a new draft budget shall be submitted by the Commission; or

(c) the European Parliament, acting by a majority of its component members, rejects the joint text while the Council approves it, a new draft budget shall be submitted by the Commission; or

(d) the European Parliament approves the joint text whilst the Council rejects it, the European Parliament may, within fourteen days from the date of the rejection by the Council and acting by a majority of its component members and three-fifths of the votes cast, decide to confirm all or some of the amendments referred to in paragraph 4(c). Where a European Parliament amendment is not confirmed, the position agreed in the Conciliation Committee on the budget heading which is the subject of the amendment shall be retained. The budget shall be deemed to be definitively adopted on this basis.

8. If, within the twenty-one days referred to in paragraph 5, the Conciliation Committee does not agree on a joint text, a new draft budget shall be submitted by the Commission.

9. When the procedure provided for in this Article has been completed, the President of the European Parliament shall declare that the budget has been definitively adopted.

10. Each institution shall exercise the powers conferred upon it under this Article in compliance with the Treaties and the acts adopted thereunder, with particular regard to the Union's own resources and the balance between revenue and expenditure.

Article 315

(ex Article 273 TEC)

If, at the beginning of a financial year, the budget has not yet been definitively adopted, a sum equivalent to not more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter of the budget in accordance with the provisions of the Regulations made pursuant to Article 322; that sum shall not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget.

The Council on a proposal by the Commission, may, provided that the other conditions laid down in the first paragraph are observed, authorise expenditure in excess of one twelfth in accordance with the regulations made pursuant to Article 322. The Council shall forward the decision immediately to the European Parliament.

The decision referred to in the second paragraph shall lay down the necessary measures relating to resources to ensure application of this Article, in accordance with the acts referred to in Article 311.

It shall enter into force thirty days following its adoption if the European Parliament, acting by a majority of its component Members, has not decided to reduce this expenditure within that time-limit.

Article 316

(ex Article 271 TEC)

In accordance with conditions to be laid down pursuant to Article 322, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.

Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided in accordance with the regulations made pursuant to Article 322.

The expenditure of the European Parliament, the European Council and the Council, the Commission and the Court of Justice of the European Union shall be set out in separate parts of the budget, without prejudice to special arrangements for certain common items of expenditure.

CHAPTER 4

IMPLEMENTATION OF THE BUDGET AND DISCHARGE

Article 317

(ex Article 274 TEC)

The Commission shall implement the budget in cooperation with the Member States, in accordance with the provisions of the regulations made pursuant to Article 322, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management.

The regulations shall lay down the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities. They shall also lay down the responsibilities and detailed rules for each institution concerning its part in effecting its own expenditure.

Within the budget, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 322, transfer appropriations from one chapter to another or from one subdivision to another.

Article 318

(ex Article 275 TEC)

The Commission shall submit annually to the European Parliament and to the Council the accounts of the preceding financial year relating to the implementation of the budget. The Commission shall also forward to them a financial statement of the assets and liabilities of the Union.

The Commission shall also submit to the European Parliament and to the Council an evaluation report on the Union's finances based on the results achieved, in particular in relation to the indications given by the European Parliament and the Council pursuant to Article 319.

Article 319

(ex Article 276 TEC)

1. The European Parliament, acting on a recommendation from the Council, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts, the financial statement and the evaluation report referred to in Article 318, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors, the statement of assurance referred to in Article 287(1), second subparagraph and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.

3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors.

CHAPTER 5

COMMON PROVISIONS

Article 320

(ex Article 277 TEC)

The multiannual financial framework and the annual budget shall be drawn up in euro.

Article 321

(ex Article 278 TEC)

The Commission may, provided it notifies the competent authorities of the Member States concerned, transfer into the currency of one of the Member States its holdings in the currency of another Member State, to the extent necessary to enable them to be used for purposes which come within the scope of the Treaties. The Commission shall as far as possible avoid making such transfers if it possesses cash or liquid assets in the currencies which it needs.

The Commission shall deal with each Member State through the authority designated by the State concerned. In carrying out financial operations the Commission shall employ the services of the bank of issue of the Member State concerned or of any other financial institution approved by that State.

Article 322

(ex Article 279 TEC)

1. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Court of Auditors, shall adopt by means of regulations:

(a) the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;

(b) rules providing for checks on the responsibility of financial actors, in particular authorising officers and accounting officers.

2. The Council, acting on a proposal from the Commission and after consulting the European Parliament and the Court of Auditors, shall determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Union's own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements.

Article 323

The European Parliament, the Council and the Commission shall ensure that the financial means are made available to allow the Union to fulfil its legal obligations in respect of third parties.

Article 324

Regular meetings between the Presidents of the European Parliament, the Council and the Commission shall be convened, on the initiative of the Commission, under the budgetary procedures referred to in this Title. The Presidents shall take all the necessary steps to promote consultation and the reconciliation of the positions of the institutions over which they preside in order to facilitate the implementation of this Title.

CHAPTER 6

COMBATTING FRAUD

Article 325

(ex Article 280 TEC)

1. The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union through measures to be taken in accordance with this Article, which shall act as a deterrent and be such as to afford effective protection in the Member States, and in all the Union's institutions, bodies, offices and agencies.

2. Member States shall take the same measures to counter fraud affecting the financial interests of the Union as they take to counter fraud affecting their own financial interests.

3. Without prejudice to other provisions of the Treaties, the Member States shall coordinate their action aimed at protecting the financial interests of the Union against fraud. To this end they shall organise, together with the Commission, close and regular cooperation between the competent authorities.

4. The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, after consulting the Court of Auditors, shall adopt the necessary measures in the fields of the prevention of and fight against fraud affecting the financial interests of the Union with a view to affording effective and equivalent protection in the Member States and in all the Union's institutions, bodies, offices and agencies.

5. The Commission, in cooperation with Member States, shall each year submit to the European Parliament and to the Council a report on the measures taken for the implementation of this Article.

TITLE III

ENHANCED COOPERATION

Article 326

(ex Articles 27*a* to 27*e*, 40 to 40*b* and 43 to 45 TEU and ex Articles 11 and 11*a* TEC)

Any enhanced cooperation shall comply with the Treaties and Union law.

Such cooperation shall not undermine the internal market or economic, social and territorial cohesion. It shall not constitute a barrier to or discrimination in trade between Member States, nor shall it distort competition between them.

Article 327

(ex Articles 27*a* to 27*e*, 40 to 40*b* and 43 to 45 TEU and ex Articles 11 and 11*a* TEC)

Any enhanced cooperation shall respect the competences, rights and obligations of those Member States which do not participate in it. Those Member States shall not impede its implementation by the participating Member States.

Article 328

(ex Articles 27*a* to 27*e*, 40 to 40*b* and 43 to 45 TEU and ex Articles 11 and 11*a* TEC)

1. When enhanced cooperation is being established, it shall be open to all Member States, subject to compliance with any conditions of participation laid down by the authorising decision. It shall also be open to them at any other time, subject to compliance with the acts already adopted within that framework, in addition to those conditions.

The Commission and the Member States participating in enhanced cooperation shall ensure that they promote participation by as many Member States as possible.

2. The Commission and, where appropriate, the High Representative of the Union for Foreign Affairs and Security Policy shall keep the European Parliament and the Council regularly informed regarding developments in enhanced cooperation.

Article 329

(ex Articles 27*a* to 27*e*, 40 to 40*b* and 43 to 45 TEU and ex Articles 11 and 11*a* TEC)

1. Member States which wish to establish enhanced cooperation between themselves in one of the areas covered by the Treaties, with the exception of fields of exclusive competence and the common foreign and security policy, shall address a request to the Commission, specifying the scope and objectives of the enhanced cooperation proposed. The Commission may submit a proposal to the Council to that effect. In the event of the Commission not submitting a proposal, it shall inform the Member States concerned of the reasons for not doing so.

Authorisation to proceed with the enhanced cooperation referred to in the first subparagraph shall be granted by the Council, on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. The request of the Member States which wish to establish enhanced cooperation between themselves within the framework of the common foreign and security policy shall be addressed to the Council. It shall be forwarded to the High Representative of the Union for Foreign Affairs and Security Policy, who shall give an opinion on whether the enhanced cooperation proposed is consistent with the Union's common foreign and security policy, and to the Commission, which shall give its opinion in particular on whether the enhanced cooperation proposed is consistent with other Union policies. It shall also be forwarded to the European Parliament for information.

Authorisation to proceed with enhanced cooperation shall be granted by a decision of the Council acting unanimously.

Article 330

(ex Articles 27*a* to 27*e*, 40 to 40*b* and 43 to 45 TEU and ex Articles 11 and 11*a* TEC)

All members of the Council may participate in its deliberations, but only members of the Council representing the Member States participating in enhanced cooperation shall take part in the vote.

Unanimity shall be constituted by the votes of the representatives of the participating Member States only.

A qualified majority shall be defined in accordance with Article 238(3).

Article 331

(ex Articles 27*a* to 27*e*, 40 to 40*b* and 43 to 45 TEU and ex Articles 11 and 11*a* TEC)

1. Any Member State which wishes to participate in enhanced cooperation in progress in one of the areas referred to in Article 329(1) shall notify its intention to the Council and the Commission.

The Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. It shall note where necessary that the conditions of participation have been fulfilled and shall adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation.

However, if the Commission considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request. On the expiry of that deadline, it shall re-examine the request, in accordance with the procedure set out in the second subparagraph. If the Commission considers that the conditions of participation have still not been met, the Member State concerned may refer the matter to the Council, which shall decide on the request. The Council shall act in accordance with Article 330. It may also adopt the transitional measures referred to in the second subparagraph on a proposal from the Commission.

2. Any Member State which wishes to participate in enhanced cooperation in progress in the framework of the common foreign and security policy shall notify its intention to the Council, the High Representative of the Union for Foreign Affairs and Security Policy and the Commission.

The Council shall confirm the participation of the Member State concerned, after consulting the High Representative of the Union for Foreign Affairs and Security Policy and after noting, where necessary, that the conditions of participation have been fulfilled. The Council, on a proposal from the High Representative, may also adopt any transitional measures necessary with regard to the application of the acts already adopted within the framework of enhanced cooperation. However, if the Council considers that the conditions of participation have not been fulfilled, it shall indicate the arrangements to be adopted to fulfil those conditions and shall set a deadline for re-examining the request for participation.

For the purposes of this paragraph, the Council shall act unanimously and in accordance with Article 330.

Article 332

(ex Articles 27*a* to 27*e*, 40 to 40*b* and 43 to 45 TEU and ex Articles 11 and 11*a* TEC)

Expenditure resulting from implementation of enhanced cooperation, other than administrative costs entailed for the institutions, shall be borne by the participating Member States, unless all members of the Council, acting unanimously after consulting the European Parliament, decide otherwise.

Article 333

(ex Articles 27*a* to 27*e*, 40 to 40*b* and 43 to 45 TEU and ex Articles 11 and 11*a* TEC)

1. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall act unanimously, the Council, acting unanimously in accordance with the arrangements laid down in Article 330, may adopt a decision stipulating that it will act by a qualified majority.

2. Where a provision of the Treaties which may be applied in the context of enhanced cooperation stipulates that the Council shall adopt acts under a special legislative procedure, the Council, acting unanimously in accordance with the arrangements laid down in Article 330, may adopt a decision stipulating that it will act under the ordinary legislative procedure. The Council shall act after consulting the European Parliament.

3. Paragraphs 1 and 2 shall not apply to decisions having military or defence implications.

Article 334

(ex Articles 27*a* to 27*e*, 40 to 40*b* and 43 to 45 TEU and ex Articles 11 and 11*a* TEC)

The Council and the Commission shall ensure the consistency of activities undertaken in the context of enhanced cooperation and the consistency of such activities with the policies of the Union, and shall cooperate to that end.

PART SEVEN

GENERAL AND FINAL PROVISIONS

Article 335

(ex Article 282 TEC)

In each of the Member States, the Union shall enjoy the most extensive legal capacity accorded to legal persons under their laws; it may, in particular, acquire or dispose of movable and immovable property and may be a party to legal proceedings. To this end, the Union shall be represented by the Commission. However, the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation.

Article 336

(ex Article 283 TEC)

The European Parliament and the Council shall, acting by means of regulations in accordance with the ordinary legislative procedure and after consulting the other institutions concerned, lay down the Staff Regulations of Officials of the European Union and the Conditions of Employment of other servants of the Union.

Article 337

(ex Article 284 TEC)

The Commission may, within the limits and under conditions laid down by the Council acting by a simple majority in accordance with the provisions of the Treaties, collect any information and carry out any checks required for the performance of the tasks entrusted to it.

Article 338

(ex Article 285 TEC)

1. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures for the production of statistics where necessary for the performance of the activities of the Union.

2. The production of Union statistics shall conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality; it shall not entail excessive burdens on economic operators.

Article 339

(ex Article 287 TEC)

The members of the institutions of the Union, the members of committees, and the officials and other servants of the Union shall be required, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy, in particular information about undertakings, their business relations or their cost components.

Article 340

(ex Article 288 TEC)

The contractual liability of the Union shall be governed by the law applicable to the contract in question.

In the case of non-contractual liability, the Union shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by its institutions or by its servants in the performance of their duties.

Notwithstanding the second paragraph, the European Central Bank shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or by its servants in the performance of their duties.

The personal liability of its servants towards the Union shall be governed by the provisions laid down in their Staff Regulations or in the Conditions of Employment applicable to them.

Article 341

(ex Article 289 TEC)

The seat of the institutions of the Union shall be determined by common accord of the governments of the Member States.

Article 342

(ex Article 290 TEC)

The rules governing the languages of the institutions of the Union shall, without prejudice to the provisions contained in the Statute of the Court of Justice of the European Union, be determined by the Council, acting unanimously by means of regulations.

Article 343

(ex Article 291 TEC)

The Union shall enjoy in the territories of the Member States such privileges and immunities as are necessary for the performance of its tasks, under the conditions laid down in the Protocol of 8 April 1965 on the privileges and immunities of the European Union. The same shall apply to the European Central Bank and the European Investment Bank.

Article 344

(ex Article 292 TEC)

Member States undertake not to submit a dispute concerning the interpretation or application of the Treaties to any method of settlement other than those provided for therein.

Article 345

(ex Article 295 TEC)

The Treaties shall in no way prejudice the rules in Member States governing the system of property ownership.

Article 346

(ex Article 296 TEC)

1. The provisions of the Treaties shall not preclude the application of the following rules:

(a) no Member State shall be obliged to supply information the disclosure of which it considers contrary to the essential interests of its security;

(b) any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the internal market regarding products which are not intended for specifically military purposes.

2. The Council may, acting unanimously on a proposal from the Commission, make changes to the list, which it drew up on 15 April 1958, of the products to which the provisions of paragraph 1(b) apply.

Article 347

(ex Article 297 TEC)

Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the internal market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

Article 348

(ex Article 298 TEC)

If measures taken in the circumstances referred to in Articles 346 and 347 have the effect of distorting the conditions of competition in the internal market, the Commission shall, together with the State concerned, examine how these measures can be adjusted to the rules laid down in the Treaties.

By way of derogation from the procedure laid down in Articles 258 and 259, the Commission or any Member State may bring the matter directly before the Court of Justice if it considers that another Member State is making improper use of the powers provided for in Articles 346 and 347. The Court of Justice shall give its ruling in camera.

Article 349

(ex Article 299(2), second, third and fourth subparagraphs, TEC)

Taking account of the structural social and economic situation of Guadeloupe, French Guiana, Martinique, Réunion, Saint-Barthélemy, Saint-Martin, the Azores, Madeira and the Canary Islands, which is compounded by their remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development, the Council, on a proposal from the Commission and after consulting the European Parliament, shall adopt specific measures aimed, in particular, at laying down the conditions of application of the Treaties to those regions, including common policies. Where the specific measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act on a proposal from the Commission and after consulting the European Parliament.

The measures referred to in the first paragraph concern in particular areas such as customs and trade policies, fiscal policy, free zones, agriculture and fisheries policies, conditions for supply of raw materials and essential consumer goods, State aids and conditions of access to structural funds and to horizontal Union programmes.

The Council shall adopt the measures referred to in the first paragraph taking into account the special characteristics and constraints of the outermost regions without undermining the integrity and the coherence of the Union legal order, including the internal market and common policies.

Article 350

(ex Article 306 TEC)

The provisions of the Treaties shall not preclude the existence or completion of regional unions between Belgium and Luxembourg, or between Belgium, Luxembourg and the Netherlands, to the extent that the objectives of these regional unions are not attained by application of the Treaties.

Article 351

(ex Article 307 TEC)

The rights and obligations arising from agreements concluded before 1 January 1958 or, for acceding States, before the date of their accession, between one or more Member States on the one hand, and one or more third countries on the other, shall not be affected by the provisions of the Treaties.

To the extent that such agreements are not compatible with the Treaties, the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established. Member States shall, where necessary, assist each other to this end and shall, where appropriate, adopt a common attitude.

In applying the agreements referred to in the first paragraph, Member States shall take into account the fact that the advantages accorded under the Treaties by each Member State form an integral part of the establishment of the Union and are thereby inseparably linked with the creation of common institutions, the conferring of powers upon them and the granting of the same advantages by all the other Member States.

Article 352

(ex Article 308 TEC)

1. If action by the Union should prove necessary, within the framework of the policies defined in the Treaties, to attain one of the objectives set out in the Treaties, and the Treaties have not provided the necessary powers, the Council, acting unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament, shall adopt the appropriate measures. Where the measures in question are adopted by the Council in accordance with a special legislative procedure, it shall also act unanimously on a proposal from the Commission and after obtaining the consent of the European Parliament.

2. Using the procedure for monitoring the subsidiarity principle referred to in Article 5(3) of the Treaty on European Union, the Commission shall draw national Parliaments' attention to proposals based on this Article.

3. Measures based on this Article shall not entail harmonisation of Member States' laws or regulations in cases where the Treaties exclude such harmonisation.

4. This Article cannot serve as a basis for attaining objectives pertaining to the common foreign and security policy and any acts adopted pursuant to this Article shall respect the limits set out in Article 40, second paragraph, of the Treaty on European Union.

Article 353

Article 48(7) of the Treaty on European Union shall not apply to the following Articles:

— Article 311, third and fourth paragraphs,

— Article 312(2), first subparagraph,

— Article 352, and

— Article 354.

Article 354

(ex Article 309 TEC)

For the purposes of Article 7 of the Treaty on European Union on the suspension of certain rights resulting from Union membership, the member of the European Council or of the Council representing the Member State in question shall not take part in the vote and the Member State in question shall not be counted in the calculation of the one third or four fifths of Member States referred to in paragraphs 1 and 2 of that Article. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 2 of that Article.

For the adoption of the decisions referred to in paragraphs 3 and 4 of Article 7 of the Treaty on European Union, a qualified majority shall be defined in accordance with Article 238(3)(b) of this Treaty.

Where, following a decision to suspend voting rights adopted pursuant to paragraph 3 of Article 7 of the Treaty on European Union, the Council acts by a qualified majority on the basis of a provision of the Treaties, that qualified majority shall be defined in accordance with Article 238(3)(b) of this Treaty, or, where the Council acts on a proposal from the Commission or from the High Representative of the Union for Foreign Affairs and Security Policy, in accordance with Article 238(3)(a).

For the purposes of Article 7 of the Treaty on European Union, the European Parliament shall act by a two-thirds majority of the votes cast, representing the majority of its component Members.

Article 355

(ex Article 299(2), first subparagraph, and Article 299(3) to (6) TEC)

In addition to the provisions of Article 52 of the Treaty on European Union relating to the territorial scope of the Treaties, the following provisions shall apply:

1. The provisions of the Treaties shall apply to Guadeloupe, French Guiana, Martinique, Réunion, Saint-Barthélemy, Saint-Martin, the Azores, Madeira and the Canary Islands in accordance with Article 349.

2. The special arrangements for association set out in Part Four shall apply to the overseas countries and territories listed in Annex II.

The Treaties shall not apply to those overseas countries and territories having special relations with the United Kingdom of Great Britain and Northern Ireland which are not included in the aforementioned list.

3. The provisions of the Treaties shall apply to the European territories for whose external relations a Member State is responsible.

4. The provisions of the Treaties shall apply to the Åland Islands in accordance with the provisions set out in Protocol 2 to the Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden.

5. Notwithstanding Article 52 of the Treaty on European Union and paragraphs 1 to 4 of this Article:

(a) the Treaties shall not apply to the Faeroe Islands;

(b) the Treaties shall not apply to the United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus except to the extent necessary to ensure the implementation of the arrangements set out in the Protocol on the Sovereign Base Areas of the United Kingdom of Great Britain and Northern Ireland in Cyprus annexed to the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union and in accordance with the terms of that Protocol;

(c) the Treaties shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972.

6. The European Council may, on the initiative of the Member State concerned, adopt a decision amending the status, with regard to the Union, of a Danish, French or Netherlands country or territory referred to in paragraphs 1 and 2. The European Council shall act unanimously after consulting the Commission.

Article 356

(ex Article 312 TEC)

This Treaty is concluded for an unlimited period.

Article 357

(ex Article 313 TEC)

This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. The Instruments of ratification shall be deposited with the Government of the Italian Republic.

This Treaty shall enter into force on the first day of the month following the deposit of the Instrument of ratification by the last signatory State to take this step. If, however, such deposit is made less than 15 days before the beginning of the following month, this Treaty shall not enter into force until the first day of the second month after the date of such deposit.

Article 358

The provisions of Article 55 of the Treaty on European Union shall apply to this Treaty.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed this Treaty.

Done at Rome this twenty-fifth day of March in the year one thousand nine hundred and fifty-seven.

(List of signatories not reproduced)

Annex 154

Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic, 15 May 2013, US Treaty Series No. 16-325

POLLUTION

Marine Oil in the Arctic

Agreement Between the
UNITED STATES OF AMERICA
and OTHER GOVERNMENTS

Signed at Kiruna May 15, 2013

NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)—

". . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof."

MULTILATERAL

Pollution: Marine Oil in the Arctic

Agreement signed at Kiruna May 15, 2013;
Entered into force March 25, 2016.

AGREEMENT

on Cooperation on Marine Oil Pollution

Preparedness and Response in the Arctic

The Government of Canada, the Government of the Kingdom of Denmark, the Government of the Republic of Finland, the Government of Iceland, the Government of the Kingdom of Norway, the Government of the Russian Federation, the Government of the Kingdom of Sweden, and the Government of the United States of America, hereinafter referred to as "the Parties",

Taking into account the relevant provisions of the 1982 United Nations Convention on the Law of the Sea,

Being Parties to the 1990 International Convention on Oil Pollution Preparedness, Response and Co-operation,

Taking also into account the 1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties,

Taking further into account the "polluter pays" principle as a general principle to be applied,

Recalling the 1996 Ottawa Declaration on the Establishment of the Arctic Council,

Highlighting that in the 2011 Nuuk Declaration on the occasion of the Seventh Ministerial Meeting of the Arctic Council, ministers representing the eight Arctic States decided to establish a Task Force to develop an international instrument on Arctic marine oil pollution preparedness and response,

Acknowledging the role of the International Maritime Organization, in particular in the development and adoption of additional rules and standards to address risks specific for operations in the Arctic environment,

Conscious of the threat from marine oil pollution to the vulnerable Arctic marine environment and to the livelihoods of local and indigenous communities,

Mindful that in the event of an oil pollution incident, prompt and effective action and cooperation among the Parties is essential in order to minimize damage that may result from such an incident,

Recognizing the challenges posed by harsh and remote Arctic conditions on oil pollution preparedness and response operations,

Mindful also of the increase in maritime traffic and other human activities in the Arctic region, including activity of Arctic residents and of people coming to the Arctic,

Mindful further that indigenous peoples, local communities, local and regional governments, and individual Arctic residents can provide valuable resources and knowledge regarding the Arctic marine environment in support of oil pollution preparedness and response,

Recognizing also the expertise and roles of various stakeholders relating to oil pollution preparedness and response,

Aware of the Parties' obligation to protect the Arctic marine environment and *mindful* of the importance of precautionary measures to avoid oil pollution in the first instance,

Recognizing further the importance of the Arctic marine ecosystem and of cooperation to promote and encourage the conservation and sustainable use of the marine and coastal environment and its natural resources,

Emphasizing the importance of exchanging information, data and experience in the field of marine oil pollution preparedness and response, especially regarding the Arctic environment, and on the effects of pollution on the environment, and of regularly conducting joint training and exercises, as well as joint research and development,

Have agreed as follows:

Article 1

Objective of this Agreement

The objective of this Agreement is to strengthen cooperation, coordination and mutual assistance among the Parties on oil pollution preparedness and response in the Arctic in order to protect the marine environment from pollution by oil.

Article 2

Terms and Definitions

For the purposes of this Agreement:

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.

Article 3

Scope of Application of this Agreement

1. This Agreement shall apply with respect to oil pollution incidents that occur in or may pose a threat to any marine area over which a State whose government is a Party to this Agreement exercises sovereignty, sovereign rights or jurisdiction, including its internal waters, territorial sea, exclusive economic zone and continental shelf, consistent with international law and above a southern limit as follows:

   Canada – marine areas above 60 degrees North;

   The Kingdom of Denmark, including Greenland and the Faroes – marine areas above the southern limit of the Greenland exclusive economic zone and the Faroese fisheries zone;

   Finland – marine areas above 63 degrees 30 minutes North;

   Iceland – marine areas above the southern limit of the exclusive economic zone of Iceland;

   Norway – marine areas above the Arctic Circle;

   The Russian Federation – marine areas above the coastlines of the White Sea, the Barents Sea, the Kara Sea, the Laptev Sea, the East Siberian Sea and the Chukchi Sea, and the mouths of the rivers flowing into these seas seaward of the baselines from which the breadth of the territorial sea is measured;

   Sweden – marine areas above 63 degrees 30 minutes North; and

   The United States of America – Marine areas seaward of the coastal baseline from the border between the United States and Canada at the Beaufort Sea along the north side of the mainland of Alaska to the Aleutian Islands, above 24 nautical miles south of the Aleutian Islands, and, in the Bering Sea, east of the limits of the exclusive economic zone of the United States.

2. Each Party shall also apply Articles 6, 7, 8, 10, and 15 and other provisions of this Agreement as appropriate to areas beyond the jurisdiction of any State, above the southern limit set forth in paragraph 1 of this Article, to the extent consistent with international law.

3. This Agreement 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 Agreement.

Article 4

Systems for Oil Pollution Preparedness and Response

1. Each Party shall maintain a national system for responding promptly and effectively to oil pollution incidents. This system shall take into account particular activities and locales most likely to give rise to or suffer an oil pollution incident and anticipated risks to areas of special ecological significance, and shall include at a minimum a national contingency plan or plans for preparedness and response to oil pollution incidents. Such contingency plan or plans shall include the organizational relationship of the various bodies involved, whether public or private, taking into account guidelines developed pursuant to this Agreement and other relevant international agreements.

2. Each Party, as appropriate, in cooperation with other Parties and 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 programs for its use;

   b. a program of exercises for oil pollution response organizations and training of relevant personnel;

   c. plans and communications capabilities for responding to an oil pollution incident; and

   d. a mechanism or arrangement to coordinate the response to an oil pollution incident with, if appropriate, the capabilities to mobilize the necessary resources.

Article 5

Authorities and Contact Points

1. Each Party's national system for responding promptly and effectively to oil pollution incidents shall include as a minimum the designation of:

   a. the competent national authority or authorities with responsibility for oil pollution preparedness and response;

   b. the national 24-hour operational contact point or points, which shall be responsible for the receipt and transmission of oil pollution reports; and

   c. an authority or authorities entitled to act on behalf of the Party to request assistance or to decide to render the assistance requested.

2. The entities designated by each Party pursuant to paragraph 1 of this Article are specified in Appendices to this Agreement. Each Party shall promptly inform the other Parties in writing through its competent national authority or authorities and through diplomatic channels of any changes to those designations. The Appendices to this Agreement shall be modified accordingly.

Article 6

Notification

1. Whenever a Party receives information on oil pollution, or possible oil pollution, 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, including taking appropriate steps within available resources to identify possible sources; 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, including mitigation measures, 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 shall notify all the other Parties without unnecessary delay.

Article 7

Monitoring

1. Each Party shall endeavor to undertake appropriate monitoring activities in order to identify oil pollution incidents in areas under its jurisdiction and, to the extent feasible, in adjacent areas beyond the jurisdiction of any State.

2. In the event of an oil pollution incident, the Party or Parties affected shall, to the extent possible, monitor the incident to facilitate efficient and timely response operations and to minimize any adverse environmental impacts.

3. The Parties shall endeavor to cooperate in organizing and conducting monitoring, especially regarding transboundary oil pollution, *inter alia*, through conclusion of bilateral or multilateral agreements or arrangements.

Article 8

Requests for Assistance and Coordination and Cooperation in Response Operations

1. The Parties may request assistance from any other Party or Parties to respond to an oil pollution incident.

2. The Parties requesting assistance shall endeavor to specify the type and extent of assistance requested.

3. The Parties shall cooperate and provide assistance, which may include advisory services, technical support, equipment or personnel, for the purpose of responding to an oil pollution incident upon the request of any Party affected or likely to be affected.

Article 9

Movement and Removal of Resources across Borders

In accordance with applicable national and international law, each Party shall take the 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 an oil pollution incident;

b. the expeditious movement into, through, and out of its territory of personnel, cargoes, materials, response supplies and other equipment referred to in subparagraph (a).

Article 10

Reimbursement of Costs of Assistance

1. Unless an agreement concerning the financial arrangements governing actions of the Parties to deal with oil pollution incidents has been concluded on a bilateral or multilateral basis prior to an oil pollution incident, the Parties shall bear the costs of their respective actions in dealing with pollution in accordance with subparagraph (a) or subparagraph (b). The principles laid down in this paragraph apply unless the Parties concerned otherwise agree in any individual case.

a. 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.

b. If the action was taken by a Party on its own initiative, this Party shall bear the costs of its action.

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 assisting Party shall be prepared to provide upon request documentation and information to the requesting Party on the assisting Party's estimated costs for the assistance and on the assisting Party's actual costs following the provision of any assistance. The Party requesting assistance and the assisting Party shall, where appropriate, cooperate in concluding any action in response to a compensation claim.

4. The provisions of this Agreement 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 rules of national and international law. Special attention shall be paid to international instruments and national law on liability and compensation for oil pollution damage.

Article 11

Joint Review of Oil Pollution Incident Response Operations

After a joint response operation, the Parties shall make best efforts to conduct a joint review of the operation, led by the Party or Parties that coordinated the operation. Where appropriate, and subject to relevant national law, Parties involved in a joint review should document their findings and conclusions and make the results of such joint review publicly available.

Article 12

Cooperation and Exchange of Information

1. The Parties shall promote cooperation and exchange of information that may serve to improve the effectiveness of oil pollution preparedness and response operations. Such cooperation and information exchange may include, *inter alia*, the topics identified in the Appendices to this Agreement.

2. Each Party, subject to its national law and international law, should endeavor to make information provided to other Parties under paragraph 1 of this Article publicly available.

Article 13

Joint Exercises and Training

1. The Parties shall promote cooperation and coordination by endeavoring to carry out joint exercises and training, including alerting or call-out exercises, table-top exercises, equipment deployment exercises, and other relevant activities.

2. Joint exercises and training should be designed to incorporate lessons learned.

3. Where appropriate, the Parties should include stakeholders in the planning and execution of joint exercises and training.

4. When conducting joint exercises and training, the Parties should apply the relevant provisions of this Agreement to the extent possible.

Article 14

Meetings of the Parties

1. The Parties shall meet no later than one year after the entry into force of this Agreement, as convened by the depositary, and from then on as decided by the Parties. At these meetings, the Parties shall review issues related to the implementation of this Agreement, adopt Appendices to this Agreement or modifications to the Appendices as provided in Article 20 of this Agreement, as appropriate, and consider any other issues as decided by the Parties. Parties may elect to convene such meetings in conjunction with meetings of the Arctic Council.

2. On a regular basis the Parties through their competent national authorities shall discuss and review operational issues related to the implementation of this Agreement, in cooperation, as appropriate, with relevant bodies including but not limited to the Arctic Council. Operational issues include, but are not limited to, cooperation and exchange of available information.

Article 15

Resources

1. Except as otherwise provided in Article 10 of this Agreement or otherwise agreed, each Party shall bear its own costs deriving from its implementation of this Agreement.

2. Implementation of this Agreement, except for Article 10, shall be subject to the capabilities of the Parties and the availability of relevant resources.

Article 16

Relationship with Other International Agreements

Nothing in this Agreement shall be construed as altering the rights or obligations of any Party under other relevant international agreements or customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea.

Article 17

Non-Parties

Any Party may, where appropriate, seek cooperation with States not party to this Agreement that may be able to contribute to activities envisaged in this Agreement, consistent with international law.

Article 18

Settlement of Disputes

The Parties shall resolve any disputes concerning the application or interpretation of this Agreement through direct consultations.

Article 19

Amendments to this Agreement

1. This Agreement may be amended by written agreement of all the Parties.
2. An amendment shall enter into force 120 days after the date on which the depositary has received the last written notification through diplomatic channels that the Parties have completed the internal procedures required for its entry into force.

Article 20

Appendices

1. The Appendices to this Agreement do not constitute an integral part of this Agreement and are not legally binding.
2. At meetings of the Parties referred to in Article 14 of this Agreement, the Parties may adopt additional Appendices or modifications to existing Appendices, except for those Appendices referred to in Article 5 of this Agreement, which may be modified as provided therein.

Article 21

Operational Guidelines

1. The Parties shall develop and maintain a set of Operational Guidelines to assist in the implementation of this Agreement. The Operational Guidelines will be included among the Appendices to this Agreement and be modified as appropriate.

2. The Operational Guidelines shall address, *inter alia*, the following topics:

   a. a system and formats for notification, requests for assistance, and other related information;

   b. provision of assistance, as well as coordination and cooperation in response operations involving more than one Party, including in areas beyond the jurisdiction of any State;

   c. movement and removal of resources across borders;

   d. procedures for conducting joint reviews of oil pollution incident response operations;

   e. procedures for conducting joint exercises and training; and

   f. reimbursement of costs of assistance.

3. In developing and modifying the Operational Guidelines, the Parties shall seek input from relevant stakeholders as appropriate.

Article 22

Provisional application, Entry into Force and Withdrawal

1. This Agreement may be applied provisionally by any signatory that provides a written statement to the depositary of its intention to do so. Any such signatory shall apply this Agreement provisionally from the date of its statement or from such other date as indicated in its statement.

2. This Agreement shall enter into force 30 days after the date of receipt by the depositary of the last written notification through diplomatic channels that the Parties have completed the internal procedures required for its entry into force.

3. Any Party may at any time withdraw from this Agreement by sending written notification thereof to the depositary through diplomatic channels at least six months in advance, specifying the effective date of its withdrawal. Withdrawal from this Agreement shall not affect its application among the remaining Parties.

4. Withdrawal from this Agreement by a Party shall not affect the obligations of that Party with regard to activities undertaken under this Agreement where those obligations have arisen prior to the effective date of withdrawal.

Article 23

Depositary

The Government of Norway shall be the depositary for this Agreement.

DONE at Kiruna this 15th day of May, 2013, in the English, French and Russian languages, all texts being equally authentic. The working language of this Agreement shall be English, the language in which this Agreement was negotiated.

NOTE: English language text will be printed in this publication.

For the Government of Canada

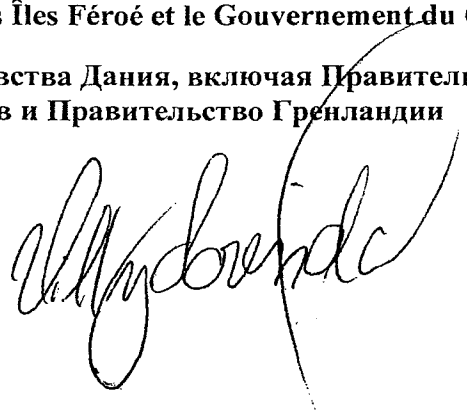
Pour le Gouvernement du Canada

За Правительство Канады

For the Government of the Kingdom of Denmark, including the Government of the Faroe Islands and the Government of Greenland

Pour le Gouvernment du Royaume de Danemark, y compris le Gouvernement des Îles Féroé et le Gouvernement du Groenland

За Правительство Королевства Дания, включая Правительство Фарерских островов и Правительство Гренландии



For the Government of the Faroe Islands

Pour le Gouvernment des Îles Féroé

За Правительство Фарерских островов

For the Government of Greenland

Pour le Gouvernment du Groenland

За Правительство Гренландии

For the Government of the Republic of Finland

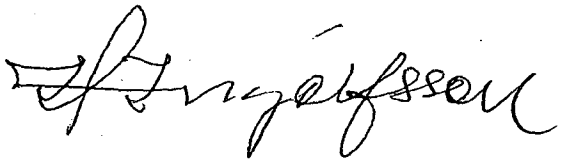
Pour le Gouvernement de la République de Finlande

За Правительство Финляндской Республики

For the Government of Iceland

Pour le Gouvernement de l'Islande

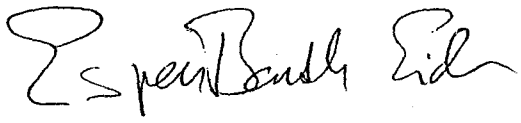
За Правительство Исландии



For the Government of the Kingdom of Norway

Pour le Gouvernement du Royaume de Norvège

За Правительство Королевства Норвегии



For the Government of the Russian Federation

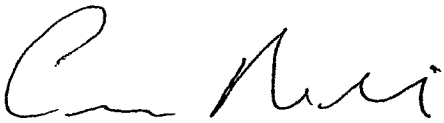
Pour le Gouvernement de la Fédération de Russie

За Правительство Российской Федерации

For the Government of the Kingdom of Sweden

Pour le Gouvernement du Royaume de Suède

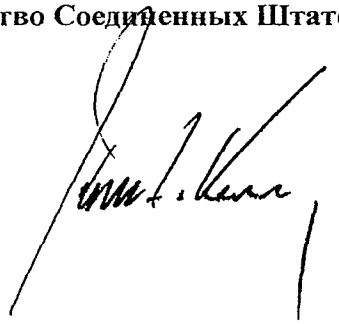
За Правительство Королевства Швеции



For the Government of the United States of America

Pour le Gouvernement des États-Unis d'Amérique

За Правительство Соединенных Штатов Америки



Annex 155

Inter-American Convention on Protecting the Human Rights of Older Persons, 5 June 2015, 3175 UNTS 1

No. 54318*

Multilateral

Inter-American Convention on protecting the human rights of older persons. Washington, 5 June 2015

Entry into force: *11 January 2017, in accordance with article 37*

Authentic texts: *English, French, Portuguese and Spanish*

Registration with the Secretariat of the United Nations: *Organization of American States, 27 February 2017*

Note: *See also annex A, No. 54318.*

*No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.

Multilatéral

Convention interaméricaine sur la protection des droits fondamentaux des personnes âgées. Washington, 5 juin 2015

Entrée en vigueur : *11 janvier 2017, conformément à l'article 37*

Textes authentiques : *anglais, français, portugais et espagnol*

Enregistrement auprès du Secrétariat des Nations Unies : *Organisation des États américains, 27 février 2017*

Note : *Voir aussi annexe A, No. 54318.*

*Aucun numéro de volume n'a encore été attribué à ce dossier. Les textes disponibles qui sont reproduits ci-dessous sont les textes originaux de l'accord ou de l'action tels que soumis pour enregistrement. Par souci de clarté, leurs pages ont été numérotées. Les traductions qui accompagnent ces textes ne sont pas définitives et sont fournies uniquement à titre d'information.

Participant	**Ratification**
Costa Rica	12 Dec 2016
Uruguay	18 Nov 2016

Note: The texts of the declarations and reservations are published after the list of Parties -- Les textes des déclarations et réserves sont reproduits après la liste des Parties.

Participant	**Ratification**
Costa Rica	12 déc 2016
Uruguay	18 nov 2016

[ENGLISH TEXT – TEXTE ANGLAIS]

INTER-AMERICAN CONVENTION ON PROTECTING THE HUMAN RIGHTS OF OLDER PERSONS

INTER-AMERICAN CONVENTION ON PROTECTING THE HUMAN RIGHTS OF OLDER PERSONS

PREAMBLE

The States Parties to the present Convention,

Recognizing that unqualified respect for human rights has been enshrined in the American Declaration of the Rights and Duties of Man and in the Universal Declaration of Human Rights and reaffirmed in other international and regional instruments;

Reiterating the intention of consolidating, within the framework of democratic institutions, a system of individual liberty and social justice founded upon respect for the fundamental rights of persons;

Bearing in mind that, pursuant to the Universal Declaration of Human Rights and the American Convention on Human Rights, the ideal of a free human being, free from fear and poverty can only be achieved if conditions are created that enable each individual to enjoy their economic, social, and cultural rights, as well as their civil and political rights;

Reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent, and interrelated, as well as the obligation to eliminate all forms of discrimination, in particular, discrimination for reasons of age;

Underscoring that older persons have the same human rights and fundamental freedoms as other persons and that those rights, including the right not to be subjected to age-based discrimination nor any form of violence, are rooted in the dignity and equality inherent in all human beings;

Recognizing also that, as a person ages, they should continue to enjoy a full, independent, and autonomous life, health, safety, integration, and active participation in the economic, social, cultural and political spheres of their society;

Recognizing the need to address matters of old age and ageing from a human-rights perspective that recognizes the valuable current and potential contributions of older persons to the common good, to cultural identity, to the diversity of their communities, to human, social, and economic development, and to the eradication of poverty;

Recalling what has been established in the United Nations Principles for Older Persons (1991), the Proclamation on Ageing (1992), and the Political Declaration and Madrid International Plan of Action on Ageing (2002), as well as in such regional instruments as the Regional Strategy for the Implementation in Latin America and the Caribbean of the Madrid International Plan of Action on Ageing (2003), the Brasilia Declaration (2007), the Plan of Action on the Health of Older Persons, including Active and Healthy Aging (2009) of the Pan American Health Organization, the Declaration of Commitment of Port of Spain (2009), and the San José Charter on the Rights of Older Persons in Latin America and the Caribbean (2012);

Determined to incorporate and prioritize the subject of ageing in public policy, and to raise and allocate the human, material, and financial resources needed to achieve appropriate implementation and evaluation of the special measures undertaken;

Reaffirming the value of solidarity and complementarity in international and regional cooperation to promote the human rights and fundamental freedoms of older persons;

Actively supporting the incorporation of a gender perspective into all policies and programs designed to ensure the effective exercise of the rights of older persons and underscoring the need to eliminate all forms of discrimination;

Convinced of the importance of facilitating the formulation and enforcement of laws and programs to prevent abuse, abandonment, negligence, and mistreatment of and violence against older persons, and of the need to have national mechanisms that protect their human rights and fundamental freedoms;

Convinced also that the adoption of a broad, comprehensive convention will contribute significantly to protecting, promoting, and ensuring the full enjoyment and exercise of the rights of older persons and to fostering an active ageing process in all regards;

Have agreed to sign the following Inter-American Convention on Protecting the Human Rights of Older Persons (hereinafter, the "Convention").

CHAPTER I
PURPOSE, SCOPE, AND DEFINITIONS

Article 1
Purpose and scope

The purpose of this Convention is to promote, protect and ensure the recognition and the full enjoyment and exercise, on an equal basis, of all human rights and fundamental freedoms of older persons, in order to contribute to their full inclusion, integration, and participation in society.

Nothing in this Convention shall be interpreted as placing limits on broader or additional rights or benefits recognized to older persons in international law or the domestic laws of States Parties.

Where the exercise of any of the rights or freedoms referred to in this Convention is not already ensured by legislative or other provisions, States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative and other measures as may be necessary to give effect to those rights or freedoms.

The States Parties may only establish restrictions or limitations on the enjoyment and exercise of the rights established in this Convention by means of laws promulgated for the purpose of preserving the general welfare in a democratic society and only to the extent that they are not incompatible with the purposes and reasons underlying those rights.

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

Article 2
Definitions

For the purposes of this Convention the following definitions shall apply:

"Abandonment": Lack of action, deliberate or not, to comprehensively care for an older person's needs, which may jeopardize their life or physical, psychological, or moral integrity.

"Palliative care": Active, comprehensive, and interdisciplinary care and treatment of patients whose illness is not responding to curative treatment or who are suffering avoidable pain, in order to improve their quality of life until the last day of their lives. Central to palliative care is control of pain, of other symptoms, and of the social, psychological, and spiritual problems of the older person. It includes the patient, their environment, and their family. It affirms life and considers death a normal process, neither hastening nor delaying it.

"Discrimination": Any distinction, exclusion, or restriction with the purpose or effect of hindering, annulling, or restricting the recognition, enjoyment, or exercise, on an equal basis, of human rights and fundamental freedoms in the political, cultural, economic, social, or any other sphere of public and private life.

"Multiple discrimination": Any distinction, exclusion, or restriction toward an older person, based on two or more discrimination factors.

"Age discrimination in old age": Any distinction, exclusion, or restriction based on age, the purpose or effect of which is to annul or restrict recognition, enjoyment, or exercise, on an equal basis, of human rights and fundamental freedoms in the political, cultural, economic, social, or any other sphere of public and private life.

"Ageing": A gradual process that develops over the course of life and entails biological, physiological, psychosocial, and functional changes with varying consequences, which are

associated with permanent and dynamic interactions between the individual and their environment.

"Active and healthy ageing": The process of optimizing opportunities for physical, mental, and social well-being, participation in social, economic, cultural, spiritual, and civic affairs, and protection, security, and care in order to extend healthy life expectancy and quality of life for all people as they age, as well as to allow them to remain active contributors to their families, peers, communities, and nations. It applies both to individuals and to population groups.

"Abuse": A single or repeated act or omission to the detriment of an older person that harms their physical, mental, or moral integrity and infringes the enjoyment or exercise of their human rights and fundamental freedoms, regardless of whether or not it occurs in a relationship of trust.

"Negligence": Involuntary error or unintentional fault, including, *inter alia*, neglect, omission, abandonment, and failure to protect, that causes harm or suffering to an older person, in either the public or the private sphere, in which normal necessary precautions proportional to the circumstances have not been taken.

"Older person": A person aged 60 or older, except where legislation has determined a minimum age that is lesser or greater, provided that it is not over 65 years. This concept includes, among others, elderly persons.

"Older person receiving long-term care services": One who resides temporarily or permanently in a regulated, public, private or mixed establishment, which provides quality comprehensive social and health care services, including long-term facilities for older persons with moderate or severe dependency, who cannot receive care in their home.

"Integrated social and health care services": Institutional benefits and entitlements to address the health care and social needs of older persons with a view to guaranteeing their dignity and well-being and to promoting their independence and autonomy.

"Household unit or home": A group of individuals who live in the same dwelling, share the main meals, and address the common basic needs together, without necessarily being relatives.

"Old age": Social construct of the last stage of the life course.

CHAPTER II
GENERAL PRINCIPLES

Article 3

General principles that apply to the Convention:

a) Promotion and defense of the human rights and fundamental freedoms of older persons;
b) Recognizing older persons, their role in society, and their contribution to development;
c) The dignity, independence, proactivity, and autonomy of older persons;
d) Equality and non-discrimination;
e) Participation, integration, and full and effective inclusion in society;
f) Well-being and care;
g) Physical, economic, and social security;
h) Self-fulfillment;
i) Gender equity and equality, and the life course approach;
j) Solidarity and the strengthening of family and community protection;
k) Proper treatment and preferential care;
l) Differentiated treatment for the effective enjoyment of rights of older persons;
m) Respect and appreciation of cultural diversity;
n) Effective judicial protection;

o) Responsibility of the State and participation of the family and the community in the active, full, and productive integration of older persons into society, and in the care of, and assistance to, the older person, in accordance with domestic law.

CHAPTER III
GENERAL DUTIES OF STATES PARTIES

Article 4

States Parties undertake to safeguard the human rights and fundamental freedoms of older persons enunciated in this Convention without discrimination of any kind and, to that end, shall:

a) Adopt measures to prevent, punish, and eradicate practices that contravene this Convention, such as isolation, abandonment, prolonged physical restraint, overcrowding, expulsion from the community, deprivation of food, infantilization, medical treatments that are, *inter alia*, inadequate or disproportional or that constitute mistreatment or cruel, inhuman, or degrading treatment or punishment that jeopardizes the safety and integrity of older persons;

b) Adopt affirmative measures and make such reasonable adjustments as may be necessary for the exercise of the rights established in this Convention and shall refrain from adopting any legislative measure that is incompatible with it; by virtue of this Convention, affirmative measures and reasonable adjustments that are necessary to expedite or attain *de facto* equality for older persons, or to ensure their full social, economic, educational, political, and cultural engagement, shall not be considered discriminatory; such measures shall not lead to the maintenance of separate rights for different groups, nor be continued beyond a reasonable time once their objectives have been attained;

c) Adopt and strengthen such legislative, administrative, judicial, budgetary, and other measures as may be necessary to give effect to and raise awareness of the rights recognized in the present Convention, including adequate access to justice, in order to ensure differentiated and preferential treatment for older persons in all areas.

d) Adopt, to the full extent of their available resources and commensurate with their level of development, such measures as they consider necessary in the framework of international cooperation to progressively achieve in accordance with domestic law the full realization of economic, social, and cultural rights, without prejudice to such obligations as may be immediately applicable under international law;

e) Promote public institutions specializing in the protection and promotion of the rights of older persons and their integral development;

f) Encourage the broadest participation by civil society and other social actors, especially older persons, in the drafting, implementation, and oversight of public policies and laws to implement this Convention;

g) Promote the gathering of adequate information, including statistical and research data, with which to design and enforce policies to implement this Convention.

CHAPTER IV
PROTECTED RIGHTS

Article 5
Equality and non-discrimination for reasons of age

This Convention prohibits discrimination based on the age of older persons.

In their policies, plans, and legislation on ageing and old age, States Parties shall develop specific approaches for older persons who are vulnerable and those who are victims of multiple discrimination, including women, persons with disabilities, persons of different sexual orientations and gender identities, migrants, persons living in poverty or social exclusion, people of African descent, and persons pertaining to indigenous peoples, the homeless, people deprived of their liberty,

persons pertaining to traditional peoples, and persons who belong to ethnic, racial, national, linguistic, religious, and rural groups, among others.

Article 6
Right to life and dignity in old age

States Parties shall adopt all measures necessary to ensure older persons' effective enjoyment of the right of life and the right to live with dignity in old age until the end of their life and on an equal basis with other segments of the population.

States Parties shall take steps to ensure that public and private institutions offer older persons access without discrimination to comprehensive care, including palliative care; avoid isolation; appropriately manage problems related to the fear of death of the terminally ill and pain; and prevent unnecessary suffering, and futile and useless procedures, in accordance with the right of older persons to express their informed consent.

Article 7
Right to independence and autonomy

State Parties to this Convention recognize the right of older persons to make decisions, to determine their life plans, to lead an autonomous and independent life in keeping with their traditions and beliefs on an equal basis, and to be afforded access to mechanisms enabling them to exercise their rights.

States Parties shall adopt programs, policies, or actions to facilitate and promote full enjoyment of those rights by older persons, facilitating their self-fulfillment, the strengthening of all families, their family and social ties, and their affective relationships. In particular, they shall ensure:

a) Respect for the autonomy of older persons in making their decisions, and for their independence in the actions they undertake.

b) That older persons have the opportunity, on an equal basis with others, to choose their place of residence and where and with whom they live, and are not obliged to live in a particular living arrangement.

c) That older persons progressively have access to a range of in-home, residential, and other community-support services, including personal assistance necessary to support living and inclusion in the community and to prevent their isolation or segregation from the community.

Article 8
Right to participation and community integration

Older persons have the right to active, productive, full, and effective participation in the family, community, and society with a view to their integration.

States Parties shall adopt measures to enable older persons to participate actively and productively in their community and to develop their capacities and potentialities. To that end, States Parties shall:

a. Create and strengthen mechanisms for the participation and social inclusion of older persons in an environment of equality that serves to eradicate the prejudices and stereotypes that prevent them from fully enjoying those rights;

b. Promote the participation of older persons in intergenerational activities to strengthen solidarity and mutual support as key components of social development;

c. Ensure that facilities and community services for the general population are available to older persons on an equal basis and that they take account of their needs.

Article 9
Right to safety and a life free of violence of any kind

Older persons have the right to safety and a life without violence of any kind, to be treated with dignity, and to be respected and appreciated regardless of their race, color, sex, language,

culture, religion, political or other opinions, social origin, nationality, ethnicity, indigenous and cultural identity, socio-economic status, disability, sexual orientation, gender, gender identity, economic contribution, or any other condition.

Older persons have the right to a life without any kind of violence or mistreatment. For the purposes of this Convention, violence against older persons shall be understood as any act or conduct that causes death or physical, sexual, or psychological harm or suffering, either in the public or the private sphere.

Violence against older persons shall be understood to include, inter alia, different forms of financial, physical, sexual, and psychological abuse and mistreatment, expulsion from the community, and any form of abandonment or negligence that takes place within the family or household unit or that is perpetrated or tolerated by the State or its agents, regardless of where it occurs.

States Parties undertake to:

a. Adopt legislative, administrative, and other measures to prevent, investigate, punish, and eradicate acts of violence against older persons, as well as those that would enable reparation for harm occasioned by such acts.

b. Produce and disseminate information in order to generate diagnostic assessments of possible situations of violence with a view to developing prevention policies.

c. Promote the creation and strengthening of support services to address cases of violence, mistreatment, abuse, exploitation, and abandonment of older persons. Foster access for older persons to such services and provide them with information about them.

d. Establish or strengthen mechanisms for preventing any form of violence in the family or household unit, facilities that provide older persons with long-term care services, and society at large, with a view to effectively protecting the rights of older persons.

e. Inform and sensitize society as a whole about the various forms of violence against older persons and about how to identify and prevent them.

f. Train and sensitize government officials, social workers, and health care personnel responsible for attending to and caring for older persons in long-term care facilities or at home about the different forms of violence, in order that they are treated with dignity and to prevent negligence, violence, and mistreatment.

g. Develop training programs for family members and persons providing home care services, in order to reduce violence in the home or household unit.

h. Promote appropriate and effective complaint mechanisms for cases of violence against older persons and strengthen legal and administrative mechanisms for dealing with such cases.

i. Actively promote the elimination of all practices that generate violence and affect the dignity and integrity of older women.

Article 10
Right not to be subjected to torture or cruel, inhuman, or degrading treatment or punishment

Older persons have the right not to be subjected to torture or cruel, inhuman, or degrading treatment or punishment.

States Parties shall take all necessary measures of a legislative, administrative, judicial, or other nature to prevent, investigate, punish and eradicate all forms of torture or cruel, inhuman, or degrading treatment or punishment of older persons.

Article 11
Right to give free and informed consent on health matters

Older persons have the inalienable right to express their free and informed consent on health matters. Denial of that right constitutes a form of violation of the human rights of older persons.

In order to ensure the right of older persons to express their prior and informed consent in a voluntary, free, and explicit manner to any medical decision, treatment, procedure, or research in the area of health, and the right to modify or revoke such consent, States Parties undertake to prepare and enforce appropriate and effective mechanisms to prevent abuse and strengthen the capacity of older persons to fully understand existing treatment options and their risks and benefits.

Those mechanisms must ensure that the information provided is appropriate, clear and timely, available on a non-discriminatory basis in an accessible and easily understood form, and commensurate with the older person's cultural identity, level of education, and communication needs.

Public or private institutions and health professionals may not administer any medical or surgical treatment, procedure, or research without the prior and informed consent of the older person.

In life-threatening medical emergencies where it is not possible to obtain informed consent, exceptions established in accordance with domestic law may be applied.

Older persons have the right freely to consent to, refuse, or suspend medical or surgical treatment—including that of the traditional, alternative, and complementary kind—research, or medical or scientific experiments, whether physical or psychological, and to be given clear and timely information about the potential consequences and risks of such a decision.

States Parties shall also establish a procedure that enables older persons to expressly indicate in advance their will and instructions with regard to health care interventions, including palliative care. In such cases, that advance will may be expressed, amended, or expanded at any time by the older person only through legally binding instruments in accordance with domestic law.

Article 12
Rights of older persons receiving long-term care

Older persons have the right to a comprehensive system of care that protects and promotes their health, provides social services coverage, food and nutrition security, water, clothing, and housing, and promotes the ability of older persons to stay in their own home and maintain their independence and autonomy, should they so decide.

States Parties shall design assistance measures for families and caregivers through the introduction of services for those providing care to older persons, taking into account the needs of all families and other forms of care, as well as the full participation of older persons and respect for their opinions.

States Parties shall adopt measures toward developing a comprehensive care system that takes particular account of a gender perspective and respect for the dignity, physical, and mental integrity of older persons.

In order to ensure that older persons can effectively enjoy their human rights when receiving long-term care, States Parties undertake to:

a) Establish mechanisms to ensure that the initiation and conclusion of long-term care services are subject to an indication by the older person of their free and express will.

b) Ensure that such services have specialized personnel who can provide appropriate, comprehensive care and prevent actions or practices that could cause harm or exacerbate an existing condition.

c) Establish an appropriate regulatory framework on the operations of long-term care services that allows the situation of older persons to be assessed and supervised, as well as the adoption of measures to:

i. Ensure access for older persons to information, especially to their own physical or digital records, promote their access to the various media and sources of information, including social networks, and apprise them of their rights and of the legal framework and protocols governing long-term care services.

ii. Prevent arbitrary or illegal intrusions in their private life, family, home, household unit, or any other sphere in which they are involved, or in their correspondence or any other form of communication.

iii. Promote older persons' interaction with their family and society, bearing in mind all families and their affective relationships.

iv. Protect older persons' personal security and the exercise of their personal liberty and freedom of movement.

v. Protect the integrity of older persons as well as their privacy and intimacy in all their activities, particularly in acts of personal hygiene.

d) Enact the necessary legislation, in accordance with domestic mechanisms, so that the corresponding personnel and long-term care givers may be held liable to administrative, civil, and/or criminal penalties, as applicable, for any acts they commit that cause harm to older persons.

e) Adopt appropriate measures, as applicable, to ensure that older persons receiving long-term care also have palliative care available to them that encompasses the patient, their environment, and their family.

Article 13
Right to personal liberty

Older persons have the right to personal liberty and safety, regardless of their environment.

States Parties shall ensure that older persons enjoy the right to personal liberty and safety, and that in no instance shall age be used to justify the arbitrary denial or restriction of liberty.

States Parties shall ensure that any measure to deprive or restrict liberty is in accordance with law and that older persons who are deprived of their liberty because they are under prosecution are afforded, on an equal basis with other sectors of the population, due guarantees in keeping with international human rights law and treated in accordance with the purposes and principles enshrined in this Convention.

States Parties shall ensure access for older persons deprived of their liberty to special and comprehensive care programs, including rehabilitation mechanisms for their reintegration in society and, as appropriate, shall promote alternatives to custodial measures, in accordance with their domestic laws.

Article 14
Right to freedom of expression and opinion, and access to information

Older persons have the right to freedom of expression and opinion, and access to information on an equal basis with other sectors of the population, by whatever medium they choose.

States Parties shall adopt measures to ensure the effective exercise of these rights by older persons.

Article 15
Right to nationality and freedom of movement

Older persons have the right to freedom of movement, to choose their residence, and to hold a nationality on an equal basis with other segments of the population, without discrimination on grounds of age.

States Parties shall adopt measures to ensure the effective exercise of these rights by older persons.

Article 16
Right to privacy and intimacy

Older persons are entitled to privacy and intimacy, and neither their private life, family, home, household unit, nor any other environment in which they function, nor their correspondence, nor any other communications shall be the subject of arbitrary or illegal intrusion.

Older persons have the right not to have their dignity, honor, and reputation attacked. They are also entitled to privacy in their personal hygiene and other activities, regardless of their environment.

States Parties shall adopt the measures necessary to guarantee these rights, particularly for older persons receiving long-term care services.

Article 17
Right to social security

All older persons have the right to social security to protect them so that they can live in dignity.

State Parties shall progressively promote, within available resources, the provision of income to ensure a dignified life for older persons through social security systems and other flexible social protection mechanisms.

States Parties shall seek to facilitate, through institutional agreements, bilateral treaties, and other hemispheric mechanisms, the recognition of benefits, social security contributions, and pension entitlements for migrant older persons.

Everything in this article will be in accordance with national legislation.

Article 18
Right to work

Older persons have the right to dignified and decent work and to equal opportunity and treatment on the same terms as other workers, whatever their age.

States Parties shall adopt measures to prevent labor discrimination against older persons. It is prohibited to make any kind of distinction that is not based on the specific requirements of the job, in accordance with domestic laws and local conditions.

The same guarantees, benefits, labor and union rights, and pay should apply to all workers in the same employment or occupation and for similar tasks and responsibilities.

States Parties shall adopt legislative, administrative, and other measures to promote formal work for older persons and to regulate the various forms of self-employment and domestic work, with a view to preventing abuse and ensuring them adequate social coverage and recognition for unremunerated work.

States Parties shall promote programs and measures that will facilitate a gradual transition into retirement, for which they may rely on the participation of organizations representing employers and workers, as well as of other interested agencies.

States Parties shall promote labor policies that take account of the needs and characteristics of older persons, with the aim of fostering workplaces that are suitable in terms of working conditions, environment, work hours, and organization of tasks.

States Parties shall encourage the design of training and knowledge-certification programs in order to promote access for older persons to more-inclusive labor markets.

Article 19
Right to health

Older persons have the right to physical and mental health without discrimination of any kind.

States Parties shall design and implement comprehensive-care oriented intersectoral public health policies that include health promotion, prevention and care of disease at all stages, and rehabilitation and palliative care for older persons, in order to promote enjoyment of the highest level of physical, mental and social well-being. To give effect to this right, States Parties undertake to:

a. Ensure preferential care and universal, equitable and timely access to quality, comprehensive, primary care-based social and health care services, and take advantage of traditional, alternative, and complementary medicine, in accordance with domestic laws and with practices and customs.

b. Formulate, implement, strengthen, and assess public policies, plans, and strategies to foster active and healthy ageing.

c. Foster public policies on the sexual and reproductive health of older persons.

d. Encourage, where appropriate, international cooperation in the design of public policies, plans, strategies and legislation, and in the exchange of capacities and resources for implementing health programs for older persons and their process of ageing.

e. Strengthen prevention measures through health authorities and disease prevention, including courses on health education, knowledge of pathologies, and the informed opinion of the older person in the treatment of chronic illnesses and other health problems.

f. Ensure access to affordable and quality health care benefits and services for older persons with non-communicable and communicable diseases, including sexually transmitted diseases.

g. Strengthen implementation of public policies to improve nutrition in older persons.

h. Promote the development of specialized integrated social and health care services for older persons with diseases that generate dependency, including chronic degenerative diseases, dementia, and Alzheimer's disease.

i. Strengthen the capacities of health, social, and integrated social and health care workers, as well as those of other actors, to provide care to older persons based on the principles set forth in this Convention.

j. Promote and strengthen research and academic training for specialized health professionals in geriatrics, gerontology, and palliative care.

k. Formulate, adapt, and implement, in accordance with domestic law, policies on training in and the use of traditional, alternative, and complementary medicine in connection with comprehensive care for older persons.

l. Promote the necessary measures to ensure that palliative care services are available and accessible for older persons, as well as to support their families.

m. Ensure that medicines recognized as essential by the World Health Organization, including controlled medicines needed for palliative care, are available and accessible for older persons.

n. Ensure access for older persons to the information contained in their personal records, whether physical or digital.

o. Promote and gradually ensure, in accordance with their capabilities, coaching and training for persons who provide care to older persons, including family members, in order to ensure their health and well-being.

Article 20
Right to education

Older persons have the right to education, on an equal basis with other sectors of the population and without discrimination, in the modalities determined by each State Party; to

participate in existing educational programs at all levels; and to share their knowledge and experience with all generations.

States Parties shall ensure effective exercise of the right to education for older persons and shall:

a) Facilitate access for older persons to appropriate educational and training programs that provide access, *inter alia*, to the different levels of the education cycle, to literacy, post-literacy, technical and professional training, and to continuing education, especially for groups in situations of vulnerability.

b) Promote the development of accessible and suitable educational programs, materials, and formats for older persons that fit their needs, preferences, skills, motivations, and cultural identities.

c) Adopt the necessary measures to reduce and progressively eliminate barriers and obstacles to educational goods and services in rural areas.

d) Promote education and training for older persons in the use of new information and communication technologies (ICTs) in order to bridge the digital, generational, and geographical divide and to increase social and community integration.

e) Design and implement active policies to eradicate illiteracy among older persons, especially women and groups in situations of vulnerability.

f) Foster and facilitate the active participation of older persons in both formal and non-formal educational activities.

Article 21
Right to culture

Older persons have the right to their cultural identity, to participate in the cultural and artistic life of the community, to enjoy the benefits of scientific and technological progress and those resulting from cultural diversity, and to share their knowledge and experience with other generations in any of the contexts in which they participate.

States Parties shall recognize, ensure, and protect the intellectual property rights of older persons on an equal basis with other sectors of the population and in accordance with domestic laws and international instruments adopted in this area.

States Parties shall promote the necessary measures to ensure preferential access for older persons to cultural goods and services in accessible formats and conditions.

States Parties shall promote cultural programs to enable older persons to develop and utilize their creative, artistic, and intellectual potential for their own benefit as well as for the enrichment of society as conduits of values, knowledge, and culture.

States Parties shall foster the participation of older persons' organizations in the planning, execution, and dissemination of educational and cultural projects.

States Parties shall, through acts of recognition and incentives, encourage the contributions of older persons to different artistic and cultural expressions.

Article 22
Right to recreation, leisure, and sports

Older persons are entitled to recreation, physical activity, leisure, and sports.

States Parties shall promote the development of recreational services and programs, including tourism, as well as leisure and sports activities, taking into account the interests and needs of older persons, particularly those receiving long-term care, in order to improve their health and quality of life in all respects and to promote their self-fulfillment, independence, autonomy, and inclusion in the community.

Older persons shall be able to participate in the creation, management, and evaluation of such services, programs, or activities.

Article 23
Right to property

All older persons have the right to the use and enjoyment of their property and not to be deprived of said property on the grounds of age. The law may subordinate such use and enjoyment to the interests of society.

No older person shall be deprived of their property except upon payment of just compensation, for reasons of public utility or social interest, or in the cases and according to the forms established by the law.

States Parties shall adopt all necessary measures to ensure the effective exercise of older persons' right to property, including the right to freely dispose of their property, and to prevent the abuse or illegal transfer thereof.

States Parties undertake to eliminate all administrative or financial practices that discriminate against older persons—especially older women and groups in situations of vulnerability—where the exercise of their right to property is concerned.

Article 24
Right to housing

Older persons have the right to decent and adequate housing and to live in safe, healthy, and accessible environments that can be adapted to their preferences and needs.

States Parties shall adopt appropriate measures to promote the full enjoyment of this right and facilitate access for older persons to integrated social and health care services and to home care services that enable them to reside in their own home, should they wish.

States Parties shall ensure the right of older persons to decent and adequate housing and shall adopt policies to promote the right to housing and access to land, recognizing the needs of older persons and the priority of allocating to those in situations of vulnerability. Likewise, States Parties shall progressively foster access to home loans and other forms of financing without discrimination, promoting, *inter alia,* collaboration with the private sector, civil society and other social actors. Such policies should pay particular attention to:

a) The need to build or progressively adapt housing solutions, so that they are architecturally suitable and accessible for older persons with disabilities and restricted mobility;

b) The specific needs of older persons, particularly those who live alone, by means of rent subsidies, support for housing renovations, and other pertinent measures, within the capacities of States Parties.

States Parties shall promote the adoption of expedited procedures for complaints and redress in the event of evictions of older persons and shall adopt the necessary measures to protect them against illegal forced evictions.

States Parties shall promote programs to prevent accidents inside and in the vicinity of older persons' homes.

Article 25
Right to a healthy environment

Older persons have the right to live in a healthy environment with access to basic public services. To that end, States Parties shall adopt appropriate measures to safeguard and promote the exercise of this right, *inter alia*:

a. To foster the development of older persons to their full potential in harmony with nature;

b. To ensure access for older persons, on an equal basis with others, to basic public drinking water and sanitation services, among others.

Article 26
Right to accessibility and personal mobility

Older persons have the right to accessibility to the physical, social, economic, and cultural environment, as well as to personal mobility.

In order to ensure accessibility and personal mobility for older persons, so that they may live independently and participate fully in all aspects of life, States Parties shall progressively adopt appropriate measures to ensure for older persons access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, *inter alia*:

a. Buildings, roads, transportation, and other indoor and outdoor facilities, including centers of education, housing, medical facilities, and workplaces;

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

States Parties shall also take appropriate measures to:

a. Develop, promulgate, and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;

b. Ensure that public and private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for older persons;

c. Provide training for all stakeholders on accessibility issues facing older persons;

d. Promote other appropriate forms of assistance and support to older persons to ensure their access to information;

e. Promote access for older persons, at the lowest possible cost, to new information and communications technologies and systems, including the Internet;

f. Foster access for older persons to preferential fees, or no fees, for transportation services open or provided to the public;

g) Promote initiatives, in transportation services open or provided to the public, for the provision of reserved seats for older persons, which should be identified by appropriate signs;

h) In buildings and other facilities open to the public, provide signage in formats that are easy to read and understand, and are appropriate for older persons.

Article 27
Political rights

Older persons have the right to participate in political and public life on an equal basis with others and not to be discriminated against for reasons of age.

Older persons have the right to vote freely and to be elected. The State shall facilitate the conditions and the means for exercising those rights.

States Parties shall ensure for older persons full and effective enjoyment of their right to vote. To that end, they shall adopt the following pertinent measures:

a) Ensure that electoral procedures, facilities, and materials are appropriate, accessible, and easy to understand and use;

b) Protect the right of older persons to cast their votes in secret and without intimidation in elections and public referendums;

c) Ensure that older persons are able to freely express their will as voters and, to that end, when necessary and with their consent, to allow a person of their choice to assist them in voting;

d) Create and strengthen mechanisms for citizen participation with a view to including the opinions, contributions, and demands of older persons and their groups and associations in decision-making processes at all levels of government.

Article 28
Freedom of association and assembly

Older persons have the right to assemble peacefully and to freely form their own groups and associations, in accordance with international human rights law.

To that end, States Parties undertake to:

a) Facilitate the creation and legal recognition of said groups or associations, respecting their freedom of initiative and lending them support for their formation and activities, within the capacities of States Parties;

b) Strengthen older persons' associations and the development of positive leadership to facilitate the achievement of their objectives and dissemination of the rights enunciated in this Convention.

Article 29
Situations of risk and humanitarian emergencies

States Parties shall adopt all necessary specific measures to ensure the safety and rights of older persons in situations of risk, including situations of armed conflict, humanitarian emergencies, and disasters, in accordance with the norms of international law, particularly international human rights law and international humanitarian law.

States Parties shall adopt assistance measures specific to the needs of older persons in preparedness, prevention, reconstruction, and recovery activities associated with emergencies, disasters, and conflict situations.

States Parties shall foster the participation of interested older persons in civil protection protocols in the event of natural disasters.

Article 30
Equal recognition before the law

States Parties reaffirm that older persons have the right to recognition as persons before the law.

States Parties shall recognize that older persons enjoy legal capacity on an equal basis with others in all aspects of life.

States Parties shall take appropriate measures to provide access by older persons to the support they may require in exercising their legal capacity.

States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will, and preferences of older persons, are free of conflict of interest and undue influence, are proportional and tailored to older persons' circumstances, apply for the shortest time possible, and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect older persons' rights and interests.

Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of older persons to own or inherit property, to control their own financial affairs, and to have equal access to bank loans, mortgages, and other forms of financial credit, and shall ensure that older persons are not arbitrarily deprived of their property.

Article 31
Access to justice

Older persons have the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against them or for the determination of their rights and obligations of a civil, labor, fiscal, or any other nature.

States Parties shall ensure effective access to justice for older persons on an equal basis with others, including through the provision of procedural accommodations in all legal and administrative proceedings at any stage.

State Parties shall ensure due diligence and preferential treatment for older persons in processing, settlement of, and enforcement of decisions in administrative and legal proceedings.

Judicial action must be particularly expedited in instances where the health or life of the older person may be at risk.

Likewise, States Parties shall develop and strengthen public policies and programs to promote:

a. Alternative dispute settlement mechanisms;

b. Training in protection of the rights of older persons for personnel associated with the administration of justice, including police and prison staff.

CHAPTER V
AWARENESS-RAISING

Article 32

States Parties agree to:

a. Adopt measures to achieve dissemination of, and to progressively educate the whole of society about, this Convention.

b. Foster a positive attitude to old age and dignified, respectful, and considerate treatment of older persons, and, based on a culture of peace, encourage actions to disseminate and promote the rights and empowerment of older persons, and avoid stereotypical images and language in relation to old age;

c. Develop programs to sensitize the public about the ageing process and older persons, encouraging the participation of the latter and of their organizations in the design and formulation of such programs;

d. Promote the inclusion of content that fosters understanding and acceptance of ageing in study plans and programs at different levels of education, as well as in academic and research agendas;

e. Promote recognition of the experience, wisdom, productivity, and contribution to development that older persons offer society as a whole.

CHAPTER VI
FOLLOW-UP MECHANISM TO THE CONVENTION AND MEANS OF PROTECTION

Article 33
Follow-up Mechanism

In order to monitor the commitments under this Convention and to promote its effective implementation, a Follow-up Mechanism will be established that shall comprise a Conference of States Parties and a Committee of Experts.

The Follow-up Mechanism shall be established upon deposit of the tenth instrument of ratification or accession.

The General Secretariat of the Organization of American States shall serve as secretariat of the Follow-up Mechanism.

Article 34
Conference of States Parties

The Conference of States Parties, the principal organ of the Follow-up Mechanism, comprises the States Parties to the Convention and has, *inter alia*, the following functions:

a. To monitor progress by States Parties in complying with the commitments under this Convention;
b. To draft its rules of procedure and adopt them by an absolute majority;
c. To monitor the activities of the Committee of Experts and make recommendations to improve the workings, rules, and procedures of said Committee;
d. To receive, analyze, and evaluate the recommendations of the Committee of Experts and present appropriate observations;
e. To promote the exchange of experiences and best practices as well as technical cooperation among States Parties, with a view to ensuring the effective implementation of this Convention;
f. To resolve any matter pertaining to the operations of the Follow-up Mechanism.

The Secretary General of the Organization of American States shall convene the first meeting of the Conference of States Parties within 90 days after the establishment of the Follow-up Mechanism. The first meeting of the Conference, to adopt its rules of procedure and working methodology, as well as to elect its officers, will be held at the headquarters of the Organization, unless a State Party should offer to host the meeting. Said meeting will be chaired by a representative of the first state to deposit its instrument of ratification of or accession to the Convention.

Subsequent meetings shall be convened by the Secretary General of the Organization of American States at the request of any State Party with the approval of at least two thirds of the States Parties. Other member states of the Organization may participate as observers in said meetings.

Article 35
Committee of Experts

The Committee of Experts shall comprise experts appointed by each State Party to the Convention. The quorum for meetings will be established in its rules of procedure.

The Committee of Experts shall have the following functions:

a. To assist in monitoring progress by States Parties in implementing this Convention and conduct a technical review of the periodic reports submitted by States Parties; to that end, States Parties undertake to present a report to the Committee of Experts on implementation of their obligations under this Convention, within one year of the first meeting; thereafter, States Parties shall submit reports every four years.

b. To submit recommendations for progressive compliance with the Convention based on reports presented by States Parties on the subject matter under review;

c. To draft and adopt its rules of procedure in accordance with the functions set forth in this article.

The Secretary General of the Organization of American States shall convene the first meeting of the Committee of Experts within 90 days after the establishment of the Follow-up Mechanism. The first meeting of the Committee, to adopt its rules of procedure and working methodology, as well as to elect its officers, will be held at the headquarters of the Organization, unless a State Party should offer to host the meeting. Said meeting will be chaired by a representative of the first state to deposit its instrument of ratification of or accession to the Convention.

The Committee of Experts shall have its headquarters at the Organization of American States.

Article 36
System of individual petitions

Any person or group of persons, or nongovernmental entity legally recognized in one or more member states of the Organization of American States may submit to the Inter-American Commission on Human Rights petitions containing reports or complaints of violations of the provisions contained in this Convention by a State Party.

In implementing the provisions of this article, consideration shall be given to the progressive nature of the observance of the economic, social and cultural rights protected under this Convention.

In addition, any State Party, when depositing its instrument of ratification of, or accession to, this Convention, or at any time thereafter, may declare that it recognizes the competence of the Inter-American Commission on Human Rights to receive and examine communications in which a State Party alleges that another State Party has committed violations of the human rights established in this Convention. In such an instance, all the relevant procedural rules contained in the American Convention on Human Rights shall be applicable.

States Parties may consult the Inter-American Commission on Human Rights on questions related to the effective application of this Convention. They may also request the Commission's advisory assistance and technical cooperation to ensure effective application of any provision of this Convention. The Commission will, to the extent that it is able, provide the States Parties with the requested advisory services and assistance.

Any State Party may, when depositing its instrument of ratification of, or accession to, this Convention, or at any time thereafter, declare that it recognizes as binding, *ipso jure* and without any special agreement, the jurisdiction of the Inter-American Court of Human Rights on all matters relating to the interpretation or application of this Convention. In such an instance, all relevant procedural rules contained in the American Convention on Human Rights shall be applicable.

CHAPTER VII
GENERAL PROVISIONS

Article 37
Signature, ratification, and entry into force

This Convention is open to signature, ratification and accession by all member states of the Organization of American States. After its entry into force, this Convention shall be open to accession by all member states that have not signed it.

This Convention is subject to ratification by the signatory states in accordance with the procedures set forth in their constitutions. The instruments of ratification or accession shall be deposited with the General Secretariat of the Organization of American States.

This Convention shall enter into force on the thirtieth day following the date on which the second instrument of ratification or accession is deposited with the General Secretariat of the Organization of American States.

For each state that ratifies or accedes to the Convention after the second instrument of ratification or accession has been deposited, the Convention shall enter into force on the thirtieth day following deposit by that state of the corresponding instrument.

Article 38
Reservations

States Parties may enter reservations to this Convention when signing, ratifying, or acceding to it, provided that such reservations are not incompatible with the aim and purpose of the Convention and relate to one or more specific provisions thereof.

Article 39
Denunciation

This Convention shall remain in force indefinitely, but any State Party may denounce it through written notification addressed to the Secretary General of the Organization of American

States. The Convention shall cease to have force and effect for the denouncing state one year after the date of deposit of the instrument of denunciation, and shall remain in force for the other States Parties. Denunciation of the Convention shall not exempt the State Party from its obligations under the Convention in respect of any act or omission that occurred before the date on which the denunciation took effect.

Article 40
Depository

The original instrument of the Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall send a certified copy thereof to the United Nations Secretariat for registration and publication pursuant to Article 102 of the United Nations Charter.

Article 41
Amendments

Any State Party may submit proposals for amendment of this Convention to the Conference of States Parties.

Amendments shall enter into force for the states ratifying them on the date of deposit of the respective instruments of ratification by two thirds of the States Parties. For the remaining States Parties, they shall enter into force on the date of deposit of their respective instruments of ratification.

Annex 156

Paris Agreement, 12 December 2015, 3156 UNTS 79

No. 54113

Multilateral

Paris Agreement. Paris, 12 December 2015

Entry into force: *4 November 2016, in accordance with article 21(1). The Agreement enters into force on the thirtieth day after the date on which at least 55 Parties to the Convention accounting in total for at least an estimated 55% of the total global greenhouse gas emissions have deposited their instruments of ratification, acceptance, approval or accession*

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

Registration with the Secretariat of the United Nations: *ex officio, 4 November 2016*

Multilatéral

Accord de Paris. Paris, 12 décembre 2015

Entrée en vigueur : *4 novembre 2016, conformément au paragraphe 1 de l'article 21. L'Accord entre en vigueur le trentième jour qui suit la date du dépôt de leurs instruments de ratification, d'acceptation, d'approbation ou d'adhésion par au moins 55 Parties à la Convention qui représentent au total au moins un pourcentage estimé à 55 % du total des émissions mondiales de gaz à effet de serre*

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

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *d'office, 4 novembre 2016*

Participant	Ratification and Acceptance (A)		
Albania	21 Sep	2016	
Antigua and Barbuda	21 Sep	2016	
Argentina	21 Sep	2016	
Austria	5 Oct	2016	
Bahamas	22 Aug	2016	
Bangladesh	21 Sep	2016	
Barbados	22 Apr	2016	
Belarus	21 Sep	2016	A
Belize	22 Apr	2016	
Bolivia (Plurinational State of)	5 Oct	2016	
Brazil	21 Sep	2016	
Brunei Darussalam	21 Sep	2016	
Cameroon	29 Jul	2016	
Canada	5 Oct	2016	
China (with declaration)	3 Sep	2016	
Cook Islands (with declaration)	1 Sep	2016	
Democratic People's Republic of Korea	1 Aug	2016	
Dominica	21 Sep	2016	
European Union (with declaration)	5 Oct	2016	
Fiji	22 Apr	2016	
France	5 Oct	2016	
Germany	5 Oct	2016	
Ghana	21 Sep	2016	
Grenada	22 Apr	2016	
Guinea	21 Sep	2016	
Guyana	20 May	2016	
Honduras	21 Sep	2016	
Hungary	5 Oct	2016	
Iceland	21 Sep	2016	A
India (with declaration)	2 Oct	2016	
Kiribati	21 Sep	2016	
Lao People's Democratic Republic	7 Sep	2016	

Participant	Ratification and Acceptance (A)	
Madagascar	21 Sep	2016
Maldives	22 Apr	2016
Mali	23 Sep	2016
Malta	5 Oct	2016
Marshall Islands (with declarations)	22 Apr	2016
Mauritius	22 Apr	2016
Mexico (with interpretative declaration)	21 Sep	2016
Micronesia (Federated States of) (with declaration)	15 Sep	2016
Mongolia	21 Sep	2016
Morocco	21 Sep	2016
Namibia	21 Sep	2016
Nauru (with declaration)	22 Apr	2016
Nepal	5 Oct	2016
New Zealand	4 Oct	2016
Niger	21 Sep	2016
Norway	20 Jun	2016
Palau	22 Apr	2016
Panama	21 Sep	2016
Papua New Guinea	21 Sep	2016
Peru	25 Jul	2016
Portugal	5 Oct	2016
Samoa	22 Apr	2016
Senegal	21 Sep	2016
Seychelles	29 Apr	2016
Singapore	21 Sep	2016
Slovakia	5 Oct	2016
Solomon Islands (with declaration)	21 Sep	2016
Somalia	22 Apr	2016
Sri Lanka	21 Sep	2016
St. Kitts and Nevis	22 Apr	2016
St. Lucia	22 Apr	2016
St. Vincent and the Grenadines	29 Jun	2016

Participant	Ratification and Acceptance (A)		
State of Palestine	22 Apr	2016	
Swaziland	21 Sep	2016	
Thailand	21 Sep	2016	
Tonga	21 Sep	2016	
Tuvalu (with declaration)	22 Apr	2016	
Uganda	21 Sep	2016	
Ukraine	19 Sep	2016	
United Arab Emirates	21 Sep	2016	A
United States of America	3 Sep	2016	A
Vanuatu (with declaration)	21 Sep	2016	

Note: The texts of the declarations are published after the list of participants.

Participant	**Ratification et Acceptation (A)**		
Albanie	21 sept	2016	
Allemagne	5 oct	2016	
Antigua-et-Barbuda	21 sept	2016	
Argentine	21 sept	2016	
Autriche	5 oct	2016	
Bahamas	22 août	2016	
Bangladesh	21 sept	2016	
Barbade	22 avr	2016	
Bélarus	21 sept	2016	A
Belize	22 avr	2016	
Bolivie (État plurinational de)	5 oct	2016	
Brésil	21 sept	2016	
Brunéi Darussalam	21 sept	2016	
Cameroun	29 juil	2016	
Canada	5 oct	2016	
Chine (avec déclaration)	3 sept	2016	
Dominique	21 sept	2016	
Émirats arabes unis	21 sept	2016	A
État de Palestine	22 avr	2016	
États-Unis d'Amérique	3 sept	2016	A
Fidji	22 avr	2016	
France	5 oct	2016	
Ghana	21 sept	2016	
Grenade	22 avr	2016	
Guinée	21 sept	2016	
Guyana	20 mai	2016	
Honduras	21 sept	2016	
Hongrie	5 oct	2016	
Îles Cook (avec déclaration)	1er sept	2016	
Îles Marshall (avec déclarations)	22 avr	2016	
Îles Salomon (avec déclaration)	21 sept	2016	
Inde (avec déclaration)	2 oct	2016	

Participant	**Ratification et Acceptation (A)**		
Islande	21 sept	2016	A
Kiribati	21 sept	2016	
Madagascar	21 sept	2016	
Maldives	22 avr	2016	
Mali	23 sept	2016	
Malte	5 oct	2016	
Maroc	21 sept	2016	
Maurice	22 avr	2016	
Mexique (avec déclaration interprétative)	21 sept	2016	
Micronésie (États fédérés de) (avec déclaration)	15 sept	2016	
Mongolie	21 sept	2016	
Namibie	21 sept	2016	
Nauru (avec déclaration)	22 avr	2016	
Népal	5 oct	2016	
Niger	21 sept	2016	
Norvège	20 juin	2016	
Nouvelle-Zélande	4 oct	2016	
Ouganda	21 sept	2016	
Palaos	22 avr	2016	
Panama	21 sept	2016	
Papouasie-Nouvelle-Guinée	21 sept	2016	
Pérou	25 juil	2016	
Portugal	5 oct	2016	
République démocratique populaire lao	7 sept	2016	
République populaire démocratique de Corée	1er août	2016	
Saint-Kitts-et-Nevis	22 avr	2016	
Saint-Vincent-et-les Grenadines	29 juin	2016	
Sainte-Lucie	22 avr	2016	
Samoa	22 avr	2016	
Sénégal	21 sept	2016	
Seychelles	29 avr	2016	
Singapour	21 sept	2016	
Slovaquie	5 oct	2016	

Participant	**Ratification et Acceptation (A)**	
Somalie	22 avr	2016
Sri Lanka	21 sept	2016
Swaziland	21 sept	2016
Thaïlande	21 sept	2016
Tonga	21 sept	2016
Tuvalu (avec déclaration)	22 avr	2016
Ukraine	19 sept	2016
Union européenne (avec déclaration)	5 oct	2016
Vanuatu (avec déclaration)	21 sept	2016

Note: Les textes des déclarations sont reproduits après la liste des participants.

[TEXT IN ENGLISH – TEXTE EN ANGLAIS]

PARIS AGREEMENT

The Parties to this Agreement,

Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as "the Convention",

Pursuant to the Durban Platform for Enhanced Action established by decision 1/CP.17 of the Conference of the Parties to the Convention at its seventeenth session,

In pursuit of the objective of the Convention, and being guided by its principles, including the principle of equity and common but differentiated responsibilities and respective capabilities, in the light of different national circumstances,

Recognizing the need for an effective and progressive response to the urgent threat of climate change on the basis of the best available scientific knowledge,

Also recognizing the specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, as provided for in the Convention,

Taking full account of the specific needs and special situations of the least developed countries with regard to funding and transfer of technology,

Recognizing that Parties may be affected not only by climate change, but also by the impacts of the measures taken in response to it,

Emphasizing the intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and eradication of poverty,

Recognizing the fundamental priority of safeguarding food security and ending hunger, and the particular vulnerabilities of food production systems to the adverse impacts of climate change,

Taking into account the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities,

Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,

Recognizing the importance of the conservation and enhancement, as appropriate, of sinks and reservoirs of the greenhouse gases referred to in the Convention,

Noting the importance of ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity, recognized by some cultures as Mother Earth, and noting the importance for some of the concept of "climate justice", when taking action to address climate change,

Affirming the importance of education, training, public awareness, public participation, public access to information and cooperation at all levels on the matters addressed in this Agreement,

Recognizing the importance of the engagements of all levels of government and various actors, in accordance with respective national legislations of Parties, in addressing climate change,

Also recognizing that sustainable lifestyles and sustainable patterns of consumption and production, with developed country Parties taking the lead, play an important role in addressing climate change,

Have agreed as follows:

Article 1

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

(a) "Convention" means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992;

(b) "Conference of the Parties" means the Conference of the Parties to the Convention;

(c) "Party" means a Party to this Agreement.

Article 2

1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production; and

(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

2. This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

Article 3

As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.

Article 4

1. In order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.

2. Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.

3. Each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

4. Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.

5. Support shall be provided to developing country Parties for the implementation of this Article, in accordance with Articles 9, 10 and 11, recognizing that enhanced support for developing country Parties will allow for higher ambition in their actions.

6. The least developed countries and small island developing States may prepare and communicate strategies, plans and actions for low greenhouse gas emissions development reflecting their special circumstances.

7. Mitigation co-benefits resulting from Parties' adaptation actions and/or economic diversification plans can contribute to mitigation outcomes under this Article.

8. In communicating their nationally determined contributions, all Parties shall provide the information necessary for clarity, transparency and understanding in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to this Agreement.

9. Each Party shall communicate a nationally determined contribution every five years in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to this Agreement and be informed by the outcomes of the global stocktake referred to in Article 14.

10. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall consider common time frames for nationally determined contributions at its first session.

11. A Party may at any time adjust its existing nationally determined contribution with a view to enhancing its level of ambition, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

12. Nationally determined contributions communicated by Parties shall be recorded in a public registry maintained by the secretariat.

13. Parties shall account for their nationally determined contributions. In accounting for anthropogenic emissions and removals corresponding to their nationally determined contributions, Parties shall promote environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

14. In the context of their nationally determined contributions, when recognizing and implementing mitigation actions with respect to anthropogenic emissions and removals, Parties should take into account, as appropriate, existing methods and guidance under the Convention, in the light of the provisions of paragraph 13 of this Article.

15. Parties shall take into consideration in the implementation of this Agreement the concerns of Parties with economies most affected by the impacts of response measures, particularly developing country Parties.

16. Parties, including regional economic integration organizations and their member States, that have reached an agreement to act jointly under paragraph 2 of this Article shall notify the secretariat of the terms of that agreement, including the emission level allocated to each Party within the relevant time period, when they communicate their nationally determined contributions. The secretariat shall in turn inform the Parties and signatories to the Convention of the terms of that agreement.

17. Each party to such an agreement shall be responsible for its emission level as set out in the agreement referred to in paragraph 16 of this Article in accordance with paragraphs 13 and 14 of this Article and Articles 13 and 15.

18. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization which is itself a Party to this Agreement, each member State of that regional economic integration organization individually, and together with the regional economic integration organization, shall be responsible for its emission level as set out in the agreement communicated under paragraph 16 of this Article in accordance with paragraphs 13 and 14 of this Article and Articles 13 and 15.

19. All Parties should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of Article 2 taking into account their common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

Article 5

1. Parties should take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases as referred to in Article 4, paragraph 1 (d), of the Convention, including forests.

2. Parties are encouraged to take action to implement and support, including through results-based payments, the existing framework as set out in related guidance and decisions already agreed under the Convention for: policy approaches and positive incentives for activities relating to reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries; and alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests, while reaffirming the importance of incentivizing, as appropriate, non-carbon benefits associated with such approaches.

Article 6

1. Parties recognize that some Parties choose to pursue voluntary cooperation in the implementation of their nationally determined contributions to allow for higher ambition in their mitigation and adaptation actions and to promote sustainable development and environmental integrity.

2. Parties shall, where engaging on a voluntary basis in cooperative approaches that involve the use of internationally transferred mitigation outcomes towards nationally determined contributions, promote sustainable development and ensure environmental integrity and transparency, including in governance, and shall apply robust accounting to ensure, inter alia, the avoidance of double counting, consistent with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

3. The use of internationally transferred mitigation outcomes to achieve nationally determined contributions under this Agreement shall be voluntary and authorized by participating Parties.

4. A mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development is hereby established under the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement for use by Parties on a voluntary basis. It shall be supervised by a body designated by the Conference of the Parties serving as the meeting of the Parties to this Agreement, and shall aim:

(a) To promote the mitigation of greenhouse gas emissions while fostering sustainable development;

(b) To incentivize and facilitate participation in the mitigation of greenhouse gas emissions by public and private entities authorized by a Party;

(c) To contribute to the reduction of emission levels in the host Party, which will benefit from mitigation activities resulting in emission reductions that can also be used by another Party to fulfil its nationally determined contribution; and

(d) To deliver an overall mitigation in global emissions.

5. Emission reductions resulting from the mechanism referred to in paragraph 4 of this Article shall not be used to demonstrate achievement of the host Party's nationally determined contribution if used by another Party to demonstrate achievement of its nationally determined contribution.

6. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall ensure that a share of the proceeds from activities under the mechanism referred to in paragraph 4 of this Article is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

7. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall adopt rules, modalities and procedures for the mechanism referred to in paragraph 4 of this Article at its first session.

8. Parties recognize the importance of integrated, holistic and balanced non-market approaches being available to Parties to assist in the implementation of their nationally determined contributions, in the context of sustainable development and poverty eradication, in a coordinated and effective manner, including through, inter alia, mitigation, adaptation, finance, technology transfer and capacity-building, as appropriate. These approaches shall aim to:

(a) Promote mitigation and adaptation ambition;

(b) Enhance public and private sector participation in the implementation of nationally determined contributions; and

(c) Enable opportunities for coordination across instruments and relevant institutional arrangements.

9. A framework for non-market approaches to sustainable development is hereby defined to promote the non-market approaches referred to in paragraph 8 of this Article.

Article 7

1. Parties hereby establish the global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the temperature goal referred to in Article 2.

2. Parties recognize that adaptation is a global challenge faced by all with local, subnational, national, regional and international dimensions, and that it is a key component of and makes a contribution to the long-term global response to climate change to protect people, livelihoods and ecosystems, taking into account the urgent and immediate needs of those developing country Parties that are particularly vulnerable to the adverse effects of climate change.

3. The adaptation efforts of developing country Parties shall be recognized, in accordance with the modalities to be adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement at its first session.

4. Parties recognize that the current need for adaptation is significant and that greater levels of mitigation can reduce the need for additional adaptation efforts, and that greater adaptation needs can involve greater adaptation costs.

5. Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.

6. Parties recognize the importance of support for and international cooperation on adaptation efforts and the importance of taking into account the needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change.

7. Parties should strengthen their cooperation on enhancing action on adaptation, taking into account the Cancun Adaptation Framework, including with regard to:

(a) Sharing information, good practices, experiences and lessons learned, including, as appropriate, as these relate to science, planning, policies and implementation in relation to adaptation actions;

(b) Strengthening institutional arrangements, including those under the Convention that serve this Agreement, to support the synthesis of relevant information and knowledge, and the provision of technical support and guidance to Parties;

(c) Strengthening scientific knowledge on climate, including research, systematic observation of the climate system and early warning systems, in a manner that informs climate services and supports decision-making;

(d) Assisting developing country Parties in identifying effective adaptation practices, adaptation needs, priorities, support provided and received for adaptation actions and efforts, and challenges and gaps, in a manner consistent with encouraging good practices; and

(e) Improving the effectiveness and durability of adaptation actions.

8. United Nations specialized organizations and agencies are encouraged to support the efforts of Parties to implement the actions referred to in paragraph 7 of this Article, taking into account the provisions of paragraph 5 of this Article.

9. Each Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions, which may include:

(a) The implementation of adaptation actions, undertakings and/or efforts;

(b) The process to formulate and implement national adaptation plans;

(c) The assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems;

(d) Monitoring and evaluating and learning from adaptation plans, policies, programmes and actions; and

(e) Building the resilience of socioeconomic and ecological systems, including through economic diversification and sustainable management of natural resources.

10. Each Party should, as appropriate, submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs, plans and actions, without creating any additional burden for developing country Parties.

11. The adaptation communication referred to in paragraph 10 of this Article shall be, as appropriate, submitted and updated periodically, as a component of or in conjunction with other communications or documents, including a national adaptation plan, a nationally determined contribution as referred to in Article 4, paragraph 2, and/or a national communication.

12. The adaptation communications referred to in paragraph 10 of this Article shall be recorded in a public registry maintained by the secretariat.

13. Continuous and enhanced international support shall be provided to developing country Parties for the implementation of paragraphs 7, 9, 10 and 11 of this Article, in accordance with the provisions of Articles 9, 10 and 11.

14. The global stocktake referred to in Article 14 shall, inter alia:

(a) Recognize adaptation efforts of developing country Parties;

(b) Enhance the implementation of adaptation action taking into account the adaptation communication referred to in paragraph 10 of this Article;

(c) Review the adequacy and effectiveness of adaptation and support provided for adaptation; and

(d) Review the overall progress made in achieving the global goal on adaptation referred to in paragraph 1 of this Article.

Article 8

1. Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage.

2. The Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement and may be enhanced and strengthened, as determined by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

3. Parties should enhance understanding, action and support, including through the Warsaw International Mechanism, as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change.

4. Accordingly, areas of cooperation and facilitation to enhance understanding, action and support may include:

(a) Early warning systems;

(b) Emergency preparedness;

(c) Slow onset events;

(d) Events that may involve irreversible and permanent loss and damage;

(e) Comprehensive risk assessment and management;

(f) Risk insurance facilities, climate risk pooling and other insurance solutions;

(g) Non-economic losses; and

(h) Resilience of communities, livelihoods and ecosystems.

5. The Warsaw International Mechanism shall collaborate with existing bodies and expert groups under the Agreement, as well as relevant organizations and expert bodies outside the Agreement.

Article 9

1. Developed country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention.

2. Other Parties are encouraged to provide or continue to provide such support voluntarily.

3. As part of a global effort, developed country Parties should continue to take the lead in mobilizing climate finance from a wide variety of sources, instruments and channels, noting the significant role of public funds, through a variety of actions, including supporting country-driven strategies, and taking into account the needs and priorities of developing country Parties. Such mobilization of climate finance should represent a progression beyond previous efforts.

4. The provision of scaled-up financial resources should aim to achieve a balance between adaptation and mitigation, taking into account country-driven strategies, and the priorities and needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change and have significant capacity constraints, such as the least developed countries and small island developing States, considering the need for public and grant-based resources for adaptation.

5. Developed country Parties shall biennially communicate indicative quantitative and qualitative information related to paragraphs 1 and 3 of this Article, as applicable, including, as available, projected levels of public financial resources to be provided to developing country Parties. Other Parties providing resources are encouraged to communicate biennially such information on a voluntary basis.

6. The global stocktake referred to in Article 14 shall take into account the relevant information provided by developed country Parties and/or Agreement bodies on efforts related to climate finance.

7. Developed country Parties shall provide transparent and consistent information on support for developing country Parties provided and mobilized through public interventions biennially in accordance with the modalities, procedures and guidelines to be adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement, at its first session, as stipulated in Article 13, paragraph 13. Other Parties are encouraged to do so.

8. The Financial Mechanism of the Convention, including its operating entities, shall serve as the financial mechanism of this Agreement.

9. The institutions serving this Agreement, including the operating entities of the Financial Mechanism of the Convention, shall aim to ensure efficient access to financial resources through simplified approval procedures and enhanced readiness support for developing country Parties, in particular for the least developed countries and small island developing States, in the context of their national climate strategies and plans.

Article 10

1. Parties share a long-term vision on the importance of fully realizing technology development and transfer in order to improve resilience to climate change and to reduce greenhouse gas emissions.

2. Parties, noting the importance of technology for the implementation of mitigation and adaptation actions under this Agreement and recognizing existing technology deployment and dissemination efforts, shall strengthen cooperative action on technology development and transfer.

3. The Technology Mechanism established under the Convention shall serve this Agreement.

4. A technology framework is hereby established to provide overarching guidance to the work of the Technology Mechanism in promoting and facilitating enhanced action on technology development and transfer in order to support the implementation of this Agreement, in pursuit of the long-term vision referred to in paragraph 1 of this Article.

5. Accelerating, encouraging and enabling innovation is critical for an effective, long-term global response to climate change and promoting economic growth and sustainable development. Such effort shall be, as appropriate, supported, including by the Technology Mechanism and, through financial means, by the Financial Mechanism of the Convention, for collaborative approaches to research and development, and facilitating access to technology, in particular for early stages of the technology cycle, to developing country Parties.

6. Support, including financial support, shall be provided to developing country Parties for the implementation of this Article, including for strengthening cooperative action on technology development and transfer at different stages of the technology cycle, with a view to achieving a balance between support for mitigation and adaptation. The global stocktake referred to in Article 14 shall take into account available information on efforts related to support on technology development and transfer for developing country Parties.

Article 11

1. Capacity-building under this Agreement should enhance the capacity and ability of developing country Parties, in particular countries with the least capacity, such as the least developed countries, and those that are particularly vulnerable to the adverse effects of climate change, such as small island developing States, to take effective climate change action, including, inter alia, to implement adaptation and mitigation actions, and should facilitate technology development, dissemination and deployment, access to climate finance, relevant aspects of education, training and public awareness, and the transparent, timely and accurate communication of information.

2. Capacity-building should be country-driven, based on and responsive to national needs, and foster country ownership of Parties, in particular, for developing country Parties, including at the national, subnational and local levels. Capacity-building should be guided by lessons learned, including those from capacity-building activities under the Convention, and should be an effective, iterative process that is participatory, cross-cutting and gender-responsive.

3. All Parties should cooperate to enhance the capacity of developing country Parties to implement this Agreement. Developed country Parties should enhance support for capacity-building actions in developing country Parties.

4. All Parties enhancing the capacity of developing country Parties to implement this Agreement, including through regional, bilateral and multilateral approaches, shall regularly communicate on these actions or measures on capacity-building. Developing country Parties should regularly communicate progress made on implementing capacity-building plans, policies, actions or measures to implement this Agreement.

5. Capacity-building activities shall be enhanced through appropriate institutional arrangements to support the implementation of this Agreement, including the appropriate institutional arrangements established under the Convention that serve this Agreement. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall, at its first session, consider and adopt a decision on the initial institutional arrangements for capacity-building.

Article 12

Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information, recognizing the importance of these steps with respect to enhancing actions under this Agreement.

Article 13

1. In order to build mutual trust and confidence and to promote effective implementation, an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties' different capacities and builds upon collective experience is hereby established.

2. The transparency framework shall provide flexibility in the implementation of the provisions of this Article to those developing country Parties that need it in the light of their capacities. The modalities, procedures and guidelines referred to in paragraph 13 of this Article shall reflect such flexibility.

3. The transparency framework shall build on and enhance the transparency arrangements under the Convention, recognizing the special circumstances of the least developed countries and small island developing States, and be implemented in a facilitative, non-intrusive, non-punitive manner, respectful of national sovereignty, and avoid placing undue burden on Parties.

4. The transparency arrangements under the Convention, including national communications, biennial reports and biennial update reports, international assessment and review and international consultation and analysis, shall form part of the experience drawn upon for the development of the modalities, procedures and guidelines under paragraph 13 of this Article.

5. The purpose of the framework for transparency of action is to provide a clear understanding of climate change action in the light of the objective of the Convention as set out in its Article 2, including clarity and tracking of progress towards achieving Parties' individual nationally determined contributions under Article 4, and Parties' adaptation actions under Article 7, including good practices, priorities, needs and gaps, to inform the global stocktake under Article 14.

6. The purpose of the framework for transparency of support is to provide clarity on support provided and received by relevant individual Parties in the context of climate change actions under Articles 4, 7, 9, 10 and 11, and, to the extent possible, to provide a full overview of aggregate financial support provided, to inform the global stocktake under Article 14.

7. Each Party shall regularly provide the following information:

(a) A national inventory report of anthropogenic emissions by sources and removals by sinks of greenhouse gases, prepared using good practice methodologies accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties serving as the meeting of the Parties to this Agreement; and

(b) Information necessary to track progress made in implementing and achieving its nationally determined contribution under Article 4.

8. Each Party should also provide information related to climate change impacts and adaptation under Article 7, as appropriate.

9. Developed country Parties shall, and other Parties that provide support should, provide information on financial, technology transfer and capacity-building support provided to developing country Parties under Articles 9, 10 and 11.

10. Developing country Parties should provide information on financial, technology transfer and capacity-building support needed and received under Articles 9, 10 and 11.

11. Information submitted by each Party under paragraphs 7 and 9 of this Article shall undergo a technical expert review, in accordance with decision 1/CP.21. For those developing country Parties that need it in the light of their capacities, the review process shall include assistance in identifying capacity-building needs. In addition, each Party shall participate in a facilitative, multilateral consideration of progress with respect to efforts under Article 9, and its respective implementation and achievement of its nationally determined contribution.

12. The technical expert review under this paragraph shall consist of a consideration of the Party's support provided, as relevant, and its implementation and achievement of its nationally determined contribution. The review shall also identify areas of improvement for the Party, and include a review of the consistency of the information with the modalities, procedures and guidelines referred to in paragraph 13 of this Article, taking into account the flexibility accorded to the Party under paragraph 2 of this Article. The review shall pay particular attention to the respective national capabilities and circumstances of developing country Parties.

13. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall, at its first session, building on experience from the arrangements related to transparency under the Convention, and elaborating on the provisions in this Article, adopt common modalities, procedures and guidelines, as appropriate, for the transparency of action and support.

14. Support shall be provided to developing countries for the implementation of this Article.

15. Support shall also be provided for the building of transparency-related capacity of developing country Parties on a continuous basis.

Article 14

1. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the "global stocktake"). It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the

means of implementation and support, and in the light of equity and the best available science.

2. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall undertake its first global stocktake in 2023 and every five years thereafter unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

3. The outcome of the global stocktake shall inform Parties in updating and enhancing, in a nationally determined manner, their actions and support in accordance with the relevant provisions of this Agreement, as well as in enhancing international cooperation for climate action.

Article 15

1. A mechanism to facilitate implementation of and promote compliance with the provisions of this Agreement is hereby established.

2. The mechanism referred to in paragraph 1 of this Article shall consist of a committee that shall be expert-based and facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive. The committee shall pay particular attention to the respective national capabilities and circumstances of Parties.

3. The committee shall operate under the modalities and procedures adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement at its first session and report annually to the Conference of the Parties serving as the meeting of the Parties to this Agreement.

Article 16

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

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

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

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

(a) Establish such subsidiary bodies as deemed necessary for the implementation of this Agreement; and

(b) Exercise such other functions as may be required for the implementation of this Agreement.

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

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

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

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

Article 17

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

2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention, on the arrangements made for the functioning of the secretariat, shall apply *mutatis mutandis* to this Agreement. The secretariat shall, in addition, exercise the functions assigned to it under this Agreement and by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

Article 18

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

2. Parties to the Convention that are not Parties to this Agreement may participate as observers in the proceedings of any session of the subsidiary bodies. When the subsidiary bodies serve as the subsidiary bodies of this Agreement, decisions under this Agreement shall be taken only by those that are Parties to this Agreement.

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

Article 19

1. Subsidiary bodies or other institutional arrangements established by or under the Convention, other than those referred to in this Agreement, shall serve this Agreement upon a decision of the Conference of the Parties serving as the meeting of the Parties to this Agreement. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall specify the functions to be exercised by such subsidiary bodies or arrangements.

2. The Conference of the Parties serving as the meeting of the Parties to this Agreement may provide further guidance to such subsidiary bodies and institutional arrangements.

Article 20

1. This Agreement shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations that are Parties to the Convention. It shall be open for signature at the United Nations Headquarters in New York from 22 April 2016 to 21 April 2017. Thereafter, this Agreement shall be open for accession from the day following the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization that becomes a Party to this Agreement without any of its member States being a Party shall be bound by all the obligations under this Agreement. In the case of regional economic integration organizations with one or more member States that are Parties to this Agreement,

the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Agreement. In such cases, the organization and the member States shall not be entitled to exercise rights under this Agreement concurrently.

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

Article 21

1. This Agreement shall enter into force on the thirtieth day after the date on which at least 55 Parties to the Convention accounting in total for at least an estimated 55 per cent of the total global greenhouse gas emissions have deposited their instruments of ratification, acceptance, approval or accession.

2. Solely for the limited purpose of paragraph 1 of this Article, "total global greenhouse gas emissions" means the most up-to-date amount communicated on or before the date of adoption of this Agreement by the Parties to the Convention.

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

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

Article 22

The provisions of Article 15 of the Convention on the adoption of amendments to the Convention shall apply *mutatis mutandis* to this Agreement.

Article 23

1. The provisions of Article 16 of the Convention on the adoption and amendment of annexes to the Convention shall apply *mutatis mutandis* to this Agreement.

2. Annexes to this Agreement shall form an integral part thereof and, unless otherwise expressly provided for, a reference to this Agreement constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

Article 24

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

Article 25

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

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

Article 26

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

Article 27

No reservations may be made to this Agreement.

Article 28

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

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

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

Article 29

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

DONE at Paris this twelfth day of December two thousand and fifteen.

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

[For the list of Signatories, see at the end of the Agreement in Spanish – Pour la liste des signataires, voir à la fin de l'Accord en espagnol.]

Annex 157

Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean "Escazú Agreement", 4 March 2018, 3398 UNTS 1

No. 56654*

Multilateral

Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean. Escazú, 4 March 2018

Entry into force: *22 April 2021, in accordance with article 22(1) , the present Agreement shall enter into force on the ninetieth day after the date of deposit of the eleventh instrument of ratification, acceptance, approval or accession*

Authentic texts: *English and Spanish*

Registration with the Secretariat of the United Nations: *ex officio, 22 April 2021*

Note: *See also annex A, No. 56654.*

No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.

Multilatéral

Accord régional sur l'accès à l'information, la participation publique et l'accès à la justice à propos des questions environnementales en Amérique latine et dans les Caraïbes. Escazú, 4 mars 2018

Entrée en vigueur : *22 avril 2021, conformément au paragraphe 1 de l'article 22 , le présent Accord entrera en vigueur le quatre-vingt-dixième jour après la date du dépôt du onzième instrument de ratification, d'acceptation, d'approbation ou d'adhésion*

Textes authentiques : *anglais et espagnol*

Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies : *d'office, 22 avril 2021*

Note : *Voir aussi annexe A, No. 56654.*

Aucun numéro de volume n'a encore été attribué à ce dossier. Les textes disponibles qui sont reproduits ci-dessous sont les textes originaux de l'accord ou de l'action tels que soumis pour enregistrement. Par souci de clarté, leurs pages ont été numérotées. Les traductions qui accompagnent ces textes ne sont pas définitives et sont fournies uniquement à titre d'information.

Participant	**Ratification**
Antigua and Barbuda	4 Mar 2020
Argentina	22 Jan 2021
Bolivia (Plurinational State of)	26 Sep 2019
Ecuador	21 May 2020
Guyana	18 Apr 2019
Mexico (with interpretative declarations)	22 Jan 2021
Nicaragua	9 Mar 2020
Panama	10 Mar 2020
St. Kitts and Nevis	26 Sep 2019
St. Lucia	1 Dec 2020
St. Vincent and the Grenadines	26 Sep 2019
Uruguay	26 Sep 2019

Note: The texts of the declarations and reservations are published after the list of Parties -- Les textes des déclarations et réserves sont reproduits après la liste des Parties.

Participant	**Ratification**
Antigua-et-Barbuda	4 mars 2020
Argentine	22 janv 2021
Bolivie (État plurinational de)	26 sept 2019
Équateur	21 mai 2020
Guyana	18 avr 2019
Mexique (avec déclarations interprétatives)	22 janv 2021
Nicaragua	9 mars 2020
Panama	10 mars 2020
Saint-Kitts-et-Nevis	26 sept 2019
Saint-Vincent-et-les Grenadines	26 sept 2019
Sainte-Lucie	1er déc 2020
Uruguay	26 sept 2019

Interpretative declarations made upon Ratification

MEXICO

Déclarations interprétatives faites lors de la Ratification

MEXIQUE

[TRANSLATION – TRADUCTION]

In ratifying the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, the United Mexican States understands that the term "promptly", included in paragraph 2 (b) of article 5, shall be interpreted in accordance with the terms and deadlines provided for in the national laws in force regarding transparency and access to public information.

In addition, the United Mexican States considers that, for the purposes of the Agreement, the terms "harm" and "substantial harm" refer to:

(a) The actual risk of dissemination of information that is demonstrated and identified as causing substantial harm to the public interest or national security;

(b) The adverse and measurable loss, change, deterioration, disturbance or modification of, or damage to, habitats, ecosystems, natural elements and natural resources, their chemical, physical or biological conditions, the relationships among them and the environmental services they provide;

(c) The harm to an environmental element that results from an adverse environmental impact; that which results from one or more environmental impacts on one or more environmental elements or ecosystem processes that trigger an ecological imbalance; or that which results in the loss of one or more environmental elements that affect the structure or function or modify the evolutionary or successional trends of the ecosystem.

[TRANSLATION – TRADUCTION]

Au moment de la ratification de l'Accord régional sur l'accès à l'information, la participation publique et l'accès à la justice à propos des questions environnementales en Amérique latine et dans les Caraïbes, les États-Unis du Mexique comprennent que le terme « en forma expedita » (rapidement) figurant à l'article 5, paragraphe 2, alinéa b), sera interprété conformément à la législation nationale en vigueur en matière de transparence et d'accès à l'information publique et dans les délais prévus par celle-ci.

En outre, les États-Unis du Mexique considèrent que, aux fins de l'Accord, les termes « daño » (dommage) ou « daño significativo » (dommage significatif) comprennent :

a) le risque réel de la divulgation d'information dont il est démontré ou déterminé qu'elle peut nuire de manière significative à l'intérêt public ou à la sécurité nationale ;

b) l'atteinte qui affecte de manière négative et mesurable les habitats, les écosystèmes, les éléments et ressources naturels, l'état chimique, physique ou biologique de ceux-ci, leurs interactions mutuelles, ainsi que les services environnementaux qu'ils fournissent, ou leur perte, modification, détérioration ou altération négatives et mesurables ;

c) le dommage causé à un élément de l'environnement qui résulte d'un impact environnemental néfaste ; le dommage causé par une ou plusieurs atteintes à un ou plusieurs éléments de l'environnement ou processus écosystémiques qui déclenchent un déséquilibre écologique, ainsi que celui qui entraîne la perte d'un ou de plusieurs éléments de l'environnement qui affecte la structure ou la fonction de l'écosystème ou en modifie l'évolution ou la succession.

[ENGLISH TEXT – TEXTE ANGLAIS]

REGIONAL AGREEMENT ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION AND JUSTICE IN ENVIRONMENTAL MATTERS IN LATIN AMERICA AND THE CARIBBEAN

The Parties to the present Agreement,

Recalling the adoption, at the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in 2012, of the Declaration on the application of Principle 10 of the Rio Declaration, reaffirming the commitment to the rights of access to information, participation and justice regarding environmental issues, recognizing the need to make commitments to ensure proper fulfilment of those rights and declaring a willingness to launch a process for exploring the feasibility of adopting a regional instrument,

Reaffirming Principle 10 of the 1992 Rio Declaration on Environment and Development, which establishes the following: "Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided",

Emphasizing that access rights are interrelated and interdependent, and so each and every one of them should be promoted and implemented in an integrated and balanced manner,

Convinced that access rights contribute to the strengthening of, inter alia, democracy, sustainable development and human rights,

Reaffirming the importance of the Universal Declaration of Human Rights and recalling other international human rights instruments that underscore that all States have the responsibility to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind, including those related to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming also all the principles of the 1972 Declaration of the United Nations Conference on the Human Environment and of the 1992 Rio Declaration on Environment and Development,

Recalling the Declaration of the United Nations Conference on the Human Environment, Agenda 21, the Programme for the Further Implementation of Agenda 21, the Declaration of Barbados and the Programme of Action for the Sustainable Development of Small Island Developing States, the Mauritius Declaration and the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, the Johannesburg Declaration on Sustainable Development, the Plan of Implementation of the World Summit on Sustainable Development and the SIDS Accelerated Modalities of Action (SAMOA) Pathway,

Recalling also that, in the outcome document of the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, in 2012, entitled "The future we want", among the many provisions referring to Principle 10 of the Rio Declaration, the Heads of State and Government and high-level representatives acknowledged that democracy, good governance and the rule of law, at the national and international levels, as well as an enabling environment, were essential for sustainable development, including sustained and inclusive economic growth, social development, environmental protection and eradication of poverty and hunger; underscored that broad public participation and access to information and judicial and administrative proceedings were essential to the promotion of sustainable development; and encouraged action at the regional, national, subnational and local levels to promote access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters, as appropriate,

Considering United Nations General Assembly resolution 70/1 of 25 September 2015, entitled "Transforming our world: the 2030 Agenda for Sustainable Development", by which it adopted a comprehensive, far-reaching and people-centred set of universal and transformative Sustainable Development Goals and targets, and reaffirmed its commitment to achieving sustainable development in its three dimensions — economic, social and environmental — in a balanced and integrated manner,

Recognizing the multiculturalism of Latin America and the Caribbean and of their peoples,

Recognizing also the important work of the public and of human rights defenders in environmental matters for strengthening democracy, access rights and sustainable development and their fundamental contributions in this regard,

Aware of the progress made in international and regional agreements, in domestic legislation and practice on rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters,

Convinced of the need to promote and strengthen dialogue, cooperation, technical assistance, education and awareness-raising as well as capacity-building for the full exercise of access rights at the international, regional, national, subnational and local levels,

Resolved to achieve the full implementation of the access rights provided for under the present Agreement, as well as the creation and strengthening of capacities and cooperation,

Have agreed as follows:

Article 1
Objective

The objective of the present Agreement is to guarantee the full and effective implementation in Latin America and the Caribbean of the rights of access to environmental information, public participation in the environmental decision-making process and access to justice in environmental matters, and the creation and strengthening of capacities and cooperation, contributing to the protection of the right of every person of present and future generations to live in a healthy environment and to sustainable development.

Article 2
Definitions

For the purposes of the present Agreement:

(a) "Access rights" means the right of access to environmental information, the right of public participation in the environmental decision-making process and the right of access to justice in environmental matters;

(b) "Competent authority" means, for the purposes of articles 5 and 6 of the present Agreement, any public body that exercises the powers, authority and functions for access to information, including independent and autonomous bodies, organizations or entities owned or controlled by the government, whether by virtue of powers granted by the constitution or other laws, and, when appropriate, private organizations that receive public funds or benefits (directly or indirectly) or that perform public functions and services, but only with respect to the public funds or benefits received or to the public functions and services performed;

(c) "Environmental information" means any information that is written, visual, audio, and electronic, or recorded in any other format, regarding the

environment and its elements and natural resources, including information related to environmental risks, and any possible adverse impacts affecting or likely to affect the environment and health, as well as to environmental protection and management;

(d) "Public" means one or more natural or legal persons and the associations, organizations or groups established by those persons, that are nationals or that are subject to the national jurisdiction of the State Party;

(e) "Persons or groups in vulnerable situations" means those persons or groups that face particular difficulties in fully exercising the access rights recognized in the present Agreement, because of circumstances or conditions identified within each Party's national context and in accordance with its international obligations.

Article 3
Principles

Each Party shall be guided by the following principles in implementing the present Agreement:

(a) Principle of equality and principle of non-discrimination;

(b) Principle of transparency and principle of accountability;

(c) Principle of non-regression and principle of progressive realization;

(d) Principle of good faith;

(e) Preventive principle;

(f) Precautionary principle;

(g) Principle of intergenerational equity;

(h) Principle of maximum disclosure;

(i) Principle of permanent sovereignty of States over their natural resources;

(j) Principle of sovereign equality of States; and

(k) Principle of *pro persona*.

Article 4
General provisions

1. Each Party shall guarantee the right of every person to live in a healthy environment and any other universally-recognized human right related to the present Agreement.

2. Each Party shall ensure that the rights recognized in the present Agreement are freely exercised.

3. Each Party shall adopt the necessary measures, of a legislative, regulatory, administrative or any other nature, in the framework of its domestic provisions, to guarantee the implementation of the provisions of the present Agreement.

4. With the aim of contributing to the effective application of the present Agreement, each Party shall provide the public with information to facilitate the acquisition of knowledge on access rights.

5. Each Party shall ensure that guidance and assistance is provided to the public — particularly those persons or groups in vulnerable situations — in order to facilitate the exercise of their access rights.

6. Each Party shall guarantee an enabling environment for the work of persons, associations, organizations or groups that promote environmental protection, by recognizing and protecting them.

7. No provision in the present Agreement shall limit or repeal other more favourable rights and guarantees set forth, at present or in the future, in the legislation of a State Party or in any other international agreement to which a State is party, or prevent a State Party from granting broader access to environmental information, public participation in the environmental decision-making process and justice in environmental matters.

8. Each Party shall seek to adopt the most favourable interpretation for the full enjoyment of and respect for the access rights when implementing the present Agreement.

9. For the implementation of the present Agreement, each Party shall encourage the use of new information and communications technologies, such as open data, in the different

languages used in the country, as appropriate. In no circumstances shall the use of electronic media constrain or result in discrimination against the public.

10. The Parties may promote knowledge of the provisions of the present Agreement in other international forums related to environmental matters, in accordance with the rules of each forum.

Article 5
Access to environmental information

Accessibility of environmental information

1. Each Party shall ensure the public's right of access to environmental information in its possession, control or custody, in accordance with the principle of maximum disclosure.

2. The exercise of the right of access to environmental information includes:

(a) requesting and receiving information from competent authorities without mentioning any special interest or explaining the reasons for the request;

(b) being informed promptly whether the requested information is in possession or not of the competent authority receiving the request; and

(c) being informed of the right to challenge and appeal when information is not delivered, and of the requirements for exercising this right.

3. Each Party shall facilitate access to environmental information for persons or groups in vulnerable situations, establishing procedures for the provision of assistance, from the formulation of requests through to the delivery of the information, taking into account their conditions and specificities, for the purpose of promoting access and participation under equal conditions.

4. Each Party shall guarantee that the above-mentioned persons or groups in vulnerable situations, including indigenous peoples and ethnic groups, receive assistance in preparing their requests and obtain a response.

Refusal of access to environmental information

5. If the requested information or part thereof is not delivered to the applicant because it falls under the domestic legal regime of exceptions, the competent authority shall

communicate its refusal in writing, including the legal provisions and the reasons justifying the decision in each case, and inform the applicant of the right to challenge and appeal.

6. Access to information may be refused in accordance with domestic legislation. In cases where a Party does not have a domestic legal regime of exceptions, that Party may apply the following exceptions:

(a) when disclosure would put at risk the life, safety or health of individuals;

(b) when disclosure would adversely affect national security, public safety or national defence;

(c) when disclosure would adversely affect the protection of the environment, including any endangered or threatened species; or

(d) when disclosure would create a clear, probable and specific risk of substantial harm to law enforcement, prevention, investigation and prosecution of crime.

7. The exception regimes shall take into account each Party's human rights obligations. Each Party shall encourage the adoption of exception regimes that favour the disclosure of information.

8. The reasons for refusal shall be legally established in advance and be clearly defined and regulated, taking into account the public interest, and shall thus be interpreted restrictively. The burden of proof will lie with the competent authority.

9. When applying the public interest test, the competent authorities shall weigh the interest of withholding the information against the public benefit of disclosing it, based on suitability, need and proportionality.

10. Where not all the information contained in a document is exempt under paragraph 6 of the present article, the non-exempt information shall be provided to the applicant.

Conditions applicable to the delivery of environmental information

11. The competent authorities shall guarantee that the environmental information is provided in the format requested by the applicant, if available. If such a format is not available, the environmental information shall be provided in the available format.

12. The competent authorities shall respond to requests for environmental information as quickly as possible and within a period not longer than 30 business days from the date of receipt of the request, or less if so stipulated in domestic legislation.

13. Where, in exceptional circumstances and in accordance with domestic legislation, the competent authority requires more time to respond to the request, it shall notify the applicant in writing of the justification for the extension prior to the expiration of the period established in paragraph 12 of the present article. Such an extension will not exceed 10 business days.

14. In the event that the competent authority does not respond within the periods established in paragraphs 12 and 13 of the present article, paragraph 2 of article 8 shall apply.

15. When the competent authority receiving the request does not have the requested information, it shall notify the applicant as quickly as possible, indicating, if it can determine it, which authority may be in possession of the information. The request shall be forwarded to the relevant authority, and the applicant so informed.

16. When the requested information does not exist or has not yet been generated, the applicant shall be so informed, with explanation, within the periods established in paragraphs 12 and 13 of the present article.

17. Environmental information shall be disclosed at no cost, insofar as its reproduction or delivery is not required. Reproduction and delivery costs shall be applied in accordance with the procedures established by the competent authority. Such costs shall be reasonable and made known in advance, and payment can be waived in the event that the applicant is deemed to be in a vulnerable situation or to have special circumstances warranting such a waiver.

Independent oversight mechanisms

18. Each Party shall establish or designate one or more impartial entities or institutions with autonomy and independence to promote transparency in access to environmental information, to oversee compliance with rules, and monitor, report on and guarantee the right of access to information. Each Party may consider including or strengthening, as appropriate, sanctioning powers within the scope of the responsibilities of the aforementioned entities or institutions.

Article 6
Generation and dissemination of environmental information

1. Each Party shall guarantee, to the extent possible within available resources, that the competent authorities generate, collect, publicize and disseminate environmental information relevant to their functions in a systematic, proactive, timely, regular, accessible and comprehensible manner, and periodically update this information and encourage the disaggregation and decentralization of environmental information at the subnational and local levels. Each Party shall strengthen coordination between the different authorities of the State.

2. The competent authorities shall endeavour to ensure, to the extent possible, that environmental information is reusable, processable and available in formats that are accessible, and that no restrictions are placed on its reproduction or use, in accordance with domestic legislation.

3. Each Party shall have in place one or more up-to-date environmental information systems, which may include, inter alia:

(a) the texts of treaties and international agreements, as well as environmental laws, regulations and administrative acts;

(b) reports on the state of the environment;

(c) a list of public entities competent in environmental matters and, where possible, their respective areas of operation;

(d) a list of polluted areas, by type of pollutant and location;

(e) information on the use and conservation of natural resources and ecosystem services;

(f) scientific, technical or technological reports, studies and information on environmental matters produced by academic and research institutions, whether public or private, national or foreign;

(g) climate change sources aimed at building national capacities;

(h) information on environmental impact assessment processes and on other environmental management instruments, where applicable, and environmental licences or permits granted by the public authorities;

(i) an estimated list of waste by type and, when possible, by volume, location and year; and

(j) information on the imposition of administrative sanctions in environmental matters.

Each Party shall guarantee that environmental information systems are duly organized, accessible to all persons and made progressively available through information technology and georeferenced media, where appropriate.

4. Each Party shall take steps to establish a pollutant release and transfer register covering air, water, soil and subsoil pollutants, as well as materials and waste in its jurisdiction. This register will be established progressively and updated periodically.

5. Each Party shall guarantee that in the case of an imminent threat to public health or the environment, the relevant competent authority shall immediately disclose and disseminate through the most effective means all pertinent information in its possession that could help the public take measures to prevent or limit potential damage. Each Party shall develop and implement an early warning system using available mechanisms.

6. In order to facilitate access by persons or groups in vulnerable situations to information that particularly affects them, each Party shall endeavour, where applicable, to ensure that the competent authorities disseminate environmental information in the various languages used in the country, and prepare alternative formats that are comprehensible to those groups, using suitable channels of communication.

7. Each Party shall use its best endeavours to publish and disseminate at regular intervals, not exceeding five years, a national report on the state of the environment, which may contain:

(a) information on the state of the environment and natural resources, including quantitative data, where possible;

(b) national actions to fulfil environmental legal obligations;

(c) advances in the implementation of the access rights; and

(d) collaboration agreements among public, social and private sectors.

Such reports shall be drafted in an easily comprehensible manner and accessible to the public in different formats and disseminated through appropriate means, taking into account cultural realities. Each Party may invite the public to make contributions to these reports.

8. Each Party shall encourage independent environmental performance reviews that take into account nationally or internationally agreed criteria and guides and common indicators, with a view to evaluating the efficacy, effectiveness and progress of its national environmental policies in fulfilment of their national and international commitments. The reviews shall include participation by the various stakeholders.

9. Each Party shall promote access to environmental information contained in concessions, contracts, agreements or authorizations granted, which involve the use of public goods, services or resources, in accordance with domestic legislation.

10. Each Party shall ensure that consumers and users have official, relevant and clear information on the environmental qualities of goods and services and their effects on health, favouring sustainable production and consumption patterns.

11. Each Party shall create and keep regularly updated its archiving and document management systems in environmental matters in accordance with its applicable rules with the aim of facilitating access to information at all times.

12. Each Party shall take the necessary measures, through legal or administrative frameworks, among others, to promote access to environmental information in the possession of private entities, in particular information on their operations and the possible risks and effects on human health and the environment.

13. In accordance with its capacities, each Party shall encourage public and private companies, particularly large companies, to prepare sustainability reports that reflect their social and environmental performance.

Article 7
Public participation in the environmental decision-making process

1. Each Party shall ensure the public's right to participation and, for that purpose, commits to implement open and inclusive participation in environmental decision-making processes based on domestic and international normative frameworks.

2. Each Party shall guarantee mechanisms for the participation of the public in decision-making processes, revisions, re-examinations or updates with respect to projects and activities, and in other processes for granting environmental permits that have or may have a significant impact on the environment, including when they may affect health.

3. Each Party shall promote the participation of the public in decision-making processes, revisions, re-examinations or updates other than those referred to in paragraph 2 of the present article with respect to environmental matters of public interest, such as land-use planning, policies, strategies, plans, programmes, rules and regulations, which have or may have a significant impact on the environment.

4. Each Party shall adopt measures to ensure that the public can participate in the decision-making process from the early stages, so that due consideration can be given to the observations of the public, thus contributing to the process. To that effect, each Party shall provide the public with the necessary information in a clear, timely and comprehensive manner, to give effect to its right to participate in the decision-making process.

5. The public participation procedure will provide for reasonable timeframes that allow sufficient time to inform the public and for its effective participation.

6. The public shall be informed, through appropriate means, such as in writing, electronically, orally and by customary methods, and in an effective, comprehensible and timely manner, as a minimum, of the following:

(a) the type or nature of the environmental decision under consideration and, where appropriate, in non-technical language;

(b) the authority responsible for making the decision and other authorities and bodies involved;

(c) the procedure foreseen for the participation of the public, including the date on which the procedure will begin and end, mechanisms for participation and, where applicable, the date and place of any public consultation or hearing; and

(d) the public authorities involved from which additional information on the environmental decision under consideration can be requested and the procedure for requesting information.

7. The public's right to participate in environmental decision-making processes shall include the opportunity to present observations through appropriate means available, according to the circumstances of the process. Before adopting the decision, the relevant public authority shall give due consideration to the outcome of the participation process.

8. Each Party shall ensure that, once a decision has been made, the public is informed in a timely manner thereof and of the grounds and reasons underlying the decision, including how the observations of the public have been taken into consideration. The decision and its basis shall be made public and be accessible.

9. The dissemination of the decisions resulting from environmental impact assessments and other environmental decision-making processes in which the public has participated shall be carried out through appropriate means, which may include written, electronic or oral means and customary methods, in an effective and prompt manner. The information disseminated shall include the established procedure to allow the public to take the relevant administrative and judicial actions.

10. Each Party shall establish conditions that are favourable to public participation in environmental decision-making processes and that are adapted to the social, economic, cultural, geographical and gender characteristics of the public.

11. When the primary language of the directly affected public is different to the official languages, the public authority shall ensure that means are provided to facilitate their understanding and participation.

12. Each Party shall promote, where appropriate and in accordance with domestic legislation, public participation in international forums and negotiations on environmental matters or with an environmental impact, in accordance with the procedural rules on participation of each forum. The participation of the public at the national level on matters of international environmental forums shall also be promoted, where appropriate.

13. Each Party shall encourage the establishment of appropriate spaces for consultation on environmental matters or the use of those that are already in existence in which various groups and sectors are able to participate. Each Party shall promote regard for local knowledge, dialogue and interaction of different views and knowledge, where appropriate.

14. The public authorities shall make efforts to identify and support persons or groups in vulnerable situations in order to engage them in an active, timely and effective manner in participation mechanisms. For these purposes, appropriate means and formats will be considered, in order to eliminate barriers to participation.

15. In the implementation of the present Agreement, each Party shall guarantee that its domestic legislation and international obligations in relation to the rights of indigenous peoples and local communities are observed.

16. The public authority shall make efforts to identify the public directly affected by the projects or activities that have or may have a significant impact on the environment and shall promote specific actions to facilitate their participation.

17. With respect to the environmental decision-making processes referred to in paragraph 2 of the present article, as a minimum, the following information shall be made public:

(a) a description of the area of influence and physical and technical characteristics of the proposed project or activity;

(b) a description of the main environmental impacts of the project or activity and, as appropriate, the cumulative environmental impact;

(c) a description of the measures foreseen with respect to those impacts;

(d) a summary of (a), (b) and (c) of the present paragraph in comprehensible, non-technical language;

(e) the public reports and opinions of the involved entities addressed to the public authority related to the project or activity under consideration;

(f) a description of the available technologies to be used and alternative locations for executing the project or activity subject to assessment, when the information is available; and

(g) actions taken to monitor the implementation and results of environmental impact assessment measures.

The aforementioned information shall be made available free of charge to the public in accordance with paragraph 17 of article 5 of the present Agreement.

Article 8
Access to justice in environmental matters

1. Each Party shall guarantee the right of access to justice in environmental matters in accordance with the guarantees of due process.

2. Each Party shall ensure, in the framework of its domestic legislation, access to judicial and administrative mechanisms to challenge and appeal, with respect to substance and procedure:

(a) any decision, action or omission related to the access to environmental information;

(b) any decision, action or omission related to public participation in the decision-making process regarding environmental matters; and

(c) any other decision, action or omission that affects or could affect the environment adversely or violate laws and regulations related to the environment.

3. To guarantee the right of access to justice in environmental matters, each Party shall have, considering its circumstances:

(a) competent State entities with access to expertise in environmental matters;

(b) effective, timely, public, transparent and impartial procedures that are not prohibitively expensive;

(c) broad active legal standing in defence of the environment, in accordance with domestic legislation;

(d) the possibility of ordering precautionary and interim measures, inter alia, to prevent, halt, mitigate or rehabilitate damage to the environment;

(e) measures to facilitate the production of evidence of environmental damage, when appropriate and as applicable, such as the reversal of the burden of proof and the dynamic burden of proof;

(f) mechanisms to execute and enforce judicial and administrative decisions in a timely manner; and

(g) mechanisms for redress, where applicable, such as restitution to the condition prior to the damage, restoration, compensation or payment of a financial penalty, satisfaction, guarantees of non-repetition, assistance for affected persons and financial instruments to support redress.

4. To facilitate access to justice in environmental matters for the public, each Party shall establish:

(a) measures to minimize or eliminate barriers to the exercise of the right of access to justice;

(b) means to publicize the right of access to justice and the procedures to ensure its effectiveness;

(c) mechanisms to systematize and disseminate judicial and administrative decisions, as appropriate; and

(d) the use of interpretation or translation of languages other than the official languages when necessary for the exercise of that right.

5. In order to give effect to the right of access to justice, each Party shall meet the needs of persons or groups in vulnerable situations by establishing support mechanisms, including, as appropriate, free technical and legal assistance.

6. Each Party shall ensure that the judicial and administrative decisions adopted in environmental matters and their legal grounds are set out in writing.

7. Each Party shall promote, where appropriate, alternative dispute resolution mechanisms in environmental matters, such as mediation, conciliation or other means that allow such disputes to be prevented or resolved.

Article 9
Human rights defenders in environmental matters

1. Each Party shall guarantee a safe and enabling environment for persons, groups and organizations that promote and defend human rights in environmental matters, so that they are able to act free from threat, restriction and insecurity.

2. Each Party shall take adequate and effective measures to recognize, protect and promote all the rights of human rights defenders in environmental matters, including their right to life, personal integrity, freedom of opinion and expression, peaceful assembly and association, and free movement, as well as their ability to exercise their access rights, taking into account its international obligations in the field of human rights, its constitutional principles and the basic concepts of its legal system.

3. Each Party shall also take appropriate, effective and timely measures to prevent, investigate and punish attacks, threats or intimidations that human rights defenders in environmental matters may suffer while exercising the rights set out in the present Agreement.

Article 10
Capacity-building

1. In order to contribute to the implementation of the provisions of the present Agreement, each Party undertakes to create and strengthen national capacities, based on its priorities and needs.

2. Each Party, in line with its capacities, may take, inter alia, the following measures:

(a) train authorities and civil servants on environmental access rights;

(b) develop and strengthen environmental law and access rights awareness-raising and capacity-building programmes for, inter alia, the public, judicial and administrative officials, national human rights institutions and jurists;

(c) provide the competent institutions and entities with adequate equipment and resources;

(d) promote education and training on, and raise public awareness of, environmental matters, through, inter alia, basic educational modules on access rights for students at all levels of education;

(e) develop specific measures for persons or groups in vulnerable situations, such as providing interpreters or translators in languages other than official languages when necessary;

(f) acknowledge the importance of associations, organizations or groups that train the public on or raise public awareness of access rights; and

(g) strengthen capabilities to collect, retain and evaluate environmental information.

Article 11
Cooperation

1. The Parties shall cooperate to strengthen their national capacities with the aim of implementing the present Agreement in an effective manner.

2. The Parties shall give particular consideration to least developed countries, landlocked developing countries and small island developing States from Latin America and the Caribbean.

3. For the purposes of implementing paragraph 2 of the present article, the Parties shall promote activities and mechanisms, such as:

(a) discussions, workshops, expert exchanges, technical assistance, education and observatories;

(b) developing, sharing and implementing educational, training and awareness-raising materials and programmes;

(c) sharing experiences of voluntary codes of conduct, guidelines, good practices and standards; and

(d) committees, councils and forums of multisectoral development stakeholders to address cooperation priorities and activities.

4. The Parties shall encourage partnerships with States from other regions, intergovernmental, non-governmental, academic and private organizations, as well as civil society organizations and other relevant stakeholders to implement the present Agreement.

5. The Parties recognize that regional cooperation and information-sharing shall be promoted in relation to all aspects of illicit activities against the environment.

Article 12
Clearing house

The Parties shall have a virtual and universally accessible clearing house on access rights. The clearing house will be operated by the Economic Commission for Latin America and the Caribbean, in its capacity as Secretariat, and may include, inter alia, legislative, administrative and policy measures, codes of conduct and good practices.

Article 13
National implementation

Each Party, to the extent of its ability and in accordance with its national priorities, commits to provide the resources for national activities that are needed to fulfil the obligations derived from the present Agreement.

Article 14
Voluntary Fund

1. A Voluntary Fund is hereby established to support the financing of the implementation of the present Agreement, the functioning of which shall be defined by the Conference of the Parties.

2. Parties may make voluntary contributions to support the implementation of the present Agreement.

3. The Conference of the Parties may seek, in accordance with paragraph 5(g) of article 15 of the present Agreement, to obtain funds from other sources to support the implementation of the present Agreement.

Article 15
Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The Executive Secretary of the Economic Commission for Latin America and the Caribbean shall convene the first meeting of the Conference of the Parties no later than one year after the entry into force of the present Agreement. Subsequently, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be decided by the Conference.

3. Extraordinary meetings of the Conference of the Parties shall be held when the Conference deems necessary.

4. At its first meeting, the Conference of the Parties shall:

(a) discuss and adopt by consensus its rules of procedure, including the modalities for significant participation by the public; and

(b) discuss and adopt by consensus the financial provisions that are necessary for the functioning and implementation of the present Agreement.

5. The Conference of the Parties shall examine and promote the implementation and effectiveness of the present Agreement. To that end:

(a) it shall establish by consensus such subsidiary bodies as it deems necessary for the implementation of the present Agreement;

(b) it shall receive and consider reports and recommendations from subsidiary bodies;

(c) it shall be informed by the Parties of the measures adopted to implement the present Agreement;

(d) it may formulate recommendations to the Parties on the implementation of the present Agreement;

(e) it shall prepare and adopt, as applicable, protocols to the present Agreement for its subsequent signature, ratification, acceptance, approval and accession;

(f) it shall examine and adopt proposals to amend the present Agreement in accordance with the provisions of article 20 of the present Agreement;

(g) it shall establish guidelines and modalities for mobilizing financial and non-financial resources from various sources to facilitate the implementation of the present Agreement;

(h) it shall examine and adopt any additional measures needed to achieve the objective of the present Agreement; and

(i) it shall perform any other function assigned to it by the present Agreement.

Article 16
Right to vote

Each Party to the present Agreement shall have one vote.

Article 17
Secretariat

1. The Executive Secretary of the Economic Commission for Latin America and the Caribbean shall carry out the secretariat functions of the present Agreement.

2. The functions of the Secretariat shall be as follows:

(a) to convene and organize the meetings of the Conference of the Parties and its subsidiary bodies and provide the necessary services;

(b) to provide assistance to the Parties upon their request for capacity-building, including the sharing of experiences and information and the organization of activities in accordance with articles 10, 11 and 12 of the present Agreement;

(c) to determine, under the general guidance of the Conference of the Parties, the administrative and contractual arrangements needed to carry out its functions effectively; and

(d) to perform any other secretariat functions specified in the present Agreement and any other functions as determined by the Conference of the Parties.

Article18
Committee to Support Implementation and Compliance

1. A Committee to Support Implementation and Compliance is hereby established as a subsidiary body of the Conference of the Parties to promote the implementation of the present Agreement and to support the Parties in that regard. The rules relating to its structure and functions shall be determined by the Conference of the Parties at its first meeting.

2. The Committee shall be of a consultative and transparent nature, non-adversarial, non-judicial and non-punitive and shall review compliance of the provisions of the present Agreement and formulate recommendations, in accordance with the rules of procedure established by the Conference of the Parties, ensuring the significant participation of the public and paying particular attention to the national capacities and circumstances of the Parties.

Article 19
Settlement of disputes

1. If a dispute arises between two or more Parties about the interpretation or application of the present Agreement, 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 the present Agreement, 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 the present 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 procedures that the Conference of the Parties will establish.

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

Article 20
Amendments

1. Amendments to the present Agreement may be proposed by any Party.

2. Amendments to the present Agreement shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate the proposed amendment to the signatories to the present Agreement and, for information, to the Depositary.

3. The Parties shall make every effort to reach a consensus on any proposed amendment to the present Agreement. In the event that the efforts to reach a consensus fail, as a last resort, the amendment shall be adopted by a three-fourths majority vote of the Parties present and voting at the meeting.

4. An adopted amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.

5. Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 of the present article shall enter into force for the Parties having consented to be bound by it on the ninetieth day after the date of deposit of the instruments of ratification, acceptance or approval by at least half of the number of Parties to the present Agreement at the time the amendment was adopted. Thereafter, the amendment shall enter into force for any other Party that consents to be bound by it on the ninetieth day after the date of deposit of its instrument of ratification, acceptance or approval of the amendment.

Article 21
Signature, ratification, acceptance, approval and accession

1. The present Agreement shall be open for signature by any of the countries of Latin America and the Caribbean included in annex 1 at United Nations Headquarters in New York from 27 September 2018 to 26 September 2020.

2. The present Agreement shall be subject to the ratification, acceptance or approval of the States that have signed it. It shall be open to accession by any country in Latin America and the Caribbean included in annex 1 that has not signed it from the day after the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 22
Entry into force

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

2. For each State that ratifies, accepts or approves the present Agreement or accedes thereto after the deposit of the eleventh instrument of ratification, acceptance, approval or accession, the present Agreement shall enter into effect on the ninetieth day after the date of deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 23
Reservations

No reservations may be made to the present Agreement.

Article 24
Withdrawal

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

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

Article 25
Depositary

The Secretary-General of the United Nations shall be the Depositary for the present Agreement.

Article 26
Authentic texts

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

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed the present Agreement.

DONE at Escazú, Costa Rica, on this fourth day of March, two thousand and eighteen.

Annex 1

- Antigua and Barbuda
- Argentina
- Bahamas
- Barbados
- Belize
- Bolivia (Plurinational State of)
- Brazil
- Chile
- Colombia
- Costa Rica
- Cuba
- Dominica
- Dominican Republic
- Ecuador
- El Salvador
- Grenada
- Guatemala
- Guyana
- Haiti
- Honduras
- Jamaica
- Mexico
- Nicaragua
- Panama
- Paraguay
- Peru
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Suriname
- Trinidad and Tobago
- Uruguay
- Venezuela (Bolivarian Republic of)

[SPANISH TEXT – TEXTE ESPAGNOL]

ACUERDO REGIONAL SOBRE EL ACCESO A LA INFORMACIÓN, LA PARTICIPACIÓN PÚBLICA Y EL ACCESO A LA JUSTICIA EN ASUNTOS AMBIENTALES EN AMÉRICA LATINA Y EL CARIBE

Las Partes en el presente Acuerdo,

Recordando la Declaración sobre la Aplicación del Principio 10 de la Declaración de Río, formulada por países de América Latina y el Caribe en la Conferencia de las Naciones Unidas sobre el Desarrollo Sostenible, celebrada en Río de Janeiro (Brasil) en 2012, en la que se reafirma el compromiso con los derechos de acceso a la información, a la participación y a la justicia en asuntos ambientales, se reconoce la necesidad de alcanzar compromisos para la aplicación cabal de dichos derechos y se manifiesta la voluntad de iniciar un proceso que explore la viabilidad de contar con un instrumento regional,

Reafirmando el Principio 10 de la Declaración de Río sobre el Medio Ambiente y el Desarrollo de 1992, que establece lo siguiente: "el mejor modo de tratar las cuestiones ambientales es con la participación de todos los ciudadanos interesados, en el nivel que corresponda. En el plano nacional, toda persona deberá tener acceso adecuado a la información sobre el medio ambiente de que dispongan las autoridades públicas, incluida la información sobre los materiales y las actividades que encierran peligro en sus comunidades, así como la oportunidad de participar en los procesos de adopción de decisiones. Los Estados deberán facilitar y fomentar la sensibilización y la participación de la población poniendo la información a disposición de todos. Deberá proporcionarse acceso efectivo a los procedimientos judiciales y administrativos, entre estos el resarcimiento de daños y los recursos pertinentes",

Destacando que los derechos de acceso están relacionados entre sí y son interdependientes, por lo que todos y cada uno de ellos se deben promover y aplicar de forma integral y equilibrada,

Convencidas de que los derechos de acceso contribuyen al fortalecimiento, entre otros, de la democracia, el desarrollo sostenible y los derechos humanos,

Reafirmando la importancia de la Declaración Universal de Derechos Humanos y recordando otros instrumentos internacionales de derechos humanos que ponen de relieve que todos los Estados tienen la responsabilidad de respetar, proteger y promover los derechos humanos y las libertades fundamentales de todas las personas, sin distinción alguna, incluidas de raza, color, sexo, idioma, religión, opinión política o de cualquier otra índole, origen nacional o social, posición económica, nacimiento o cualquier otra condición,

Reafirmando también todos los principios de la Declaración de la Conferencia de las Naciones Unidas sobre el Medio Humano de 1972 y de la Declaración de Río sobre el Medio Ambiente y el Desarrollo de 1992,

Recordando la Declaración de la Conferencia de las Naciones Unidas sobre el Medio Humano, el Programa 21, el Plan para la Ulterior Ejecución del Programa 21, la Declaración de Barbados y el Programa de Acción para el Desarrollo Sostenible de los Pequeños Estados Insulares en Desarrollo, la Declaración de Mauricio y la Estrategia de Mauricio para la Ejecución Ulterior del Programa de Acción para el Desarrollo Sostenible de los Pequeños Estados Insulares en Desarrollo, la Declaración de Johannesburgo sobre el Desarrollo Sostenible, el Plan de Aplicación de las Decisiones de la Cumbre Mundial sobre el Desarrollo Sostenible y las Modalidades de Acción Acelerada para los Pequeños Estados Insulares en Desarrollo (Trayectoria de Samoa),

Recordando también que, en el documento final de la Conferencia de las Naciones Unidas sobre el Desarrollo Sostenible, celebrada en Río de Janeiro (Brasil) en 2012, titulado "El futuro que queremos", se reconoce que la democracia, la buena gobernanza y el estado de derecho, en los planos nacional e internacional, así como un entorno propicio, son esenciales para el desarrollo sostenible, incluido el crecimiento económico sostenido e inclusivo, el desarrollo social, la protección del medio ambiente y la erradicación de la pobreza y el hambre; se recalca que la participación amplia del público y el acceso a la información y los procedimientos judiciales y administrativos son esenciales para promover el desarrollo sostenible, y se alienta la adopción de medidas a nivel regional, nacional, subnacional y local para promover el acceso a la información ambiental, la participación pública en el proceso de toma de decisiones ambientales y el acceso a la justicia en asuntos ambientales, cuando proceda,

Considerando la resolución 70/1 de la Asamblea General de las Naciones Unidas, de 25 de septiembre de 2015, titulada "Transformar nuestro mundo: la Agenda 2030 para el Desarrollo Sostenible", por la que se acordó un amplio conjunto de Objetivos de Desarrollo Sostenible y metas universales y transformativos, de gran alcance y centrados en las personas, y en donde se estableció el compromiso de lograr el desarrollo sostenible en sus tres dimensiones —económica, social y ambiental— de forma equilibrada e integrada,

Reconociendo la multiculturalidad de América Latina y el Caribe y de sus pueblos,

Reconociendo también la importancia del trabajo y las contribuciones fundamentales del público y de los defensores de los derechos humanos en asuntos ambientales para el fortalecimiento de la democracia, los derechos de acceso y el desarrollo sostenible,

Conscientes de los avances alcanzados en los instrumentos internacionales y regionales y en las legislaciones y prácticas nacionales relativos a los derechos de acceso a la información ambiental, participación pública en los procesos de toma de decisiones ambientales y acceso a la justicia en asuntos ambientales,

Convencidas de la necesidad de promover y fortalecer el diálogo, la cooperación, la asistencia técnica, la educación y la sensibilización, así como el fortalecimiento de capacidades, en los niveles internacional, regional, nacional, subnacional y local, para el ejercicio pleno de los derechos de acceso,

Decididas a alcanzar la plena implementación de los derechos de acceso contemplados en el presente Acuerdo, así como la creación y el fortalecimiento de las capacidades y la cooperación,

Han acordado lo siguiente:

Artículo 1
Objetivo

El objetivo del presente Acuerdo es garantizar la implementación plena y efectiva en América Latina y el Caribe de los derechos de acceso a la información ambiental, participación pública en los procesos de toma de decisiones ambientales y acceso a la justicia en asuntos ambientales, así como la creación y el fortalecimiento de las capacidades y la cooperación, contribuyendo a la protección del derecho de cada persona, de las generaciones presentes y futuras, a vivir en un medio ambiente sano y al desarrollo sostenible.

Artículo 2
Definiciones

A los efectos del presente Acuerdo:

a) por "derechos de acceso" se entiende el derecho de acceso a la información ambiental, el derecho a la participación pública en los procesos de toma de decisiones en asuntos ambientales y el derecho al acceso a la justicia en asuntos ambientales;

b) por "autoridad competente" se entiende, para la aplicación de las disposiciones contenidas en los artículos 5 y 6 del presente Acuerdo, toda institución pública que ejerce los poderes, la autoridad y las funciones en materia de acceso a la información, incluyendo a los órganos, organismos o entidades independientes

o autónomos de propiedad del Estado o controlados por él, que actúen por facultades otorgadas por la Constitución o por otras leyes, y, cuando corresponda, a las organizaciones privadas, en la medida en que reciban fondos o beneficios públicos directa o indirectamente o que desempeñen funciones y servicios públicos, pero exclusivamente en lo referido a los fondos o beneficios públicos recibidos o a las funciones y servicios públicos desempeñados;

c) por "información ambiental" se entiende cualquier información escrita, visual, sonora, electrónica o registrada en cualquier otro formato, relativa al medio ambiente y sus elementos y a los recursos naturales, incluyendo aquella que esté relacionada con los riesgos ambientales y los posibles impactos adversos asociados que afecten o puedan afectar el medio ambiente y la salud, así como la relacionada con la protección y la gestión ambientales;

d) por "público" se entiende una o varias personas físicas o jurídicas y las asociaciones, organizaciones o grupos constituidos por esas personas, que son nacionales o que están sujetos a la jurisdicción nacional del Estado Parte;

e) por "personas o grupos en situación de vulnerabilidad" se entiende aquellas personas o grupos que encuentran especiales dificultades para ejercer con plenitud los derechos de acceso reconocidos en el presente Acuerdo, por las circunstancias o condiciones que se entiendan en el contexto nacional de cada Parte y de conformidad con sus obligaciones internacionales.

Artículo 3
Principios

Cada Parte se guiará por los siguientes principios en la implementación del presente Acuerdo:

a) principio de igualdad y principio de no discriminación;

b) principio de transparencia y principio de rendición de cuentas;

c) principio de no regresión y principio de progresividad;

d) principio de buena fe;

e) principio preventivo;

f) principio precautorio;

g) principio de equidad intergeneracional;

h) principio de máxima publicidad;

i) principio de soberanía permanente de los Estados sobre sus recursos naturales;

j) principio de igualdad soberana de los Estados; y

k) principio *pro persona*.

Artículo 4
Disposiciones generales

1. Cada Parte garantizará el derecho de toda persona a vivir en un medio ambiente sano, así como cualquier otro derecho humano universalmente reconocido que esté relacionado con el presente Acuerdo.

2. Cada Parte velará por que los derechos reconocidos en el presente Acuerdo sean libremente ejercidos.

3. Cada Parte adoptará todas las medidas necesarias, de naturaleza legislativa, reglamentaria, administrativa u otra, en el marco de sus disposiciones internas, para garantizar la implementación del presente Acuerdo.

4. Con el propósito de contribuir a la aplicación efectiva del presente Acuerdo, cada Parte proporcionará al público información para facilitar la adquisición de conocimiento respecto de los derechos de acceso.

5. Cada Parte asegurará que se oriente y asista al público —en especial a las personas o grupos en situación de vulnerabilidad— de forma que se facilite el ejercicio de sus derechos de acceso.

6. Cada Parte garantizará un entorno propicio para el trabajo de las personas, asociaciones, organizaciones o grupos que promuevan la protección del medio ambiente, proporcionándoles reconocimiento y protección.

7. Nada de lo dispuesto en el presente Acuerdo limitará o derogará otros derechos y garantías más favorables establecidos o que puedan establecerse en la legislación de un Estado Parte o en cualquier otro acuerdo internacional del que un Estado sea parte, ni impedirá a un Estado Parte otorgar un acceso más amplio a la información ambiental, a la participación pública en los procesos de toma de decisiones ambientales y a la justicia en asuntos ambientales.

8. En la implementación del presente Acuerdo, cada Parte avanzará en la adopción de la interpretación más favorable al pleno goce y respeto de los derechos de acceso.

9. Para la implementación del presente Acuerdo, cada Parte alentará el uso de las nuevas tecnologías de la información, y la comunicación, tales como los datos abiertos, en los diversos idiomas usados en el país, cuando corresponda. Los medios electrónicos serán utilizados de una manera que no generen restricciones o discriminaciones para el público.

10. Las Partes podrán promover el conocimiento de los contenidos del presente Acuerdo en otros foros internacionales cuando se vinculen con la temática de medio ambiente, de conformidad con las reglas que prevea cada foro.

Artículo 5
Acceso a la información ambiental

Accesibilidad de la información ambiental

1. Cada Parte deberá garantizar el derecho del público de acceder a la información ambiental que está en su poder, bajo su control o custodia, de acuerdo con el principio de máxima publicidad.

2. El ejercicio del derecho de acceso a la información ambiental comprende:

a) solicitar y recibir información de las autoridades competentes sin necesidad de mencionar algún interés especial ni justificar las razones por las cuales se solicita;

b) ser informado en forma expedita sobre si la información solicitada obra o no en poder de la autoridad competente que recibe la solicitud; y

c) ser informado del derecho a impugnar y recurrir la no entrega de información y de los requisitos para ejercer ese derecho.

3. Cada Parte facilitará el acceso a la información ambiental de las personas o grupos en situación de vulnerabilidad, estableciendo procedimientos de atención desde la formulación de solicitudes hasta la entrega de la información, considerando sus condiciones y especificidades, con la finalidad de fomentar el acceso y la participación en igualdad de condiciones.

4. Cada Parte garantizará que dichas personas o grupos en situación de vulnerabilidad, incluidos los pueblos indígenas y grupos étnicos, reciban asistencia para formular sus peticiones y obtener respuesta.

Denegación del acceso a la información ambiental

5. Cuando la información solicitada o parte de ella no se entregue al solicitante por estar en el régimen de excepciones establecido en la legislación nacional, la autoridad competente deberá comunicar por escrito la denegación, incluyendo las disposiciones jurídicas y las razones que en cada caso justifiquen esta decisión, e informar al solicitante de su derecho de impugnarla y recurrirla.

6. El acceso a la información podrá denegarse de conformidad con la legislación nacional. En los casos en que una Parte no posea un régimen de excepciones establecido en la legislación nacional, podrá aplicar las siguientes excepciones:

a) cuando hacer pública la información pueda poner en riesgo la vida, seguridad o salud de una persona física;

b) cuando hacer pública la información afecte negativamente la seguridad nacional, la seguridad pública o la defensa nacional;

c) cuando hacer pública la información afecte negativamente la protección del medio ambiente, incluyendo cualquier especie amenazada o en peligro de extinción; o

d) cuando hacer pública la información genere un riesgo claro, probable y específico de un daño significativo a la ejecución de la ley, o a la prevención, investigación y persecución de delitos.

7. En los regímenes de excepciones se tendrán en cuenta las obligaciones de cada Parte en materia de derechos humanos. Cada Parte alentará la adopción de regímenes de excepciones que favorezcan el acceso de la información.

8. Los motivos de denegación deberán estar establecidos legalmente con anterioridad y estar claramente definidos y reglamentados, tomando en cuenta el interés público, y, por lo tanto, serán de interpretación restrictiva. La carga de la prueba recaerá en la autoridad competente.

9. Cuando aplique la prueba de interés público, la autoridad competente ponderará el interés de retener la información y el beneficio público resultante de hacerla pública, sobre la base de elementos de idoneidad, necesidad y proporcionalidad.

10. Cuando la información contenida en un documento no esté exenta en su totalidad de conformidad con el párrafo 6 del presente artículo, la información no exenta deberá entregarse al solicitante.

Condiciones aplicables para la entrega de información ambiental

11. Las autoridades competentes garantizarán que la información ambiental se entregue en el formato requerido por el solicitante siempre que esté disponible. Si la información ambiental no estuviera disponible en ese formato, se entregará en el formato disponible.

12. Las autoridades competentes deberán responder a una solicitud de información ambiental con la máxima celeridad posible, en un plazo no superior a 30 días hábiles contados a partir de la fecha de recepción de la misma, o en un plazo menor si así lo previera expresamente la normativa interna.

13. Cuando, en circunstancias excepcionales y de conformidad con la legislación nacional, la autoridad competente necesite más tiempo para responder a la solicitud, deberá notificar al solicitante por escrito de la justificación de la extensión antes del vencimiento del plazo establecido en el párrafo 12 del presente artículo. Dicha extensión no deberá exceder de diez días hábiles.

14. En caso de que la autoridad competente no responda en los plazos establecidos en los párrafos 12 y 13 del presente artículo, se aplicará lo dispuesto en el párrafo 2 del artículo 8.

15. Cuando la autoridad competente que recibe la solicitud no posea la información requerida, deberá comunicarlo al solicitante con la máxima celeridad posible, incluyendo, en caso de poderlo determinar, la autoridad que pudiera tener dicha información. La solicitud deberá ser remitida a la autoridad que posea la información solicitada, y el solicitante deberá ser informado de ello.

16. Cuando la información solicitada no exista o no haya sido aún generada, se deberá informar fundadamente de esta situación al solicitante en los plazos previstos en los párrafos 12 y 13 del presente artículo.

17. La información ambiental deberá entregarse sin costo, siempre y cuando no se requiera su reproducción o envío. Los costos de reproducción y envío se aplicarán de acuerdo con los procedimientos establecidos por la autoridad competente. Estos costos deberán ser razonables y darse a conocer por anticipado, y su pago podrá exceptuarse en el caso que se considere que el solicitante se encuentra en situación de vulnerabilidad o en circunstancias especiales que justifiquen dicha exención.

Mecanismos de revisión independientes

18. Cada Parte establecerá o designará uno o más órganos o instituciones imparciales y con autonomía e independencia, con el objeto de promover la transparencia en el acceso a la información ambiental, fiscalizar el cumplimiento de las normas, así como vigilar, evaluar y garantizar el derecho de acceso a la información. Cada Parte podrá incluir o fortalecer, según corresponda, las potestades sancionatorias de los órganos o instituciones mencionados en el marco de sus competencias.

Artículo 6
Generación y divulgación de información ambiental

1. Cada Parte garantizará, en la medida de los recursos disponibles, que las autoridades competentes generen, recopilen, pongan a disposición del público y difundan la información ambiental relevante para sus funciones de manera sistemática, proactiva, oportuna, regular, accesible y comprensible, y que actualicen periódicamente esta información y alienten la desagregación y descentralización de la información ambiental a nivel subnacional y local. Cada Parte deberá fortalecer la coordinación entre las diferentes autoridades del Estado.

2. Las autoridades competentes procurarán, en la medida de lo posible, que la información ambiental sea reutilizable, procesable y esté disponible en formatos accesibles, y que no existan restricciones para su reproducción o uso, de conformidad con la legislación nacional.

3. Cada Parte contará con uno o más sistemas de información ambiental actualizados, que podrán incluir, entre otros:

a) los textos de tratados y acuerdos internacionales, así como las leyes, reglamentos y actos administrativos sobre el medio ambiente;

b) los informes sobre el estado del medio ambiente;

c) el listado de las entidades públicas con competencia en materia ambiental y, cuando fuera posible, sus respectivas áreas de actuación;

d) el listado de zonas contaminadas, por tipo de contaminante y localización;

e) información sobre el uso y la conservación de los recursos naturales y servicios ecosistémicos;

f) informes, estudios e información científicos, técnicos o tecnológicos en asuntos ambientales elaborados por instituciones académicas y de investigación, públicas o privadas, nacionales o extranjeras;

g) fuentes relativas a cambio climático que contribuyan a fortalecer las capacidades nacionales en esta materia;

h) información de los procesos de evaluación de impacto ambiental y de otros instrumentos de gestión ambiental, cuando corresponda, y las licencias o permisos ambientales otorgados por las autoridades públicas;

i) un listado estimado de residuos por tipo y, cuando sea posible, desagregado por volumen, localización y año; e

j) información respecto de la imposición de sanciones administrativas en asuntos ambientales.

Cada Parte deberá garantizar que los sistemas de información ambiental se encuentren debidamente organizados, sean accesibles para todas las personas y estén disponibles de forma progresiva por medios informáticos y georreferenciados, cuando corresponda.

4. Cada Parte tomará medidas para establecer un registro de emisiones y transferencia de contaminantes al aire, agua, suelo y subsuelo, y de materiales y residuos bajo su jurisdicción, el cual se establecerá progresivamente y se actualizará periódicamente.

5. Cada Parte garantizará, en caso de amenaza inminente a la salud pública o al medio ambiente, que la autoridad competente que corresponda divulgará de forma inmediata y por los medios más efectivos toda la información relevante que se encuentre en su poder y que permita al público tomar medidas para prevenir o limitar eventuales daños. Cada Parte deberá desarrollar e implementar un sistema de alerta temprana utilizando los mecanismos disponibles.

6. Con el objeto de facilitar que las personas o grupos en situación de vulnerabilidad accedan a la información que particularmente les afecte, cada Parte procurará, cuando corresponda, que las autoridades competentes divulguen la información ambiental en los diversos idiomas usados en el país, y elaboren formatos alternativos comprensibles para dichos grupos, por medio de canales de comunicación adecuados.

7. Cada Parte hará sus mejores esfuerzos por publicar y difundir a intervalos regulares, que no superen los cinco años, un informe nacional sobre el estado del medio ambiente, que podrá contener:

a) información sobre el estado del medio ambiente y de los recursos naturales, incluidos datos cuantitativos, cuando ello sea posible;

b) acciones nacionales para el cumplimiento de las obligaciones legales en materia ambiental;

c) avances en la implementación de los derechos de acceso; y

d) convenios de colaboración entre los sectores público, social y privado.

Dichos informes deberán redactarse de manera que sean de fácil comprensión y estar accesibles al público en diferentes formatos y ser difundidos a través de medios apropiados considerando las realidades culturales. Cada Parte podrá invitar al público a realizar aportes a estos informes.

8. Cada Parte alentará la realización de evaluaciones independientes de desempeño ambiental que tengan en cuenta criterios y guías acordados nacional o internacionalmente e indicadores comunes, con miras a evaluar la eficacia, la efectividad y el progreso de sus políticas nacionales ambientales en el cumplimiento de sus compromisos nacionales e internacionales. Las evaluaciones deberán contemplar la participación de los distintos actores.

9. Cada Parte promoverá el acceso a la información ambiental contenida en las concesiones, contratos, convenios o autorizaciones que se hayan otorgado y que involucren el uso de bienes, servicios o recursos públicos, de acuerdo con la legislación nacional.

10. Cada Parte asegurará que los consumidores y usuarios cuenten con información oficial, pertinente y clara sobre las cualidades ambientales de bienes y servicios y sus efectos en la salud, favoreciendo patrones de consumo y producción sostenibles.

11. Cada Parte establecerá y actualizará periódicamente sus sistemas de archivo y gestión documental en materia ambiental de conformidad con su normativa aplicable, procurando en todo momento que dicha gestión facilite el acceso a la información.

12. Cada Parte adoptará las medidas necesarias, a través de marcos legales y administrativos, entre otros, para promover el acceso a la información ambiental que esté en manos de entidades privadas, en particular la relativa a sus operaciones y los posibles riesgos y efectos en la salud humana y el medio ambiente.

13. Cada Parte incentivará, de acuerdo con sus capacidades, la elaboración de informes de sostenibilidad de empresas públicas y privadas, en particular de grandes empresas, que reflejen su desempeño social y ambiental.

Artículo 7
Participación pública en los procesos de toma de decisiones ambientales

1. Cada Parte deberá asegurar el derecho de participación del público y, para ello, se compromete a implementar una participación abierta e inclusiva en los procesos de toma de decisiones ambientales, sobre la base de los marcos normativos interno e internacional.

2. Cada Parte garantizará mecanismos de participación del público en los procesos de toma de decisiones, revisiones, reexaminaciones o actualizaciones relativos a proyectos y actividades, así como en otros procesos de autorizaciones ambientales que tengan o puedan tener un impacto significativo sobre el medio ambiente, incluyendo cuando puedan afectar la salud.

3. Cada Parte promoverá la participación del público en procesos de toma de decisiones, revisiones, reexaminaciones o actualizaciones distintos a los mencionados en el párrafo 2 del presente artículo, relativos a asuntos ambientales de interés público, tales como el ordenamiento del territorio y la elaboración de políticas, estrategias, planes, programas, normas y reglamentos, que tengan o puedan tener un significativo impacto sobre el medio ambiente.

4. Cada Parte adoptará medidas para asegurar que la participación del público sea posible desde etapas iniciales del proceso de toma de decisiones, de manera que las observaciones del público sean debidamente consideradas y contribuyan en dichos procesos. A tal efecto, cada Parte proporcionará al público, de manera clara, oportuna y comprensible, la información necesaria para hacer efectivo su derecho a participar en el proceso de toma de decisiones.

5. El procedimiento de participación pública contemplará plazos razonables que dejen tiempo suficiente para informar al público y para que este participe en forma efectiva.

6. El público será informado de forma efectiva, comprensible y oportuna, a través de medios apropiados, que pueden incluir los medios escritos, electrónicos u orales, así como los métodos tradicionales, como mínimo sobre:

a) el tipo o naturaleza de la decisión ambiental de que se trate y, cuando corresponda, en lenguaje no técnico;

b) la autoridad responsable del proceso de toma de decisiones y otras autoridades e instituciones involucradas;

c) el procedimiento previsto para la participación del público, incluida la fecha de comienzo y de finalización de este, los mecanismos previstos para dicha participación, y, cuando corresponda, los lugares y fechas de consulta o audiencia pública; y

d) las autoridades públicas involucradas a las que se les pueda requerir mayor información sobre la decisión ambiental de que se trate, y los procedimientos para solicitar la información.

7. El derecho del público a participar en los procesos de toma de decisiones ambientales incluirá la oportunidad de presentar observaciones por medios apropiados y disponibles, conforme a las circunstancias del proceso. Antes de la adopción de la decisión, la autoridad pública que corresponda tomará debidamente en cuenta el resultado del proceso de participación.

8. Cada Parte velará por que, una vez adoptada la decisión, el público sea oportunamente informado de ella y de los motivos y fundamentos que la sustentan, así como del modo en que se tuvieron en cuenta sus observaciones. La decisión y sus antecedentes serán públicos y accesibles.

9. La difusión de las decisiones que resultan de las evaluaciones de impacto ambiental y de otros procesos de toma de decisiones ambientales que involucran la participación pública deberá realizarse a través de medios apropiados, que podrán incluir los medios escritos, electrónicos u orales, así como los métodos tradicionales, de forma efectiva y rápida. La información difundida deberá incluir el procedimiento previsto que permita al público ejercer las acciones administrativas y judiciales pertinentes.

10. Cada Parte establecerá las condiciones propicias para que la participación pública en procesos de toma de decisiones ambientales se adecúe a las características sociales, económicas, culturales, geográficas y de género del público.

11. Cuando el público directamente afectado hable mayoritariamente idiomas distintos a los oficiales, la autoridad pública velará por que se facilite su comprensión y participación.

12. Cada Parte promoverá, según corresponda y de acuerdo con la legislación nacional, la participación del público en foros y negociaciones internacionales en materia ambiental o con incidencia ambiental, de acuerdo con las reglas de procedimiento que para dicha participación prevea cada foro. Asimismo, se promoverá, según corresponda, la participación del público en instancias nacionales para tratar asuntos de foros internacionales ambientales.

13. Cada Parte alentará el establecimiento de espacios apropiados de consulta en asuntos ambientales o el uso de los ya existentes, en los que puedan participar distintos grupos y sectores. Cada Parte promoverá la valoración del conocimiento local, el diálogo y la interacción de las diferentes visiones y saberes, cuando corresponda.

14. Las autoridades públicas realizarán esfuerzos para identificar y apoyar a personas o grupos en situación de vulnerabilidad para involucrarlos de manera activa, oportuna y efectiva en los mecanismos de participación. Para estos efectos, se considerarán los medios y formatos adecuados, a fin de eliminar las barreras a la participación.

15. En la implementación del presente Acuerdo, cada Parte garantizará el respeto de su legislación nacional y de sus obligaciones internacionales relativas a los derechos de los pueblos indígenas y comunidades locales.

16. La autoridad pública realizará esfuerzos por identificar al público directamente afectado por proyectos y actividades que tengan o puedan tener un impacto significativo sobre el medio ambiente, y promoverá acciones específicas para facilitar su participación.

17. En lo que respecta a los procesos de toma de decisiones ambientales a los que se refiere el párrafo 2 del presente artículo, se hará pública al menos la siguiente información:

a) la descripción del área de influencia y de las características físicas y técnicas del proyecto o actividad propuesto;

b) la descripción de los impactos ambientales del proyecto o actividad y, según corresponda, el impacto ambiental acumulativo;

c) la descripción de las medidas previstas con relación a dichos impactos;

d) un resumen de los puntos a), b) y c) del presente párrafo en lenguaje no técnico y comprensible;

e) los informes y dictámenes públicos de los organismos involucrados dirigidos a la autoridad pública vinculados al proyecto o actividad de que se trate;

f) la descripción de las tecnologías disponibles para ser utilizadas y de los lugares alternativos para realizar el proyecto o actividad sujeto a las evaluaciones, cuando la información esté disponible; y

g) las acciones de monitoreo de la implementación y de los resultados de las medidas del estudio de impacto ambiental.

La información referida se pondrá a disposición del público de forma gratuita, de conformidad con el párrafo 17 del artículo 5 del presente Acuerdo.

Artículo 8
Acceso a la justicia en asuntos ambientales

1. Cada Parte garantizará el derecho a acceder a la justicia en asuntos ambientales de acuerdo con las garantías del debido proceso.

2. Cada Parte asegurará, en el marco de su legislación nacional, el acceso a instancias judiciales y administrativas para impugnar y recurrir, en cuanto al fondo y el procedimiento:

a) cualquier decisión, acción u omisión relacionada con el acceso a la información ambiental;

b) cualquier decisión, acción u omisión relacionada con la participación pública en procesos de toma de decisiones ambientales; y

c) cualquier otra decisión, acción u omisión que afecte o pueda afectar de manera adversa al medio ambiente o contravenir normas jurídicas relacionadas con el medio ambiente.

3. Para garantizar el derecho de acceso a la justicia en asuntos ambientales, cada Parte, considerando sus circunstancias, contará con:

a) órganos estatales competentes con acceso a conocimientos especializados en materia ambiental;

b) procedimientos efectivos, oportunos, públicos, transparentes, imparciales y sin costos prohibitivos;

c) legitimación activa amplia en defensa del medio ambiente, de conformidad con la legislación nacional;

d) la posibilidad de disponer medidas cautelares y provisionales para, entre otros fines, prevenir, hacer cesar, mitigar o recomponer daños al medio ambiente;

e) medidas para facilitar la producción de la prueba del daño ambiental, cuando corresponda y sea aplicable, como la inversión de la carga de la prueba y la carga dinámica de la prueba;

f) mecanismos de ejecución y de cumplimiento oportunos de las decisiones judiciales y administrativas que correspondan; y

g) mecanismos de reparación, según corresponda, tales como la restitución al estado previo al daño, la restauración, la compensación o el pago de una sanción económica, la satisfacción, las garantías de no repetición, la atención a las personas afectadas y los instrumentos financieros para apoyar la reparación.

4. Para facilitar el acceso a la justicia del público en asuntos ambientales, cada Parte establecerá:

a) medidas para reducir o eliminar barreras al ejercicio del derecho de acceso a la justicia;

b) medios de divulgación del derecho de acceso a la justicia y los procedimientos para hacerlo efectivo;

c) mecanismos de sistematización y difusión de las decisiones judiciales y administrativas que correspondan; y

d) el uso de la interpretación o la traducción de idiomas distintos a los oficiales cuando sea necesario para el ejercicio de ese derecho.

5. Para hacer efectivo el derecho de acceso a la justicia, cada Parte atenderá las necesidades de las personas o grupos en situación de vulnerabilidad mediante el establecimiento de mecanismos de apoyo, incluida la asistencia técnica y jurídica gratuita, según corresponda.

6. Cada Parte asegurará que las decisiones judiciales y administrativas adoptadas en asuntos ambientales, así como su fundamentación, estén consignadas por escrito.

7. Cada Parte promoverá mecanismos alternativos de solución de controversias en asuntos ambientales, en los casos en que proceda, tales como la mediación, la conciliación y otros que permitan prevenir o solucionar dichas controversias.

Artículo 9
Defensores de los derechos humanos en asuntos ambientales

1. Cada Parte garantizará un entorno seguro y propicio en el que las personas, grupos y organizaciones que promueven y defienden los derechos humanos en asuntos ambientales puedan actuar sin amenazas, restricciones e inseguridad.

2. Cada Parte tomará las medidas adecuadas y efectivas para reconocer, proteger y promover todos los derechos de los defensores de los derechos humanos en asuntos ambientales, incluidos su derecho a la vida, integridad personal, libertad de opinión y expresión, derecho de reunión y asociación pacíficas y derecho a circular libremente, así como su capacidad para ejercer los derechos de acceso, teniendo en cuenta las obligaciones internacionales de dicha Parte en el ámbito de los derechos humanos, sus principios constitucionales y los elementos básicos de su sistema jurídico.

3. Cada Parte tomará medidas apropiadas, efectivas y oportunas para prevenir, investigar y sancionar ataques, amenazas o intimidaciones que los defensores de los derechos humanos en asuntos ambientales puedan sufrir en el ejercicio de los derechos contemplados en el presente Acuerdo.

Artículo 10
Fortalecimiento de capacidades

1. Para contribuir a la implementación de las disposiciones del presente Acuerdo, cada Parte se compromete a crear y fortalecer sus capacidades nacionales, sobre la base de sus prioridades y necesidades.

2. Cada Parte, con arreglo a sus capacidades, podrá tomar, entre otras, las siguientes medidas:

a) formar y capacitar en derechos de acceso en asuntos ambientales a autoridades y funcionarios públicos;

b) desarrollar y fortalecer programas de sensibilización y creación de capacidades en derecho ambiental y derechos de acceso para el público, funcionarios judiciales y administrativos, instituciones nacionales de derechos humanos y juristas, entre otros;

c) dotar a las instituciones y organismos competentes con equipamiento y recursos adecuados;

d) promover la educación, la capacitación y la sensibilización en temas ambientales mediante, entre otros, la inclusión de módulos educativos básicos sobre los derechos de acceso para estudiantes en todos los niveles educacionales;

e) contar con medidas específicas para personas o grupos en situación de vulnerabilidad, como la interpretación o traducción en idiomas distintos al oficial, cuando sea necesario;

f) reconocer la importancia de las asociaciones, organizaciones o grupos que contribuyan a formar o sensibilizar al público en derechos de acceso; y

g) fortalecer las capacidades para recopilar, mantener y evaluar información ambiental.

Artículo 11
Cooperación

1. Las Partes cooperarán para el fortalecimiento de sus capacidades nacionales con el fin de implementar el presente Acuerdo de manera efectiva.

2. Las Partes prestarán especial consideración a los países menos adelantados, los países en desarrollo sin litoral y los pequeños Estados insulares en desarrollo de América Latina y el Caribe.

3. A efectos de la aplicación del párrafo 2 del presente artículo, las Partes promoverán actividades y mecanismos tales como:

a) diálogos, talleres, intercambio de expertos, asistencia técnica, educación y observatorios;

b) desarrollo, intercambio e implementación de materiales y programas educativos, formativos y de sensibilización;

c) intercambio de experiencias sobre códigos voluntarios de conducta, guías, buenas prácticas y estándares; y

d) comités, consejos y plataformas de actores multisectoriales para abordar prioridades y actividades de cooperación.

4. Las Partes alentarán el establecimiento de alianzas con Estados de otras regiones, organizaciones intergubernamentales, no gubernamentales, académicas y privadas, así como organizaciones de la sociedad civil y otros actores de relevancia en la implementación del presente Acuerdo.

5. Las Partes reconocen que se debe promover la cooperación regional y el intercambio de información con respecto a todas las manifestaciones de las actividades ilícitas contra el medio ambiente.

Artículo 12
Centro de intercambio de información

Las Partes contarán con un centro de intercambio de información de carácter virtual y de acceso universal sobre los derechos de acceso. Este centro será operado por la Comisión Económica para América Latina y el Caribe, en su calidad de Secretaría, y podrá incluir medidas legislativas, administrativas y de política, códigos de conducta y buenas prácticas, entre otros.

Artículo 13
Implementación nacional

Cada Parte, de acuerdo con sus posibilidades y de conformidad con sus prioridades nacionales, se compromete a facilitar medios de implementación para las actividades nacionales necesarias para cumplir las obligaciones derivadas del presente Acuerdo.

Artículo 14
Fondo de Contribuciones Voluntarias

1. Queda establecido un Fondo de Contribuciones Voluntarias para apoyar el financiamiento de la implementación del presente Acuerdo, cuyo funcionamiento será definido por la Conferencia de las Partes.

2. Las Partes podrán realizar contribuciones voluntarias para apoyar la implementación del presente Acuerdo.

3. La Conferencia de las Partes, conforme al párrafo 5 g) del artículo 15 del presente Acuerdo, podrá invitar a otras fuentes a aportar recursos para apoyar la implementación del presente Acuerdo.

Artículo 15
Conferencia de las Partes

1. Queda establecida una Conferencia de las Partes.

2. El Secretario Ejecutivo de la Comisión Económica para América Latina y el Caribe convocará la primera reunión de la Conferencia de las Partes a más tardar un año después de la entrada en vigor del presente Acuerdo. En lo sucesivo, se celebrarán reuniones ordinarias de la Conferencia de las Partes a los intervalos regulares que decida la Conferencia.

3. Se celebrarán reuniones extraordinarias de la Conferencia de las Partes cuando esta lo estime necesario.

4. En su primera reunión, la Conferencia de las Partes:

a) deliberará y aprobará por consenso sus reglas de procedimiento, que incluirán las modalidades para la participación significativa del público; y

b) deliberará y aprobará por consenso las disposiciones financieras que sean necesarias para el funcionamiento e implementación del presente Acuerdo.

5. La Conferencia de las Partes examinará y fomentará la aplicación y efectividad del presente Acuerdo. A ese efecto:

a) establecerá por consenso los órganos subsidiarios que considere necesarios para la aplicación del presente Acuerdo;

b) recibirá y examinará los informes y las recomendaciones de los órganos subsidiarios;

c) será informada por las Partes de las medidas adoptadas para la implementación del presente Acuerdo;

d) podrá formular recomendaciones a las Partes relativas a la implementación del presente Acuerdo;

e) elaborará y aprobará, si procede, protocolos al presente Acuerdo para su posterior firma, ratificación, aceptación, aprobación y adhesión;

f) examinará y aprobará propuestas de enmienda al presente Acuerdo, de conformidad con las disposiciones del artículo 20 del presente Acuerdo;

g) establecerá directrices y modalidades para la movilización de recursos, financieros y no financieros, de diversas fuentes para facilitar la implementación del presente Acuerdo;

h) examinará y adoptará cualquier otra medida necesaria para alcanzar el objetivo del presente Acuerdo; y

i) realizará cualquier otra función que el presente Acuerdo le encomiende.

Artículo 16
Derecho a voto

Cada Parte en el presente Acuerdo dispondrá de un voto.

Artículo 17
Secretaría

1. El Secretario Ejecutivo de la Comisión Económica para América Latina y el Caribe ejercerá las funciones de secretaría del presente Acuerdo.

2. Las funciones de la Secretaría serán las siguientes:

a) convocar y organizar las reuniones de las Conferencias de las Partes y de sus órganos subsidiarios, prestando los servicios necesarios;

b) prestar asistencia a las Partes, cuando así lo soliciten, para el fortalecimiento de capacidades, incluido el intercambio de experiencias e información y la organización de actividades, de conformidad con los artículos 10, 11 y 12 del presente Acuerdo;

c) concretar, bajo la orientación general de la Conferencia de las Partes, los arreglos administrativos y contractuales necesarios para desempeñar con eficacia sus funciones; y

d) llevar a cabo las demás funciones de secretaría establecidas en el presente Acuerdo y cualquier otra que determine la Conferencia de las Partes.

Artículo 18
Comité de Apoyo a la Aplicación y el Cumplimiento

1. Queda establecido un Comité de Apoyo a la Aplicación y el Cumplimiento como órgano subsidiario de la Conferencia de las Partes para promover la aplicación y apoyar a las Partes en la implementación del presente Acuerdo. Sus reglas de composición y funcionamiento serán establecidas por la Conferencia de las Partes en su primera reunión.

2. El Comité tendrá carácter consultivo, transparente, no contencioso, no judicial y no punitivo, para examinar el cumplimiento de las disposiciones del presente Acuerdo y formular recomendaciones, conforme a las reglas de procedimiento establecidas por la Conferencia de las Partes, asegurando una participación significativa del público y considerando las capacidades y circunstancias nacionales de las Partes.

Artículo 19
Solución de controversias

1. Si surge una controversia entre dos o más Partes respecto de la interpretación o de la aplicación del presente Acuerdo, esas Partes se esforzarán por resolverlo por medio de la negociación o por cualquier otro medio de solución de controversias que consideren aceptable.

2. Cuando una Parte firme, ratifique, acepte o apruebe el presente Acuerdo o se adhiera a él, o en cualquier otro momento posterior, podrá indicar por escrito al Depositario, en lo que respecta a las controversias que no se hayan resuelto conforme al párrafo 1 del presente artículo, que acepta considerar obligatorio uno o los dos medios de solución siguientes en sus relaciones con cualquier Parte que acepte la misma obligación:

a) el sometimiento de la controversia a la Corte Internacional de Justicia;

b) el arbitraje de conformidad con los procedimientos que la Conferencia de las Partes establezca.

3. Si las Partes en la controversia han aceptado los dos medios de solución de controversias mencionados en el párrafo 2 del presente artículo, la controversia no podrá someterse más que a la Corte Internacional de Justicia, a menos que las Partes acuerden otra cosa.

Artículo 20
Enmiendas

1. Cualquier Parte podrá proponer enmiendas al presente Acuerdo.

2. Las enmiendas al presente Acuerdo se adoptarán en una reunión de la Conferencia de las Partes. La Secretaría comunicará el texto de toda propuesta de enmienda a las Partes al menos seis meses antes de la reunión en que se proponga su adopción. La Secretaría comunicará también las propuestas de enmienda a los signatarios del presente Acuerdo y al Depositario, para su información.

3. Las Partes procurarán adoptar las enmiendas por consenso. En caso que una enmienda sea sometida a votación, se requerirá una mayoría de tres cuartos de las Partes presentes y votantes en la reunión para ser adoptada.

4. El Depositario comunicará la enmienda adoptada a todas las Partes para su ratificación, aceptación o aprobación.

5. La ratificación, aceptación o aprobación de una enmienda se notificará por escrito al Depositario. La enmienda que se adopte con arreglo al párrafo 3 del presente artículo entrará en vigor para las Partes que hayan consentido en someterse a las obligaciones establecidas en ella el nonagésimo día contado a partir de la fecha de depósito de los instrumentos de ratificación, aceptación o aprobación de al menos la mitad del número de Partes en el presente Acuerdo al momento en que se adoptó la enmienda. Desde esa fecha, la enmienda entrará en vigor para cualquier otra Parte que consienta en someterse a las obligaciones establecidas en ella el nonagésimo día contado a partir de la fecha en que haya depositado su instrumento de ratificación, aceptación o aprobación de la enmienda.

Artículo 21
Firma, ratificación, aceptación, aprobación y adhesión

1. El presente Acuerdo estará abierto a la firma de todos los países de América Latina y el Caribe incluidos en el Anexo 1, en la Sede de las Naciones Unidas en Nueva York, del 27 de septiembre de 2018 al 26 de septiembre de 2020.

2. El presente Acuerdo estará sujeto a la ratificación, la aceptación o la aprobación de los Estados que lo hayan firmado. Estará abierto a la adhesión de todos los países de América Latina y el Caribe incluidos en el Anexo 1 que no lo hayan firmado, a partir del día siguiente a la fecha en que expire el plazo para la firma del Acuerdo. Los instrumentos de ratificación, aceptación, aprobación o adhesión se depositarán en poder del Depositario.

Artículo 22
Entrada en vigor

1. El presente Acuerdo entrará en vigor el nonagésimo día contado a partir de la fecha en que haya sido depositado el undécimo instrumento de ratificación, aceptación, aprobación o adhesión.

2. Respecto de cada Estado que ratifique, acepte o apruebe el presente Acuerdo o que se adhiera a él después de haber sido depositado el undécimo instrumento de ratificación, aceptación, aprobación o adhesión, el presente Acuerdo entrará en vigor el nonagésimo día contado a partir de la fecha en que dicho Estado haya depositado su instrumento de ratificación, aceptación, aprobación o adhesión.

Artículo 23
Reservas

No se podrán formular reservas al presente Acuerdo.

Artículo 24
Denuncia

1. En cualquier momento después de la expiración de un plazo de tres años contados a partir de la fecha de entrada en vigor del presente Acuerdo respecto de una Parte, esa Parte podrá denunciar el presente Acuerdo mediante notificación hecha por escrito al Depositario.

2. La denuncia cobrará efecto al cabo de un año contado desde la fecha en que el Depositario haya recibido la notificación correspondiente o, posteriormente, en la fecha que se indique en la notificación.

Artículo 25
Depositario

El Secretario General de las Naciones Unidas será el Depositario del presente Acuerdo.

Artículo 26
Textos auténticos

El original del presente Acuerdo, cuyos textos en los idiomas español e inglés son igualmente auténticos, se depositará en poder del Secretario General de las Naciones Unidas.

EN FE DE LO CUAL los infrascritos, debidamente autorizados para ello, han firmado el presente Acuerdo.

HECHO en Escazú, Costa Rica, en el cuarto día de marzo de dos mil dieciocho.

Anexo 1

- Antigua y Barbuda
- Argentina (la)
- Bahamas (las)
- Barbados
- Belice
- Bolivia (Estado Plurinacional de) (el)
- Brasil (el)
- Chile
- Colombia
- Costa Rica
- Cuba
- Dominica
- Ecuador (el)
- El Salvador
- Granada
- Guatemala
- Guyana
- Haití
- Honduras
- Jamaica
- México
- Nicaragua
- Panamá
- Paraguay (el)
- Perú (el)
- República Dominicana (la)
- Saint Kitts y Nevis
- San Vicente y las Granadinas
- Santa Lucía
- Suriname
- Trinidad y Tabago
- Uruguay (el)
- Venezuela (República Bolivariana de) (la

[TRANSLATION – TRADUCTION][1]

[1] Translation provided by the United Nations Economic Commission for Latin America and the Caribbean(ECLAC) – Traduction fournie par la Commission économique des Nations Unies pour l'Amérique latine et les Caraïbes (CEPALC).

Accord régional sur l'accès à l'information, la participation publique et l'accès à la justice à propos des questions environnementales en Amérique latine et dans les Caraïbes

Adopté à Escazú (Costa Rica), le 4 mars 2018
Ouverture à la signature au Siège des Nations Unies à New York, le 27 septembre 2018

Les Parties au présent Accord,

Rappelant la Déclaration concernant l'application du Principe 10 de la Déclaration de Rio, formulée par des pays d'Amérique latine et des Caraïbes lors de la Conférence des Nations Unies sur le développement durable, tenue à Rio de Janeiro (Brésil) en 2012, réaffirmant l'engagement envers les droits d'accès à l'information, à la participation et à la justice à propos des questions environnementales, reconnaissant la nécessité d'atteindre des engagements pour mettre pleinement en œuvre ces droits et manifestant la volonté d'entamer un processus qui explore la viabilité d'élaborer un instrument régional,

Réaffirmant le Principe 10 de la Déclaration de Rio sur l'environnement et le développement, qui établit que: «la meilleure façon de traiter les questions d'environnement est d'assurer la participation de tous les citoyens concernés, au niveau qui convient. Au niveau national, chaque individu doit avoir dûment accès aux informations relatives à l'environnement que détiennent les autorités publiques, y compris aux informations relatives aux substances et activités dangereuses dans leurs collectivités, et avoir la possibilité de participer aux processus de prise de décision. Les États doivent faciliter et encourager la sensibilisation et la participation du public en mettant les informations à la disposition de celui-ci. Un accès effectif à des actions judiciaires et administratives, notamment des réparations et des recours, doit être assuré»,

Soulignant que les droits d'accès sont liés entre eux et sont interdépendants, chacun devant ainsi être promu et appliqué de manière intégrale et équilibrée,

Convaincues que les droits d'accès contribuent au renforcement, entre autres, de la démocratie, du développement durable et des droits de l'homme,

Réaffirmant l'importance de la Déclaration universelle des droits de l'homme, et rappelant d'autres instruments internationaux relatifs aux droits de l'homme qui soulignent que tous les États ont pour responsabilité le respect, la protection et la promotion des droits de l'homme et des libertés fondamentales de toutes les personnes, sans aucune distinction, y compris de race, de couleur, de sexe, de langue, de religion, d'opinion politique ou de toute autre opinion, d'origine nationale ou sociale, de fortune, de naissance ou de toute autre situation,

Réaffirmant aussi tous les principes de la Déclaration de la Conférence des Nations Unies sur l'environnement de 1972 et de la Déclaration de Rio sur l'environnement et le développement de 1992,

Rappelant la Déclaration de la Conférence des Nations Unies sur l'environnement, Action 21, le Programme relatif à la poursuite de la mise en œuvre d'Action 21, la Déclaration de la Barbade et le Programme d'action pour le développement durable des petits États insulaires en développement, la Déclaration de Maurice et la Stratégie de Maurice pour la poursuite de la mise en œuvre du Programme d'action pour le développement durable des petits États insulaires en développement, la Déclaration de Johannesburg sur le développement durable, le Plan de mise en œuvre du Sommet mondial pour le développement durable et les Modalités d'action accélérées des petits États insulaires en développement (Orientations de Samoa),

Rappelant aussi que, dans le document final de la Conférence des Nations Unies sur le développement durable, tenue à Rio de Janeiro (Brésil) en 2012, intitulé «L'avenir que nous voulons», il est reconnu que la démocratie, la bonne gouvernance et l'état de droit, au niveau national et au niveau international, ainsi qu'un

environnement favorable, sont des conditions *sine qua non* du développement durable, notamment d'une croissance économique durable et profitant à tous, du développement social, de la protection de l'environnement et de l'élimination de la faim et de la pauvreté; il est souligné qu'une large participation du public et l'accès à l'information comme aux instances judiciaires et administratives sont indispensables à la promotion du développement durable, et qu'il faut encourager l'action à l'échelle régionale, nationale, infranationale et locale pour promouvoir l'accès à l'information, la participation du public au processus décisionnel et l'accès à la justice en matière d'environnement, selon qu'il convient,

Considérant la résolution 70/1 de l'Assemblée générale des Nations Unies, du 25 septembre 2015, intitulée « Transformer notre monde: le Programme de développement durable à l'horizon 2030», par laquelle a été convenue une série complète d'objectifs et de cibles à caractère universel, qui sont ambitieux, axés sur l'être humain et porteurs de changement, et dans laquelle est établi l'engagement de réaliser le développement durable dans ses trois dimensions —économique, sociale et environnementale— de manière équilibrée et intégrée,

Reconnaissant le caractère multiculturel de l'Amérique latine et des Caraïbes et de ses peuples,

Reconnaissant aussi l'importance du travail et les contributions fondamentales du public et des défenseurs des droits de l'homme sur les questions environnementales pour le renforcement de la démocratie, des droits d'accès et du développement durable,

Conscientes des avancées obtenues dans les instruments internationaux et régionaux et dans les législations et pratiques nationales relatives aux droits d'accès à l'information environnementale, de participation publique aux processus décisionnels environnementaux et à l'accès à la justice à propos des questions environnementales,

Convaincues de la nécessité de promouvoir et renforcer le dialogue, la coopération, l'assistance technique, l'éducation et la sensibilisation, et de renforcer les capacités, aux niveaux international, régional, national, infranational et local, pour le plein exercice des droits d'accès,

Résolues à atteindre la pleine mise en œuvre des droits d'accès considérés dans le présent Accord, ainsi que la création et le renforcement des capacités et de la coopération,

Sont convenues de ce qui suit:

Article 1
Objectif

L'objectif du présent Accord est de garantir la mise en œuvre pleine et effective en Amérique latine et dans les Caraïbes des droits d'accès à l'information, à la participation publique aux processus décisionnels environnementaux et à la justice à propos des questions environnementales, ainsi que la création et le renforcement des capacités et de la coopération, contribuant à la protection du droit de toute personne, des générations présentes et futures, à vivre dans un environnement sain et au développement durable.

Article 2
Définitions

Aux fins du présent Accord:

a) on entend par «droits d'accès» le droit d'accès à l'information environnementale, le droit de participation publique aux processus décisionnels à propos des questions environnementales et le droit d'accès à la justice à propos des questions environnementales;

b) on entend par «autorité compétente», aux fins de l'application des dispositions contenues dans les articles 5 et 6 du présent Accord, toute institution publique qui exerce les pouvoirs, l'autorité et les fonctions en matière d'accès à l'information, y compris les organes, organismes ou entités indépendants ou autonomes appartenant à l'État ou contrôlés par lui, qui agissent avec des facultés octroyées par la Constitution ou par d'autres lois, et, le cas échéant, les organisations privées, dans la mesure où elles reçoivent des fonds ou des bénéfices publics directement ou indirectement ou qu'elles exercent des

fonctions publiques et fournissent des services publics, mais exclusivement pour ce qui concerne les fonds ou bénéfices publics reçus ou les fonctions publiques exercées et les services publics fournis;

c) on entend par «information environnementale» toute information écrite, visuelle, sonore, électronique ou enregistrée dans tout autre format, relative à l'environnement et ses éléments et aux ressources naturelles, y compris celle liée aux risques environnementaux et aux possibles impacts adverses associés qui touchent ou peuvent toucher l'environnement et la santé, ainsi que celle liée à la protection et la gestion de l'environnement;

d) on entend par «public» une ou plusieurs personnes physiques ou morales et les associations, organisations ou groupes constitués par ces personnes, qui sont des ressortissants nationaux ou qui sont sujets à la juridiction nationale de l'État Partie;

e) on entend par «personnes ou groupes en situation de vulnérabilité» les personnes ou groupes qui rencontrent des difficultés particulières pour exercer pleinement leurs droits d'accès reconnus dans le présent Accord, en raison de circonstances ou de conditions entendues dans le contexte national de chaque Partie et conformément à ses obligations internationales.

Article 3
Principes

Chaque Partie s'orientera selon les principes suivants dans la mise en œuvre du présent Accord:

a) principe d'égalité et principe de non-discrimination;
b) principe de transparence et principe de reddition de comptes;
c) principe de non régression et principe de progressivité;
d) principe de bonne foi;
e) principe de prévention;
f) principe de précaution;

g) principe d'équité intergénérationnelle;

h) principe de divulgation maximale;

i) principe de souveraineté permanente des États sur leurs ressources naturelles;

j) principe d'égalité souveraine des États; et

k) principe *pro persona.*

Article 4
Dispositions générales

1. Chaque Partie garantit le droit de toute personne à vivre dans un environnement sain, ainsi que tout autre droit de l'homme universellement reconnu qui soit lié au présent Accord.

2. Chaque Partie veille à ce que les droits reconnus dans le présent Accord soient librement exercés.

3. Chaque Partie adopte les mesures nécessaires, de nature législative, réglementaire, administrative ou autre, dans le cadre de ses dispositions internes, pour garantir l'application du présent Accord.

4. Afin de contribuer à l'application effective du présent Accord, chaque Partie fournit au public l'information nécessaire pour faciliter l'acquisition de connaissances à propos des droits d'accès.

5. Chaque Partie fait en sorte que le public —en particulier les personnes et les groupes en situation de vulnérabilité— reçoive des orientations et de l'assistance de manière à faciliter l'exercice de ses droits d'accès.

6. Chaque Partie garantit un environnement favorable au travail des personnes, associations, organisations ou groupes qui œuvrent en faveur de la protection de l'environnement, en leur fournissant reconnaissance et protection.

7. Aucune disposition du présent Accord ne limite ni ne déroge à d'autres droits et garanties plus favorables établis ou qui pourront être établis dans la législation d'un État Partie ou dans tout autre accord international auquel un État est partie, ni n'empêche un État Partie d'octroyer un accès plus large

à l'information environnementale, à la participation publique aux processus décisionnels environnementaux et à la justice à propos des questions environnementales.

8. Dans l'application du présent Accord, chaque Partie vise à adopter l'interprétation la plus favorable à la jouissance et au respect des droits d'accès.

9. Pour l'application du présent Accord, chaque Partie encourage l'usage des nouvelles technologies de l'information et la communication, comme les données ouvertes, dans les diverses langues utilisées dans le pays, le cas échéant. Les médias électroniques seront utilisés d'une manière qui ne génère pas de restrictions ou de discriminations pour le public.

10. Les Parties peuvent promouvoir la connaissance des dispositions du présent Accord dans d'autres instances internationales liées à la thématique de l'environnement, conformément aux règles prévues par chaque instance.

Article 5

Accès à l'information environnementale

Accessibilité de l'information environnementale

1. Chaque Partie garantit le droit du public d'accéder à l'information environnementale qui est en son pouvoir, sous son contrôle ou sous sa garde, conformément au principe de divulgation maximale.

2. L'exercice du droit d'accès à l'information environnementale comprend:

   a) demander et recevoir de l'information des autorités compétentes sans nécessité de mentionner un intérêt particulier ni justifier les raisons de la demande;

   b) être informé rapidement du fait que l'information demandée se trouve ou non en le pouvoir de l'autorité compétente qui reçoit la demande; et

   c) être informé du droit à contester et faire appel de la non remise d'information et des exigences pour exercer ce droit.

3. Chaque Partie facilite l'accès à l'information environnementale des personnes ou groupes en situation de vulnérabilité, en établissant des procédures pour la fourniture d'aide depuis la formulation de demandes jusqu'à la remise de l'information, tenant compte de leurs conditions et spécificités, afin de promouvoir l'accès et la participation dans des conditions d'égalité.

4. Chaque Partie garantit que ces personnes ou groupes en situation de vulnérabilité, y compris les peuples autochtones et les groupes ethniques, reçoivent de l'aide pour formuler leurs demandes et obtenir une réponse.

Refus d'accès à l'information environnementale

5. Lorsque l'information demandée ou une partie de celle-ci n'est pas remise au requérant du fait qu'elle est couverte par le régime d'exception établi dans la législation nationale, l'autorité compétente doit communiquer le refus par écrit, y compris les dispositions juridiques et les raisons qui dans chaque cas justifieront une telle décision, et informer le requérant de son droit à contester et faire appel de cette décision.

6. L'accès à l'information peut être refusé conformément à la législation nationale. Dans le cas où une Partie ne possède pas de régime d'exceptions établi dans la législation nationale, les exceptions suivantes peuvent s'appliquer:

   a) lorsque la publicité de l'information peut mettre en danger la vie, la sécurité ou la santé d'une personne physique;

   b) lorsque la publicité de l'information aurait des incidences défavorables sur la sécurité nationale, la sécurité publique ou la défense nationale;

   c) lorsque la publicité de l'information aurait des incidences défavorables sur la protection de l'environnement, y compris toute espèce menacée ou en danger d'extinction; ou

   d) lorsque la publicité de l'information génère un risque clair, probable et spécifique de dommage significatif à l'application de la loi, ou à la prévention, la recherche et la poursuite de délits.

7. Les régimes d'exception tiendront compte des obligations de chaque Partie en matière de droits de l'homme. Chaque Partie encourage l'adoption de régimes d'exception qui favorisent l'accès à l'information.

8. Les motifs de refus doivent être établis légalement antérieurement et être clairement définis et réglementés, en tenant compte de l'intérêt public, et seront, par conséquent, soumis à une interprétation restrictive. La charge de la preuve incombe à l'autorité compétente.

9. Au moment d'évaluer l'intérêt public, l'autorité compétente pondèrera l'intérêt de la rétention de l'information et le bénéfice public résultant de sa publication, sur la base d'éléments d'opportunité, de nécessité et de proportionnalité.

10. Lorsque l'information contenue dans un document n'est pas exempte dans sa totalité conformément au paragraphe 6 du présent article, l'information non exempte doit être remise au requérant.

Conditions applicables pour la remise d'information environnementale

11. Les autorités compétentes garantissent la remise de l'information environnementale dans le format requis par le requérant s'il est disponible. Si l'information environnementale n'est pas disponible dans ce format, elle sera remise dans le format disponible.

12. Les autorités compétentes doivent répondre à une demande d'information environnementale le plus rapidement possible, dans un délai non supérieur à 30 jours ouvrables à compter de la date de réception de la demande, ou dans un délai moindre si la réglementation interne le prévoit expressément.

13. Lorsque, dans des circonstances exceptionnelles et conformément à la législation nationale, l'autorité compétente a besoin de plus de temps pour répondre à la demande, elle devra notifier au requérant par écrit la justification de l'extension avant l'arrivée à échéance du délai établi au paragraphe 12 du présent article. Cette extension ne devra pas excéder dix jours ouvrables.

14. Dans le cas où l'autorité compétente ne répond pas dans les délais établis aux paragraphes 12 et 13 du présent article, les dispositions du paragraphe 2 de l'article 8 s'appliquent.

15. Dans le cas où l'autorité compétente qui reçoit la demande ne possède pas l'information requise, elle doit le notifier au requérant le plus rapidement possible, indiquant y compris, dans le cas où elle pourra le déterminer, l'autorité qui pourrait détenir cette information. La demande doit être remise à l'autorité qui possède l'information requise, et le requérant doit en être informé.

16. Dans le cas où l'information requise n'existe pas ou n'a pas encore été générée, cette situation doit être notifiée au requérant de manière fondée dans les délais prévus aux paragraphes 12 et 13 du présent article.

17. L'information environnementale doit être remise sans coût, tant que sa reproduction ou son envoi ne soient pas requis. Les coûts de reproduction et d'envoi s'appliquent conformément aux procédures établies par l'autorité compétente. Ces coûts doivent être raisonnables et communiqués par avance, et le requérant peut être exempté de leur paiement dans le cas où l'on considère qu'il se trouve en situation de vulnérabilité ou dans des circonstances spéciales qui justifient cette exemption.

Mécanismes de contrôle indépendants

18. Chaque Partie établit ou désigne un ou plusieurs organes ou institutions impartiaux et autonomes et indépendants, afin de promouvoir la transparence de l'accès à l'information environnementale, de contrôler le respect des normes, et de surveiller, d'évaluer et de garantir le droit d'accès à l'information. Chaque Partie peut introduire ou renforcer, selon qu'il convient, les pouvoirs de sanction des organes ou institutions mentionnés dans le cadre de leurs compétences.

Article 6
Génération et divulgation de l'information environnementale

1. Chaque Partie garantit, dans la mesure des ressources disponibles, la génération, la compilation, la mise à disposition du public et la diffusion par les autorités compétentes de l'information environnementale pertinente pour leurs fonctions de manière systématique, proactive, opportune, régulière, accessible et compréhensible, ainsi que la mise à jour périodique de cette information et promeut la désagrégation et la décentralisation de l'information environnementale aux niveaux infranational et local. Chaque Partie doit renforcer la coordination entre les différentes autorités de l'État.

2. Les autorités compétentes s'assurent, dans la mesure du possible, que l'information environnementale soit réutilisable, traitable et disponible dans des formats accessibles, et qu'il n'existe pas de restrictions pour sa reproduction ou son usage, conformément à la législation nationale.

3. Chaque Partie doit disposer d'un ou de plusieurs systèmes d'information environnementale mis à jour, qui pourront inclure, entre autres:

   a) les textes des traités et accords internationaux, ainsi que les lois, règlements et actes administratifs relatifs à l'environnement;

   b) les rapports sur l'état de l'environnement;

   c) la liste des entités publiques ayant des compétences en matière environnementale et, lorsque cela sera possible, leurs sphères d'action respectives;

   d) la liste des zones polluées, par type de polluant et localisation;

   e) l'information sur l'usage et la conservation des ressources naturelles et des services écosystémiques;

   f) les rapports, les études et les informations scientifiques, techniques ou technologiques traitant de questions environnementales élaborés par des institutions

d'enseignement et de recherche, publiques ou privées nationales ou étrangères;

g) les sources relatives au changement climatique qui contribuent à renforcer les capacités nationales en la matière;

h) l'information des processus d'évaluation de l'impact environnemental et d'autres instruments de gestion environnementale, le cas échéant, et les licences ou permis environnementaux octroyés par les autorités publiques;

i) une liste estimée de résidus par type et, lorsque cela sera possible, désagrégée par volume, localisation et année; et

j) l'information relative à l'imposition de sanctions administratives pour des questions environnementales.

Chaque Partie doit garantir que les systèmes d'information environnementale se trouvent dûment organisés, soient accessibles par toutes les personnes et soient disponibles progressivement à travers des médias informatiques et géoréférencés, selon qu'il convient.

4. Chaque Partie doit prendre des mesures pour établir un registre des rejets et transferts de polluants incluant ceux émis dans l'air, l'eau, les sols et les sous-sols, et les matériaux et résidus sous sa juridiction, lequel sera établi progressivement et sera périodiquement mis à jour.

5. Chaque Partie garantit, dans le cas d'une menace imminente pour la santé publique ou l'environnement, que l'autorité compétente correspondante divulgue immédiatement et par les médias les plus effectifs toute l'information pertinente qui se trouve en son pouvoir et qui permette au public de prendre des mesures pour prévenir ou limiter d'éventuels dommages. Chaque Partie doit développer et mettre en œuvre un système d'alerte précoce en utilisant les mécanismes disponibles.

6. Afin de faciliter aux personnes ou groupes en situation de vulnérabilité l'accès à l'information qui les touche particulièrement, chaque Partie s'assure, selon qu'il convient, que les autorités compétentes divulguent l'information environnementale dans les diverses langues utilisées dans le pays, et élaborent des formats alternatifs compréhensibles par ces groupes, à travers les canaux de communication adéquats.

7. Chaque Partie déploie tous les efforts possibles pour publier et diffuser à intervalles réguliers, qui ne dépassent pas cinq années, un rapport national sur l'état de l'environnement, qui peut contenir:

   a) l'information sur l'état de l'environnement et des ressources naturelles, incluant des données quantitatives, lorsque cela sera possible;

   b) les actions nationales pour le respect des obligations légales en matière d'environnement;

   c) les avancées dans la mise en œuvre des droits d'accès; et

   d) les accords de collaboration entre les secteurs public, social et privé.

Ces rapports doivent être rédigés de manière à être de compréhension facile et être accessibles au public dans différents formats et être diffusés à travers des médias appropriés en tenant compte des réalités culturelles. Chaque Partie peut inviter le public à réaliser des apports à ces rapports.

8. Chaque Partie encourage la réalisation d'examens indépendants environnementaux qui tiennent compte de critères et d'orientations convenus nationalement ou internationalement et d'indicateurs communs, afin d'évaluer l'efficacité, l'effectivité et le progrès de ses politiques nationales environnementales concernant le respect de ses engagements nationaux et internationaux. Les évaluations comporteront la participation des différentes parties prenantes.

9. Chaque Partie promeut l'accès à l'information environnementale contenue dans les concessions, contrats, accords ou autorisations qui auront été octroyés et qui impliquent l'usage de biens, services ou ressources publics, conformément à la législation nationale.

10. Chaque Partie s'assure que les consommateurs et usagers comptent avec une information officielle, pertinente et claire relative aux qualités environnementales des biens et services et à leurs effets sur la santé, en favorisant des modes de consommation et de production durables.

11. Chaque Partie établit et met périodiquement à jour ses systèmes d'archivage et de gestion documentaire en matière environnementale conformément à sa réglementation applicable, s'assurant à tout moment que cette gestion facilite l'accès à l'information.

12. Chaque Partie adopte les mesures nécessaires, à travers des cadres légaux et administratifs, entre autres, pour promouvoir l'accès à l'information environnementale se trouvant entre les mains d'entités privées, en particulier relative à leurs opérations et aux possibles risques et effets sur la santé humaine et l'environnement.

13. Chaque Partie encourage, conformément à ses capacités, l'élaboration de rapports de durabilité des entreprises publiques et privées, en particulier des grandes entreprises, qui reflètent leur performance sociale et environnementale.

Article 7

Participation publique aux processus décisionnels en matière d'environnement

1. Chaque Partie s'engage à assurer le droit de participation du public et, pour cela, s'engage à mettre en place une participation ouverte et inclusive aux processus décisionnels environnementaux, sur la base des cadres réglementaires interne et international.

2. Chaque Partie garantit des mécanismes de participation du public aux processus décisionnels, de contrôle, de réexamen ou de mise à jour relatifs aux projets et activités, ainsi que dans d'autres processus d'autorisations environnementales qui ont ou peuvent avoir un impact significatif sur l'environnement, y compris lorsqu'ils peuvent présenter un risque pour la santé.

3. Chaque Partie promeut la participation du public aux processus décisionnels, de contrôle, de réexamen ou de mise à jour différents de ceux mentionnés au paragraphe 2 du présent article, relatifs aux questions environnementales d'intérêt public, comme l'aménagement du territoire et l'élaboration

de politiques, de stratégies, de plans, de normes et de règlements, qui ont ou peuvent avoir un impact significatif sur l'environnement.

4. Chaque Partie adopte des mesures pour s'assurer que la participation du public soit possible depuis les étapes initiales des processus décisionnels, de sorte que les observations du public soient dûment considérées et contribuent à ces processus. À cet effet, chaque Partie fournit au public, de manière claire, opportune et compréhensible, l'information nécessaire pour rendre effectif son droit de participer au processus décisionnel.

5. La procédure de participation publique devra prévoir des délais raisonnables donnant un temps suffisant pour informer le public et pour que celui-ci participe de manière effective.

6. Le public doit être informé de manière effective, compréhensible et opportune, à travers des médias appropriés, qui peuvent inclure les médias écrits, électroniques ou oraux, ainsi que les méthodes traditionnelles, concernant au minimum:

   a) le type ou la nature de la décision environnementale dont il s'agit et, selon qu'il convient, en langage non technique;

   b) l'autorité responsable du processus décisionnel et les autres autorités et institutions impliquées;

   c) la procédure prévue pour la participation du public, y compris la date du début et du terme de celle-ci, les mécanismes prévus pour cette participation, et selon qu'il convient, les lieux et dates de consultation ou d'audience publique; et

   d) les autorités publiques impliquées auxquelles il est possible de demander plus d'information sur la décision environnementale dont il s'agit, et les procédures pour demander l'information.

7. Le droit du public de participer aux processus décisionnels environnementaux inclut l'opportunité de présenter des observations à travers des médias appropriés et disponibles,

conformément aux circonstances du processus. Avant l'adoption de la décision, l'autorité publique correspondante tiendra dûment compte du résultat du processus de participation.

8. Chaque Partie veille à ce que, une fois adoptée la décision, le public soit opportunément informé de celle-ci et des motifs et fondements sur lesquels elle s'appuie, ainsi que de la manière dont ses observations ont été prises en compte. La décision et ses antécédents sont publics et accessibles.

9. La diffusion des décisions qui résultent des évaluations d'impact environnemental et d'autres processus décisionnels en matière d'environnement impliquant la participation publique doit être réalisée à travers des médias appropriés, qui peuvent inclure les médias écrits, électroniques ou oraux, ainsi que les méthodes traditionnelles, de manière effective et rapide. L'information diffusée doit inclure la procédure prévue qui permette au public d'exercer les actions administratives et judiciaires pertinentes.

10. Chaque Partie doit établir des conditions propices pour que la participation publique aux processus décisionnels en matière d'environnement selon les caractéristiques sociales, économiques, culturelles, géographiques et de genre du public.

11. Si le public directement affecté utilise des langues différentes des langues officielles, l'autorité publique veillera à ce que des moyens pour faciliter leur compréhension et participation soient mis en place.

12. Chaque Partie promeut, selon qu'il convient et conformément à la législation nationale, la participation du public aux instances et aux négociations internationales en matière d'environnement ou ayant une incidence environnementale, conformément aux règles de procédure prévues par chaque instance pour une telle participation. De même, la participation du public aux instances nationales pour traiter des questions des forums internationaux environnementaux sera promue, selon qu'il convient.

13. Chaque Partie encourage l'établissement d'espaces appropriés de consultation sur les questions environnementales ou l'usage

de ceux déjà existants, auxquels puissent participer différents groupes et secteurs. Chaque Partie promeut la valorisation de la connaissance locale, le dialogue et l'interaction des différentes visions et savoirs, selon qu'il convient.

14. Les autorités publiques déploient des efforts pour identifier et soutenir les personnes ou groupes en situation de vulnérabilité pour les impliquer de manière active, opportune et effective dans les mécanismes de participation. Pour ces effets, les médias et formats adéquats sont considérés, afin d'éliminer les barrières à la participation.

15. Dans la mise en œuvre du présent Accord, chaque Partie garantit le respect de sa législation nationale et de ses obligations internationales relatives aux droits des peuples autochtones et des communautés locales.

16. L'autorité publique déploie des efforts pour identifier le public directement touché par les projets et activités qui ont ou peuvent avoir un impact significatif sur l'environnement, et promeut des actions spécifiques pour faciliter sa participation.

17. Concernant les processus décisionnels en matière d'environnement auxquels se réfère le paragraphe 2 du présent article, au moins l'information suivante sera rendue publique:

    a) la description de la zone d'influence et des caractéristiques physiques et technique du projet ou de l'activité proposé;

    b) la description des impacts environnementaux du projet ou de l'activité et, selon qu'il convient, l'impact environnemental cumulatif;

    c) la description des mesures prévues concernant ces impacts;

    d) un résumé des points a), b) et c) du présent paragraphe dans un langage non technique et compréhensible;

    e) les rapports et avis publics des organismes impliqués adressés à l'autorité publique liés au projet ou à l'activité concerné;

f) la description des technologies disponibles pour être utilisées et des lieux alternatifs pour réaliser le projet ou l'activité sujet aux évaluations, lorsque l'information sera disponible; et

g) les actions de suivi de la mise en œuvre et des résultats des mesures de l'étude d'impact environnemental.

L'information indiquée sera mise à disposition du public de manière gratuite, conformément au paragraphe 17 de l'article 5 du présent Accord.

Article 8

Accès à la justice à propos des questions environnementales

1. Chaque Partie garantit le droit d'accéder à la justice à propos des questions environnementale conformément aux garanties d'une procédure régulière.

2. Chaque Partie assure, dans le cadre de sa législation nationale, l'accès aux instances judiciaires et administratives pour contester et faire appel, sur le fond et sur la forme:

   a) de toute décision, action ou omission liée à l'accès à l'information environnementale;

   b) de toute décision, action ou omission liée à la participation publique aux processus décisionnels environnementaux; et

   c) de toute décision, action ou omission qui affecte ou pourra affecter de manière défavorable l'environnement ou contrevenir aux normes juridiques liées à l'environnement.

3. Pour garantir le droit d'accès à la justice à propos des questions environnementales, chaque Partie, en considérant ses circonstances, doit se doter:

   a) d'organes étatiques compétents ayant accès aux connaissances spécialisées en matière d'environnement;

   b) de procédures effectives, opportunes, publiques, transparentes, impartiales et sans coûts prohibitifs;

c) d'une légitimation active générale en défense de l'environnement, conformément à la législation nationale;

d) de la possibilité de prendre des mesures de précaution et provisionnelles pour, entre autres fins, prévenir, faire cesser, atténuer ou recomposer les dommages causés à l'environnement;

e) de mesures pour faciliter la production de la preuve du dommage environnemental, selon qu'il convient et qu'il est applicable, comme le renversement de la charge de la preuve et la charge dynamique de la preuve;

f) de mécanismes d'exécution et de respect opportuns des décisions judiciaires et administratives qui correspondent; et

g) de mécanismes de réparation, selon qu'il convient, comme la restitution à l'état préalable au dommage, la restauration, la compensation ou le paiement d'une sanction économique, la satisfaction, les garanties de non répétition, la prise en charge des personnes affectées et les instruments financiers pour soutenir la réparation.

4. Pour faciliter l'accès à la justice du public à propos des questions environnementales, chaque Partie doit prévoir:

a) des mesures pour réduire ou éliminer les barrières à l'exercice du droit d'accès à la justice;

b) des moyens de divulgation du droit d'accès à la justice et des procédures pour le rendre effectif;

c) des mécanismes de systématisation et de diffusion des décisions judiciaires et administratives qui correspondent; et

d) l'usage de l'interprétation ou la traduction de langues différentes des langues officielles lorsque cela sera nécessaire pour l'exercice de ce droit.

5. Pour rendre effectif le droit d'accès à la justice, chaque Partie répond aux besoins des personnes ou groupes en situation de vulnérabilité à travers l'établissement de mécanismes de soutien, y compris l'assistance technique et juridique gratuite, selon qu'il convient.

6. Chaque Partie s'assure que les décisions judiciaires et administratives adoptées à propos des questions environnementales, ainsi que leur fondement, soient consignés par écrit.

7. Chaque Partie promeut des mécanismes alternatifs de règlement des différends à propos des questions environnementales, selon qu'il convient, comme la médiation, la conciliation et d'autres qui permettent de prévenir ou résoudre ces différends.

Article 9

Défenseurs des droits de l'homme à propos des questions environnementales

1. Chaque Partie garantit un environnement sûr et favorable dans lequel les personnes, groupes et organisations qui promeuvent et défendent les droits de l'homme à propos des questions environnementales puissent agir sans menaces, restrictions ni insécurité.

2. Chaque Partie prend les mesures adéquates et effectives pour reconnaitre, protéger et promouvoir tous les droits des défenseurs des droits de l'homme à propos des questions environnementales, y compris leur droit à la vie, à l'intégrité personnelle, à la liberté d'opinion et d'expression, le droit de réunion et d'association pacifiques et le droit à la libre circulation, ainsi que leur capacité à exercer les droits d'accès, en tenant compte des obligations internationales de cette Partie dans le domaine des droits de l'homme, de ses principes constitutionnels et des éléments fondamentaux de son système juridique.

3. Chaque Partie prend des mesures appropriées, effectives et opportunes pour prévenir, enquêter sur et sanctionner les attaques, menaces ou intimidations que peuvent souffrir les défenseurs des droits de l'homme à propos des questions environnementales dans l'exercice de leurs droits établis dans le présent Accord.

Article 10

Renforcement des capacités

1. Pour contribuer à la mise en œuvre des dispositions du présent Accord, chaque Partie s'engage à créer et renforcer ses capacités nationales, sur la base de ses priorités et besoins.

2. Chaque Partie, selon ses capacités, peut prendre, entre autres, les mesures suivantes:

   a) former et instruire les autorités et fonctionnaires publics aux droits d'accès à propos des questions environnementales;

   b) développer et renforcer des programmes de sensibilisation et de création de capacités en matière de droit environnemental et des droits d'accès pour le public, les fonctionnaires judiciaires et administratifs, les institutions nationales de droits de l'homme et les juristes, entre autres;

   c) doter les institutions et organismes compétents d'équipement et de ressources adéquats;

   d) promouvoir l'éducation, la formation et la sensibilisation aux questions environnementales à travers, entre autres, l'inclusion de modules éducatifs fondamentaux sur les droits d'accès pour les étudiants à tous les niveaux éducationnels;

   e) adopter des mesures spécifiques pour les personnes ou groupes en situation de vulnérabilité, comme l'interprétation ou la traduction dans des langues différentes de la langue officielle, si nécessaire;

   f) reconnaître l'importance des associations, organisations ou groupes qui contribuent à former ou sensibiliser le public aux droits d'accès; et

   g) renforcer les capacités de compilation, gestion et évaluation de l'information environnementale.

Article 11
Coopération

1. Les Parties coopèrent pour le renforcement de leurs capacités nationales afin de mettre en œuvre le présent Accord de manière effective.

2. Les Parties prêtent une attention particulière aux pays les moins avancés, aux pays en développement sans littoral et aux petits États insulaires en développement de l'Amérique latine et des Caraïbes.

3. Aux effets de l'application du paragraphe 2 du présent article, les Parties promeuvent les activités et mécanismes comme:

   a) les dialogues, les ateliers, l'échange d'experts, l'assistance technique, l'éducation et les observatoires;

   b) le développement, l'échange et la mise en œuvre de matériels et programmes éducatifs, de formation et de sensibilisation;

   c) l'échange d'expériences sur les codes volontaires de conduite, les orientations, les bonnes pratiques et les normes; et

   d) les comités, les conseils et les plateformes d'acteurs multisectoriels pour aborder les priorités et les activités de coopération.

4. Les Parties encouragent l'établissement de partenariats avec les États d'autres régions, les organisations intergouvernementales, non gouvernementales, d'enseignement et privées, ainsi que les organisations de la société civile et les autres parties prenantes d'importance dans la mise en œuvre du présent Accord.

5. Les Parties reconnaissent qu'il faut promouvoir la coopération régionale et l'échange d'information concernant toutes les manifestations des activités illicites contre l'environnement.

Article 12
Centre d'échange d'information

Les Parties mettent en place un centre d'échange d'information de caractère virtuel et d'accès universel sur les droits d'accès. Ce centre relève de la Commission économique pour l'Amérique latine et les Caraïbes, en sa qualité de Secrétariat, et peut inclure des mesures législatives, administratives et de politique, des codes de conduite et des bonnes pratiques, entre autres.

Article 13
Mise en œuvre nationale

Chaque Partie, selon ses possibilités et conformément à ses priorités nationales, s'engage à faciliter des moyens de mise en œuvre pour les activités nationales nécessaires au respect des obligations dérivées du présent Accord.

Article 14
Fonds de contributions volontaires

1. Un Fonds de contributions volontaires est créé pour soutenir le financement de la mise en œuvre du présent Accord, dont le fonctionnement sera défini par la Conférence des Parties.

2. Les Parties peuvent réaliser des contributions volontaires pour soutenir la mise en œuvre du présent Accord.

3. Conformément au paragraphe 5 g) de l'article 15 du présent Accord, la Conférence des Parties, peut inviter d'autres sources à apporter des ressources pour soutenir la mise en œuvre du présent Accord.

Article 15
Conférence des Parties

1. Il est institué par les présentes une Conférence des Parties.

2. La première réunion de la Conférence des Parties est convoquée par le Secrétaire exécutif de la Commission économique pour l'Amérique latine et les Caraïbes au plus tard un an après la date d'entrée en vigueur du présent Accord. Par la suite, les réunions ordinaires de la Conférence des Parties se tiennent à des intervalles réguliers à décider par la Conférence.

3. Des réunions extraordinaires de la Conférence des Parties ont lieu lorsque celle-ci le juge nécessaire.

4. À sa première réunion, la Conférence des Parties:

   a) examine et approuve par consensus son règlement intérieur, qui inclut les modalités pour la participation significative du public; et

   b) examine et approuve par consensus les règles de gestion financière qui seront nécessaires au fonctionnement et à la mise en œuvre du présent Accord.

5. La Conférence des Parties examine et promeut l'application et l'effectivité du présent Accord. À cet effet:

   a) elle établit par consensus les organes subsidiaires qu'elle juge nécessaires pour l'application du présent Accord;

b) elle reçoit et examine les rapports et les recommandations des organes subsidiaires;

c) elle est informée par les Parties des mesures adoptées pour la mise en œuvre du présent Accord;

d) elle peut formuler des recommandations aux Parties relatives à la mise en œuvre du présent Accord;

e) elle élabore et approuve, le cas échéant, des protocoles au présent Accord pour leur signature, ratification, acceptation, approbation et adhésion postérieures;

f) elle examine et approuve des propositions d'amendement du présent Accord, conformément aux dispositions de l'article 20 du présent Accord;

g) elle établit des directives et modalités pour la mobilisation des ressources, financières et non financières, de diverses sources pour faciliter la mise en œuvre du présent Accord;

h) elle examine et adopte toute autre mesure nécessaire à l'atteinte de l'objectif du présent Accord; et

i) elle réalise toute autre fonction que le présent Accord lui attribue.

Article 16
Droit de vote

Chaque Partie au présent Accord disposera d'une voix.

Article 17
Secrétariat

1. Le Secrétaire exécutif de la Commission économique pour l'Amérique latine et les Caraïbes exerce les fonctions de secrétariat du présent Accord.

2. Les fonctions du Secrétariat sont les suivantes:

a) convoquer et organiser les réunions de la Conférence des Parties et de ses organes subsidiaires, en prêtant les services nécessaires;

b) prêter assistance aux Parties, lorsqu'elles le demandent, pour le renforcement des capacités, y compris l'échange d'expériences et d'information et l'organisation d'activités, conformément aux articles 10, 11 et 12 du présent Accord;

c) concrétiser, selon l'orientation générale de la Conférence des Parties, les arrangements administratifs et contractuels nécessaires pour remplir avec efficacité ses fonctions; et

d) réaliser les autres fonctions de secrétariat établies dans le présent Accord et toute autre déterminée par la Conférence des Parties.

Article 18

Comité de soutien à l'application et au respect

1. Un Comité de soutien à l'application et au respect est établi en tant qu'organe subsidiaire de la Conférence des Parties pour promouvoir l'application et soutenir les Parties dans la mise en œuvre du présent Accord. Ses règles de composition et de fonctionnement seront établies par la Conférence des Parties lors de sa première réunion.

2. Le Comité a un caractère consultatif, transparent, non contentieux, non judiciaire et non punitif, pour examiner le respect des dispositions du présent Accord et formuler des recommandations, conformément aux règles de procédure établies par la Conférence des Parties, en s'assurant d'une participation significative du public et en considérant les capacités et circonstances nationales des Parties.

Article 19

Règlement des différends

1. Si un différend surgit entre deux ou plusieurs Parties au sujet de l'interprétation ou de l'application du présent Accord, ces Parties s'efforcent de le régler par voie de négociation ou par tout autre moyen de règlement des différends qu'elles jugent acceptable.

2. Lorsqu'elle signe, ratifie, accepte ou approuve le présent Accord ou y adhère, ou à tout moment par la suite, une Partie peut signifier par écrit au Dépositaire que, pour les différends qui n'ont pas été réglés conformément au paragraphe 1 du présent article, elle accepte de considérer comme obligatoire l'un des deux ou les deux moyens de règlement ci-après dans ses relations avec toute Partie acceptant la même obligation:

   a) la soumission du différend à la Cour internationale de Justice;

   b) l'arbitrage conformément aux procédures que la Conférence des Parties établira.

3. Si les Parties au différend ont accepté les deux moyens de règlement des différends mentionnés au paragraphe 2 du présent article, le différend peut n'être soumis qu'à la Cour internationale de Justice, à moins que les Parties n'en conviennent autrement.

Article 20
Amendements

1. Toute Partie peut proposer des amendements au présent Accord.

2. Les amendements au présent Accord sont adoptés à une réunion de la Conférence des Parties. Le texte de tout projet d'amendement est communiqué aux Parties par le Secrétariat six mois au moins avant la réunion à laquelle il est présenté pour adoption. Le Secrétariat communique également les projets d'amendement aux signataires du présent Accord et, à titre d'information, au Dépositaire.

3. Les Parties mettent tout en œuvre pour parvenir à un accord par consensus sur tout amendement proposé au présent Accord. Si tous les efforts en ce sens sont demeurés vains et qu'aucun accord n'est intervenu, l'amendement est adopté en dernier recours par vote à la majorité des trois quarts des Parties présentes et votantes participant à la réunion.

4. Le Dépositaire communique l'amendement adopté à toutes les Parties aux fins de ratification, d'acceptation ou d'approbation.

5. La ratification, l'acceptation ou l'approbation d'un amendement est notifiée par écrit au Dépositaire. Un amendement adopté conformément au paragraphe 3 du présent article entre en vigueur à l'égard des Parties ayant accepté d'être liées par ses dispositions le quatre-vingt-dixième jour à compter de la date du dépôt des instruments de ratification, d'acceptation ou d'approbation par la moitié au moins des Parties qui étaient Parties au présent Accord au moment où l'amendement a été adopté. Par la suite, l'amendement entre en vigueur à l'égard de toute autre Partie le quatre-vingt-dixième jour à compter de la date du dépôt par cette Partie de son instrument de ratification, d'acceptation ou d'approbation de l'amendement.

Article 21
Signature, ratification, acceptation, approbation et adhésion

1. Le présent Accord est ouvert à la signature de tous les pays d'Amérique latine et des Caraïbes inclus à l'Annexe 1 au Siège des Nations Unies à New York, du 27 septembre 2018 au 26 septembre 2020.

2. Le présent Accord est soumis à la ratification, l'acceptation ou l'approbation des États qui l'ont signé. Il est ouvert à l'adhésion de tous les pays d'Amérique latine et des Caraïbes inclus à l'Annexe 1 qui ne l'ont pas signé, à partir du jour suivant la date d'expiration du délai pour la signature de l'Accord. Les instruments de ratification, d'acceptation, d'approbation ou d'adhésion sont déposés auprès du Dépositaire.

Article 22
Entrée en vigueur

1. Le présent Accord entre en vigueur le quatre-vingt-dixième jour suivant la date du dépôt du onzième instrument de ratification, d'acceptation, d'approbation ou d'adhésion.

2. Pour chaque État qui ratifie, accepte ou approuve le présent Accord, ou y adhère après le dépôt du onzième instrument de ratification, d'acceptation, d'approbation ou d'adhésion,

le présent Accord entre en vigueur le quatre-vingt-dixième jour suivant la date du dépôt, par cet État, de son instrument de ratification, d'acceptation, d'approbation ou d'adhésion.

Article 23
Réserves

Aucune réserve ne peut être faite au présent Accord.

Article 24
Retrait

1. À l'expiration d'un délai de trois ans à compter de la date d'entrée en vigueur du présent Accord à l'égard d'une Partie, cette dernière peut à tout moment se retirer du présent Accord par notification écrite adressée au Dépositaire.
2. Tout retrait prend effet à l'expiration d'un délai d'un an à compter de la date de réception de la notification de retrait par le Dépositaire, ou à toute autre date ultérieure spécifiée dans la notification de retrait.

Article 25
Dépositaire

Le Secrétaire général de l'Organisation des Nations Unies est le Dépositaire du présent Accord.

Article 26
Textes authentiques

L'original du présent Accord, dont les textes espagnol et anglais font également foi, est déposé auprès du Secrétaire général de l'Organisation des Nations Unies.

EN FOI DE QUOI les soussignés, dûment autorisés à cet effet, ont signé le présent Accord.

FAIT à Escazú, au Costa Rica, le quatre mars deux mille dix-huit.

Annexe 1

- Antigua-et-Barbuda
- Argentine (l')
- Bahamas (les)
- Barbade (la)
- Belize (le)
- Bolivie (État plurinational de) (l')
- Brésil (le)
- Chili (le)
- Colombie (la)
- Costa Rica (le)
- Cuba
- Dominique (la)
- Équateur (l')
- El Salvador
- Grenade (la)
- Guatemala (le)
- Guyana (le)
- Haïti
- Honduras (le)
- Jamaïque (la)
- Mexique (le)
- Nicaragua (le)
- Panama (le)
- Paraguay (le)
- Pérou (le)
- République Dominicaine (la)
- Saint-Kitts-et-Nevis
- Saint-Vincent-et-les Grenadines
- Sainte-Lucie
- Suriname (le)
- Trinité-et-Tobago
- Uruguay (l')
- Venezuela (République bolivarienne du) (la)

Annex 158

Agreement to Prevent Unregulated Fishing in the High Seas of the Central Arctic Ocean, 3 October 2018, OJ L 73

AGREEMENT

to prevent unregulated high seas fisheries in the Central Arctic Ocean

The Parties to this Agreement,

RECOGNIZING that until recently ice has generally covered the high seas portion of the central Arctic Ocean on a year-round basis, which has made fishing in those waters impossible, but that ice coverage in that area has diminished in recent years;

ACKNOWLEDGING that, while the central Arctic Ocean ecosystems have been relatively unexposed to human activities, those ecosystems are changing due to climate change and other phenomena, and that the effects of these changes are not well understood;

RECOGNIZING the crucial role of healthy and sustainable marine ecosystems and fisheries for food and nutrition;

RECOGNIZING the special responsibilities and special interests of the central Arctic Ocean coastal States in relation to the conservation and sustainable management of fish stocks in the central Arctic Ocean;

NOTING in this regard the initiative of the central Arctic Ocean coastal States as reflected in the Declaration Concerning the Prevention of Unregulated High Seas Fishing in the Central Arctic Ocean signed on 16 July 2015;

RECALLING the principles and provisions of treaties and other international instruments relating to marine fisheries that already apply to the high seas portion of the central Arctic Ocean, including those contained in:

the United Nations Convention on the Law of the Sea of 10 December 1982 ('the Convention');

the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 August 1995 ('the 1995 Agreement'); and

the 1995 Code of Conduct for Responsible Fisheries and other relevant instruments adopted by the Food and Agriculture Organization of the United Nations;

UNDERLINING the importance of ensuring cooperation and coordination between the Parties and the North-East Atlantic Fisheries Commission, which has competence to adopt conservation and management measures in part of the high seas portion of the central Arctic Ocean, and other relevant mechanisms for fisheries management that are established and operated in accordance with international law, as well as with relevant international bodies and programs;

BELIEVING that commercial fishing is unlikely to become viable in the high seas portion of the central Arctic Ocean in the near future and that it is therefore premature under current circumstances to establish any additional regional or subregional fisheries management organizations or arrangements for the high seas portion of the central Arctic Ocean;

DESIRING, consistent with the precautionary approach, to prevent the start of unregulated fishing in the high seas portion of the central Arctic Ocean while keeping under regular review the need for additional conservation and management measures;

RECALLING the 2007 United Nations Declaration on the Rights of Indigenous Peoples;

RECOGNIZING the interests of Arctic residents, including Arctic indigenous peoples, in the long-term conservation and sustainable use of living marine resources and in healthy marine ecosystems in the Arctic Ocean and underlining the importance of involving them and their communities; and

DESIRING to promote the use of both scientific knowledge and indigenous and local knowledge of the living marine resources of the Arctic Ocean and the ecosystems in which they occur as a basis for fisheries conservation and management in the high seas portion of the central Arctic Ocean,

HAVE AGREED as follows:

Article 1

Use of Terms

For the purposes of this Agreement:

(a) 'Agreement Area' means the single high seas portion of the central Arctic Ocean that is surrounded by waters within which Canada, the Kingdom of Denmark in respect of Greenland, the Kingdom of Norway, the Russian Federation and the United States of America exercise fisheries jurisdiction;

(b) 'fish' means species of fish, molluscs and crustaceans except those belonging to sedentary species as defined in Article 77 of the Convention;

(c) 'fishing' means searching for, attracting, locating, catching, taking or harvesting fish or any activity that can reasonably be expected to result in the attracting, locating, catching, taking or harvesting of fish;

(d) 'commercial fishing' means fishing for commercial purposes;

(e) 'exploratory fishing' means fishing for the purpose of assessing the sustainability and feasibility of future commercial fisheries by contributing to scientific data relating to such fisheries;

(f) 'vessel' means any vessel used for, equipped to be used for, or intended to be used for fishing.

Article 2

Objective of this Agreement

The objective of this Agreement is to prevent unregulated fishing in the high seas portion of the central Arctic Ocean through the application of precautionary conservation and management measures as part of a long-term strategy to safeguard healthy marine ecosystems and to ensure the conservation and sustainable use of fish stocks.

Article 3

Interim Conservation and Management Measures Concerning Fishing

1. Each Party shall authorize vessels entitled to fly its flag to conduct commercial fishing in the Agreement Area only pursuant to:

(a) conservation and management measures for the sustainable management of fish stocks adopted by one or more regional or subregional fisheries management organizations or arrangements, that have been or may be established and are operated in accordance with international law to manage such fishing in accordance with recognized international standards; or

(b) interim conservation and management measures that may be established by the Parties pursuant to Article 5, paragraph 1(c)(ii).

2. The Parties are encouraged to conduct scientific research under the framework of the Joint Program of Scientific Research and Monitoring established pursuant to Article 4 and under their respective national scientific programs.

3. A Party may authorize vessels entitled to fly its flag to carry out exploratory fishing in the Agreement Area only pursuant to conservation and management measures established by the Parties on the basis of Article 5, paragraph 1(d).

4. The Parties shall ensure that their scientific research activities involving the catching of fish in the Agreement Area do not undermine the prevention of unregulated commercial and exploratory fishing and the protection of healthy marine ecosystems. The Parties are encouraged to inform each other about their plans for authorizing such scientific research activities.

5. The Parties shall ensure compliance with the interim measures established by this Article, and with any additional or different interim measures they may establish pursuant to Article 5, paragraph 1(c).

6. Consistent with Article 7 of the 1995 Agreement, coastal States Parties and other Parties shall cooperate to ensure the compatibility of conservation and management measures for fish stocks that occur in areas both within and beyond national jurisdiction in the central Arctic Ocean in order to ensure conservation and management of those stocks in their entirety.

7. Other than as provided in paragraph 4 above, nothing in this Agreement shall be interpreted to restrict the entitlements of Parties in relation to marine scientific research as reflected in the Convention.

Article 4

Joint Program of Scientific Research and Monitoring

1. The Parties shall facilitate cooperation in scientific activities with the goal of increasing knowledge of the living marine resources of the central Arctic Ocean and the ecosystems in which they occur.

2. The Parties agree to establish, within two years of the entry into force of this Agreement, a Joint Program of Scientific Research and Monitoring with the aim of improving their understanding of the ecosystems of the Agreement Area and, in particular, of determining whether fish stocks might exist in the Agreement Area now or in the future that could be harvested on a sustainable basis and the possible impacts of such fisheries on the ecosystems of the Agreement Area.

3. The Parties shall guide the development, coordination and implementation of the Joint Program of Scientific Research and Monitoring.

4. The Parties shall ensure that the Joint Program of Scientific Research and Monitoring takes into account the work of relevant scientific and technical organizations, bodies and programs, as well as indigenous and local knowledge.

5. As part of the Joint Program of Scientific Research and Monitoring, the Parties shall adopt, within two years of the entry into force of this Agreement, a data sharing protocol and shall share relevant data, directly or through relevant scientific and technical organizations, bodies and programs, in accordance with that protocol.

6. The Parties shall hold joint scientific meetings, in person or otherwise, at least every two years and at least two months in advance of the meetings of the Parties that take place pursuant to Article 5 to present the results of their research, to review the best available scientific information, and to provide timely scientific advice to meetings of the Parties. The Parties shall adopt, within two years of the entry into force of this Agreement, terms of reference and other procedures for the functioning of the joint scientific meetings.

Article 5

Review and Further Implementation

1. The Parties shall meet every two years or more frequently if they so decide. During their meetings, the Parties shall, inter alia:

(a) review implementation of this Agreement and, when appropriate, consider any issues relating to the duration of this Agreement in accordance with Article 13, paragraph 2;

(b) review all available scientific information developed through the Joint Program of Scientific Research and Monitoring, from the national scientific programs, and from any other relevant sources, including indigenous and local knowledge;

(c) on the basis of the scientific information derived from the Joint Program of Scientific Research and Monitoring, from the national scientific programs, and from other relevant sources, and taking into account relevant fisheries management and ecosystem considerations, including the precautionary approach and potential adverse impacts of fishing on the ecosystems, consider, inter alia, whether the distribution, migration and abundance of fish in the Agreement Area would support a sustainable commercial fishery and, on that basis, determine:

   (i) whether to commence negotiations to establish one or more additional regional or subregional fisheries management organizations or arrangements for managing fishing in the Agreement Area; and

   (ii) whether, once negotiations have commenced pursuant to subparagraph (i) above and once the Parties have agreed on mechanisms to ensure the sustainability of fish stocks, to establish additional or different interim conservation and management measures in respect of those stocks in the Agreement Area.

(d) establish, within three years of the entry into force of this Agreement, conservation and management measures for exploratory fishing in the Agreement Area. The Parties may amend such measures from time to time. These measures shall provide, inter alia, that:

(i) exploratory fishing shall not undermine the objective of this Agreement;

(ii) exploratory fishing shall be limited in duration, scope and scale to minimize impacts on fish stocks and ecosystems and shall be subject to standard requirements set forth in the data sharing protocol adopted in accordance with Article 4, paragraph 5;

(iii) a Party may authorize exploratory fishing only on the basis of sound scientific research and when it is consistent with the Joint Program of Scientific Research and Monitoring and its own national scientific program(s);

(iv) a Party may authorize exploratory fishing only after it has notified the other Parties of its plans for such fishing and it has provided other Parties an opportunity to comment on those plans; and

(v) a Party must adequately monitor any exploratory fishing that it has authorized and report the results of such fishing to the other Parties.

2. To promote implementation of this Agreement, including with respect to the Joint Program of Scientific Research and Monitoring and other activities undertaken pursuant to Article 4, the Parties may form committees or similar bodies in which representatives of Arctic communities, including Arctic indigenous peoples, may participate.

Article 6

Decision-Making

1. Decisions of the Parties on questions of procedure shall be taken by a majority of the Parties casting affirmative or negative votes.

2. Decisions of the Parties on questions of substance shall be taken by consensus. For the purpose of this Agreement, 'consensus' means the absence of any formal objection made at the time the decision was taken.

3. A question shall be deemed to be of substance if any Party considers it to be of substance.

Article 7

Dispute Settlement

The provisions relating to the settlement of disputes set forth in Part VIII of the 1995 Agreement apply, mutatis mutandis, to any dispute between Parties relating to the interpretation or application of this Agreement, whether or not they are also Parties to the 1995 Agreement.

Article 8

Non-Parties

1. The Parties shall encourage non-parties to this Agreement to take measures that are consistent with the provisions of this Agreement.

2. The Parties shall take measures consistent with international law to deter the activities of vessels entitled to fly the flags of non-parties that undermine the effective implementation of this Agreement.

Article 9

Signature

1. This Agreement shall be open for signature at Ilulissat on 3 October 2018 by Canada, the People's Republic of China, the Kingdom of Denmark in respect of the Faroe Islands and Greenland, Iceland, Japan, the Republic of Korea, the Kingdom of Norway, the Russian Federation, the United States of America and the European Union and shall remain open for signature for 12 months following that date.

2. For signatories to this Agreement, this Agreement shall remain open for ratification, acceptance or approval at any time.

Article 10

Accession

1. For the States listed in Article 9, paragraph 1 that have not signed this Agreement, and for the European Union if it has not signed this Agreement, this Agreement shall remain open for accession at any time.

2. After the entry into force of this Agreement, the Parties may invite other States with a real interest to accede to this Agreement.

Article 11

Entry into Force

1. This Agreement shall enter into force 30 days after the date of receipt by the depositary of all instruments of ratification, acceptance, or approval of, or accession to, this Agreement by those States and the European Union listed in Article 9, paragraph 1.

2. After entry into force of this Agreement, it shall enter into force for each State invited to accede pursuant to Article 10, paragraph 2 that has deposited an instrument of accession 30 days after the date of deposit of that instrument.

Article 12

Withdrawal

A Party may withdraw from this Agreement at any time by sending written notification of its withdrawal to the depositary through diplomatic channels, specifying the effective date of its withdrawal, which shall be at least six months after the date of notification. Withdrawal from this Agreement shall not affect its application among the remaining Parties or the duty of the withdrawing Party to fulfill any obligation in this Agreement to which it otherwise would be subject under international law independently of this Agreement.

Article 13

Duration of this Agreement

1. This Agreement shall remain in force for an initial period of 16 years following its entry into force.

2. Following the expiration of the initial period specified in paragraph 1 above, this Agreement shall remain in force for successive five-year extension period(s) unless any Party:

(a) presents a formal objection to an extension of this Agreement at the last meeting of the Parties that takes place prior to expiration of the initial period or any subsequent extension period; or

(b) sends a formal objection to an extension to the depositary in writing no later than six months prior to the expiration of the respective period.

3. The Parties shall provide for an effective transition between this Agreement and any potential new agreement establishing an additional regional or subregional fisheries management organization or arrangement for managing fishing in the Agreement Area so as to safeguard healthy marine ecosystems and ensure the conservation and sustainable use of fish stocks in the Agreement Area.

Article 14

Relation to Other Agreements

1. The Parties recognize that they are and will continue to be bound by their obligations under relevant provisions of international law, including those reflected in the Convention and the 1995 Agreement, and recognize the importance of continuing to cooperate in fulfilling those obligations even in the event that this Agreement expires or is terminated in the absence of any agreement establishing an additional regional or subregional fisheries management organization or arrangement for managing fishing in the Agreement Area.

2. Nothing in this Agreement shall prejudice the positions of any Party with respect to its rights and obligations under international agreements and its positions with respect to any question relating to the law of the sea, including with respect to any position relating to the exercise of rights and jurisdiction in the Arctic Ocean.

3. Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of any Party under relevant provisions of international law as reflected in the Convention or the 1995 Agreement, including the right to propose the commencement of negotiations on the establishment of one or more additional regional or subregional fisheries management organizations or arrangements for the Agreement Area.

4. This Agreement shall not alter the rights and obligations of any Party that arise from other agreements compatible with this Agreement and that do not affect the enjoyment by other Parties of their rights or the performance of their obligations under this Agreement. This Agreement shall neither undermine nor conflict with the role and mandate of any existing international mechanism relating to fisheries management.

Article 15

Depositary

1. The Government of Canada shall be the depositary for this Agreement.

2. Instruments of ratification, acceptance, approval or accession shall be deposited with the depositary.

3. The depositary shall inform all signatories and all Parties of the deposit of all instruments of ratification, acceptance, approval or accession and perform such other functions as are provided for in the 1969 Vienna Convention on the Law of Treaties.

Done at Ilulissat on this third day of October, 2018, in a single original, in the Chinese, English, French and Russian languages, each text being equally authentic.

Annex 159

Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, 19 June 2023, A/CONF.232/2023/4

United Nations A/CONF.232/2023/4*

General Assembly

Distr.: General
19 June 2023

Original: English

Intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction
Further resumed fifth session
New York, 19 and 20 June 2023

Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

* Reissued for technical reasons on 30 June 2023.

23-11848* (E) 300623

PREAMBLE

The Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, including the obligation to protect and preserve the marine environment,

Stressing the need to respect the balance of rights, obligations and interests set out in the Convention,

Recognizing the need to address, in a coherent and cooperative manner, biological diversity loss and degradation of ecosystems of the ocean, due, in particular, to climate change impacts on marine ecosystems, such as warming and ocean deoxygenation, as well as ocean acidification, pollution, including plastic pollution, and unsustainable use,

Conscious of the need for the comprehensive global regime under the Convention to better address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction,

Recognizing the importance of contributing to the realization of a just and equitable international economic order which takes into account the interests and needs of humankind as a whole and, in particular, the special interests and needs of developing States, whether coastal or landlocked,

Recognizing also that support for developing States Parties through capacity-building and the development and transfer of marine technology are essential elements for the attainment of the objectives of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction,

Recalling the United Nations Declaration on the Rights of Indigenous Peoples,

Affirming that nothing in this Agreement shall be construed as diminishing or extinguishing the existing rights of Indigenous Peoples, including as set out in the United Nations Declaration on the Rights of Indigenous Peoples, or of, as appropriate, local communities,

Recognizing the obligation set out in the Convention to assess, as far as practicable, the potential effects on the marine environment of activities under a State's jurisdiction or control when the State has reasonable grounds for believing that such activities may cause substantial pollution of or significant and harmful changes to the marine environment,

Mindful of the obligation set out in the Convention to take all measures necessary to ensure that pollution arising from incidents or activities does not spread beyond the areas where sovereign rights are exercised in accordance with the Convention,

Desiring to act as stewards of the ocean in areas beyond national jurisdiction on behalf of present and future generations by protecting, caring for and ensuring responsible use of the marine environment, maintaining the integrity of ocean ecosystems and conserving the inherent value of biological diversity of areas beyond national jurisdiction,

Acknowledging that the generation of, access to and utilization of digital sequence information on marine genetic resources of areas beyond national jurisdiction, together with the fair and equitable sharing of benefits arising from its utilization, contribute to research and innovation and to the general objective of this Agreement,

Respecting the sovereignty, territorial integrity and political independence of all States,

Recalling that the legal status of non-parties to the Convention or any other related agreements is governed by the rules of the law of treaties,

Recalling also that, as set out in the Convention, States are responsible for the fulfilment of their international obligations concerning the protection and preservation of the marine environment and may be liable in accordance with international law,

Committed to achieving sustainable development,

Aspiring to achieve universal participation,

Have agreed as follows:

PART I
GENERAL PROVISIONS

Article 1
Use of terms

For the purposes of this Agreement:

1. "Area-based management tool" means a tool, including a marine protected area, for a geographically defined area through which one or several sectors or activities are managed with the aim of achieving particular conservation and sustainable use objectives in accordance with this Agreement.

2. "Areas beyond national jurisdiction" means the high seas and the Area.

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

4. "Collection in situ", in relation to marine genetic resources, means the collection or sampling of marine genetic resources in areas beyond national jurisdiction.

5. "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982.

6. "Cumulative impacts" means the combined and incremental impacts resulting from different activities, including known past and present and reasonably foreseeable activities, or from the repetition of similar activities over time, and the consequences of climate change, ocean acidification and related impacts.

7. "Environmental impact assessment" means a process to identify and evaluate the potential impacts of an activity to inform decision-making.

8. "Marine genetic resources" means any material of marine plant, animal, microbial or other origin containing functional units of heredity of actual or potential value.

9. "Marine protected area" means a geographically defined marine area that is designated and managed to achieve specific long-term biological diversity conservation objectives and may allow, where appropriate, sustainable use provided it is consistent with the conservation objectives.

10. "Marine technology" includes, inter alia, information and data, provided in a user-friendly format, on marine sciences and related marine operations and services;

manuals, guidelines, criteria, standards and reference materials; sampling and methodology equipment; observation facilities and equipment for in situ and laboratory observations, analysis and experimentation; computer and computer software, including models and modelling techniques; related biotechnology; and expertise, knowledge, skills, technical, scientific and legal know-how and analytical methods related to the conservation and sustainable use of marine biological diversity.

11. “Party” means a State or regional economic integration organization that has consented to be bound by this Agreement and for which this Agreement is in force.

12. “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 Agreement and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, approve, accept or accede to this Agreement.

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

14. “Utilization of marine genetic resources” means to conduct research and development on the genetic and/or biochemical composition of marine genetic resources, including through the application of biotechnology, as defined in paragraph 3 above.

Article 2
General objective

The objective of this Agreement is to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the Convention and further international cooperation and coordination.

Article 3
Scope of application

This Agreement applies to areas beyond national jurisdiction.

Article 4
Exceptions

This Agreement does not apply to any warship, military aircraft or naval auxiliary. Except for Part II, this Agreement does not apply to other vessels or aircraft owned or operated by a Party 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 vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with this Agreement.

Article 5
Relationship between this Agreement and the Convention and relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies

1. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention. Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention, including in respect of the exclusive economic zone and the continental shelf within and beyond 200 nautical miles.

2. This Agreement shall be interpreted and applied in a manner that does not undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies and that promotes coherence and coordination with those instruments, frameworks and bodies.

3. The legal status of non-parties to the Convention or any other related agreements with regard to those instruments is not affected by this Agreement.

Article 6
Without prejudice

This Agreement, including any decision or recommendation of the Conference of the Parties or any of its subsidiary bodies, and any acts, measures or activities undertaken on the basis thereof, shall be without prejudice to, and shall not be relied upon as a basis for asserting or denying any claims to, sovereignty, sovereign rights or jurisdiction, including in respect of any disputes relating thereto.

Article 7
General principles and approaches

In order to achieve the objectives of this Agreement, Parties shall be guided by the following principles and approaches:

(a) The polluter-pays principle;

(b) The principle of the common heritage of humankind which is set out in the Convention;

(c) The freedom of marine scientific research, together with other freedoms of the high seas;

(d) The principle of equity and the fair and equitable sharing of benefits;

(e) The precautionary principle or precautionary approach, as appropriate;

(f) An ecosystem approach;

(g) An integrated approach to ocean management;

(h) An approach that builds ecosystem resilience, including to adverse effects of climate change and ocean acidification, and also maintains and restores ecosystem integrity, including the carbon cycling services that underpin the role of the ocean in climate;

(i) The use of the best available science and scientific information;

(j) The use of relevant traditional knowledge of Indigenous Peoples and local communities, where available;

(k) The respect, promotion and consideration of their respective obligations, as applicable, relating to the rights of Indigenous Peoples or of, as appropriate, local communities when taking action to address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(l) The non-transfer, directly or indirectly, of damage or hazards from one area to another and the non-transformation of one type of pollution into another in taking measures to prevent, reduce and control pollution of the marine environment;

(m) Full recognition of the special circumstances of small island developing States and of least developed countries;

(n) Acknowledgement of the special interests and needs of landlocked developing countries.

Article 8
International cooperation

1. Parties shall cooperate under this Agreement for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including through strengthening and enhancing cooperation with and promoting cooperation among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies in the achievement of the objectives of this Agreement.

2. Parties shall endeavour to promote, as appropriate, the objectives of this Agreement when participating in decision-making under other relevant legal instruments, frameworks, or global, regional, subregional or sectoral bodies.

3. Parties shall promote international cooperation in marine scientific research and in the development and transfer of marine technology consistent with the Convention in support of the objectives of this Agreement.

PART II
MARINE GENETIC RESOURCES, INCLUDING THE FAIR AND EQUITABLE SHARING OF BENEFITS

Article 9
Objectives

The objectives of this Part are:

(a) The fair and equitable sharing of benefits arising from activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(b) The building and development of the capacity of Parties, particularly developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries, to carry out activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction;

(c) The generation of knowledge, scientific understanding and technological innovation, including through the development and conduct of marine scientific research, as fundamental contributions to the implementation of this Agreement;

(d) The development and transfer of marine technology in accordance with this Agreement.

Article 10
Application

1. The provisions of this Agreement shall apply to activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction collected and generated after the entry into force of this Agreement for the respective Party. The application of the provisions of this Agreement shall extend to the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction collected or generated before entry into force, unless a Party makes an exception in writing under article 70 when signing, ratifying, approving, accepting or acceding to this Agreement.

2. The provisions of this Part shall not apply to:

(a) Fishing regulated under relevant international law and fishing-related activities; or

(b) Fish or other living marine resources known to have been taken in fishing and fishing-related activities from areas beyond national jurisdiction, except where such fish or other living marine resources are regulated as utilization under this Part.

3. The obligations in this Part shall not apply to a Party's military activities, including military activities by government vessels and aircraft engaged in non-commercial service. The obligations in this Part with respect to the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall apply to a Party's non-military activities.

Article 11
Activities with respect to marine genetic resources of areas beyond national jurisdiction

1. Activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction may be carried out by all Parties, irrespective of their geographical location, and by natural or juridical persons under the jurisdiction of the Parties. Such activities shall be carried out in accordance with this Agreement.

2. Parties shall promote cooperation in all activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction.

3. Collection in situ of marine genetic resources of areas beyond national jurisdiction shall be carried out with due regard for the rights and legitimate interests of coastal States in areas within their national jurisdiction and with due regard for the interests of other States in areas beyond national jurisdiction, in accordance with the Convention. To this end, Parties shall endeavour to cooperate, as appropriate,

including through specific modalities for the operation of the Clearing-House Mechanism determined under article 51, with a view to implementing this Agreement.

4. No State shall claim or exercise sovereignty or sovereign rights over marine genetic resources of areas beyond national jurisdiction. No such claim or exercise of sovereignty or sovereign rights shall be recognized.

5. Collection in situ of marine genetic resources of areas beyond national jurisdiction shall not constitute the legal basis for any claim to any part of the marine environment or its resources.

6. Activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction are in the interests of all States and for the benefit of all humanity, particularly for the benefit of advancing the scientific knowledge of humanity and promoting the conservation and sustainable use of marine biological diversity, taking into particular consideration the interests and needs of developing States.

7. Activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall be carried out exclusively for peaceful purposes.

Article 12
Notification on activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction

1. Parties shall take the necessary legislative, administrative or policy measures to ensure that information is notified to the Clearing-House Mechanism in accordance with this Part.

2. The following information shall be notified to the Clearing-House Mechanism six months or as early as possible prior to the collection in situ of marine genetic resources of areas beyond national jurisdiction:

(a) The nature and objectives under which the collection is carried out, including, as appropriate, any programme(s) of which it forms part;

(b) The subject matter of the research or, if known, the marine genetic resources to be targeted or collected, and the purposes for which such resources will be collected;

(c) The geographical areas in which the collection is to be undertaken;

(d) A summary of the method and means to be used for collection, including the name, tonnage, type and class of vessels, scientific equipment and/or study methods employed;

(e) Information concerning any other contributions to proposed major programmes;

(f) The expected date of first appearance and final departure of the research vessels, or deployment of the equipment and its removal, as appropriate;

(g) The name(s) of the sponsoring institution(s) and the person in charge of the project;

(h) Opportunities for scientists of all States, in particular scientists from developing States, to be involved in or associated with the project;

(i) The extent to which it is considered that States that may need and request technical assistance, in particular developing States, should be able to participate or to be represented in the project;

(j) A data management plan prepared according to open and responsible data governance, taking into account current international practice.

3. Upon notification referred to in paragraph 2 above, the Clearing-House Mechanism shall automatically generate a "BBNJ" standardized batch identifier.

4. Where there is a material change to the information provided to the Clearing-House Mechanism prior to the planned collection, updated information shall be notified to the Clearing-House Mechanism within a reasonable period of time and no later than the start of collection in situ, when practicable.

5. Parties shall ensure that the following information, along with the "BBNJ" standardized batch identifier, is notified to the Clearing-House Mechanism as soon as it becomes available, but no later than one year from the collection in situ of marine genetic resources of areas beyond national jurisdiction:

(a) The repository or database where digital sequence information on marine genetic resources is or will be deposited;

(b) Where all marine genetic resources collected in situ are or will be deposited or held;

(c) A report detailing the geographical area from which marine genetic resources were collected, including information on the latitude, longitude and depth of collection, and, to the extent available, the findings from the activity undertaken;

(d) Any necessary updates to the data management plan provided under paragraph (2) (j) above.

6. Parties shall ensure that samples of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction that are in repositories or databases under their jurisdiction can be identified as originating from areas beyond national jurisdiction, in accordance with current international practice and to the extent practicable.

7. Parties shall ensure that repositories, to the extent practicable, and databases under their jurisdiction prepare, on a biennial basis, an aggregate report on access to marine genetic resources and digital sequence information linked to their "BBNJ" standardized batch identifier, and make the report available to the access and benefit-sharing committee established under article 15.

8. Where marine genetic resources of areas beyond national jurisdiction, and where practicable, the digital sequence information on such resources are subject to utilization, including commercialization, by natural or juridical persons under their jurisdiction, Parties shall ensure that the following information, including the "BBNJ" standardized batch identifier, if available, be notified to the Clearing-House Mechanism as soon as such information becomes available:

(a) Where the results of the utilization, such as publications, patents granted, if available and to the extent possible, and products developed, can be found;

(b) Where available, details of the post-collection notification to the Clearing-House Mechanism related to the marine genetic resources that were the subject of utilization;

(c) Where the original sample that is the subject of utilization is held;

(d) The modalities envisaged for access to marine genetic resources and digital sequence information on marine genetic resources being utilized, and a data management plan for the same;

(e) Once marketed, information, if available, on sales of relevant products and any further development.

Article 13
Traditional knowledge of Indigenous Peoples and local communities associated with marine genetic resources in areas beyond national jurisdiction

Parties shall take legislative, administrative or policy measures, where relevant and as appropriate, with the aim of ensuring that traditional knowledge associated with marine genetic resources in areas beyond national jurisdiction that is held by Indigenous Peoples and local communities shall only be accessed with the free, prior and informed consent or approval and involvement of these Indigenous Peoples and local communities. Access to such traditional knowledge may be facilitated by the Clearing-House Mechanism. Access to and use of such traditional knowledge shall be on mutually agreed terms.

Article 14
Fair and equitable sharing of benefits

1. The benefits arising from activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall be shared in a fair and equitable manner in accordance with this Part and contribute to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

2. Non-monetary benefits shall be shared in accordance with this Agreement in the form of, inter alia:

(a) Access to samples and sample collections in accordance with current international practice;

(b) Access to digital sequence information in accordance with current international practice;

(c) Open access to findable, accessible, interoperable and reusable (FAIR) scientific data in accordance with current international practice and open and responsible data governance;

(d) Information contained in the notifications, along with “BBNJ” standardized batch identifiers, provided in accordance with article 12, in publicly searchable and accessible forms;

(e) Transfer of marine technology in line with relevant modalities provided under Part V of this Agreement;

(f) Capacity-building, including by financing research programmes, and partnership opportunities, particularly directly relevant and substantial ones, for scientists and researchers in research projects, as well as dedicated initiatives, in particular for developing States, taking into account the special circumstances of small island developing States and of least developed countries;

(g) Increased technical and scientific cooperation, in particular with scientists from and scientific institutions in developing States;

(h) Other forms of benefits as determined by the Conference of the Parties, taking into account recommendations of the access and benefit-sharing committee established under article 15.

3. Parties shall take the necessary legislative, administrative or policy measures to ensure that marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, together with their "BBNJ" standardized batch identifiers, subject to utilization by natural or juridical persons under their jurisdiction are deposited in publicly accessible repositories and databases, maintained either nationally or internationally, no later than three years from the start of such utilization, or as soon as they become available, taking into account current international practice.

4. Access to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction in the repositories and databases under a Party's jurisdiction may be subject to reasonable conditions, as follows:

(a) The need to preserve the physical integrity of marine genetic resources;

(b) The reasonable costs associated with maintaining the relevant gene bank, biorepository or database in which the sample, data or information is held;

(c) The reasonable costs associated with providing access to the marine genetic resource, data or information;

(d) Other reasonable conditions in line with the objectives of this Agreement;

and opportunities for such access on fair and most favourable terms, including on concessional and preferential terms, may be provided to researchers and research institutions from developing States.

5. Monetary benefits from the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, including commercialization, shall be shared fairly and equitably, through the financial mechanism established under article 52, for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

6. After the entry into force of this Agreement, developed Parties shall make annual contributions to the special fund referred to in article 52. A Party's rate of contribution shall be 50 per cent of that Party's assessed contribution to the budget adopted by the Conference of the Parties under article 47, paragraph 6 (e). Such payment shall continue until a decision is taken by the Conference of the Parties under paragraph 7 below.

7. The Conference of the Parties shall decide on the modalities for the sharing of monetary benefits from the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, taking into account the recommendations of the access and benefit-sharing committee established under article 15. If all efforts to reach consensus have been exhausted, a decision shall be adopted by a three-fourths majority of the Parties present and voting. The payments shall be made through the special fund established under article 52. The modalities may include the following:

(a) Milestone payments;

(b) Payments or contributions related to the commercialization of products, including payment of a percentage of the revenue from sales of products;

(c) A tiered fee, paid on a periodic basis, based on a diversified set of indicators measuring the aggregate level of activities by a Party;

(d) Other forms as decided by the Conference of the Parties, taking into account recommendations of the access and benefit-sharing committee.

8. A Party may make a declaration at the time the Conference of the Parties adopts the modalities stating that those modalities shall not take effect for that Party for a period of up to four years, in order to allow time for necessary implementation. A Party that makes such a declaration shall continue to make the payment set out in paragraph 6 above until the new modalities take effect.

9. In deciding on the modalities for the sharing of monetary benefits from the use of digital sequence information on marine genetic resources of areas beyond national jurisdiction under paragraph 7 above, the Conference of the Parties shall take into account the recommendations of the access and benefit-sharing committee, recognizing that such modalities should be mutually supportive of and adaptable to other access and benefit-sharing instruments.

10. The Conference of the Parties, taking into account recommendations of the access and benefit-sharing committee established under article 15, shall review and assess, on a biennial basis, the monetary benefits from the utilization of marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction. The first review shall take place no later than five years after the entry into force of this Agreement. The review shall include consideration of the annual contributions referred to in paragraph 6 above.

11. Parties shall take the necessary legislative, administrative or policy measures, as appropriate, with the aim of ensuring that benefits arising from activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction by natural or juridical persons under their jurisdiction are shared in accordance with this Agreement.

Article 15
Access and benefit-sharing committee

1. An access and benefit-sharing committee is hereby established. It shall serve, inter alia, as a means for establishing guidelines for benefit-sharing, in accordance with article 14, providing transparency and ensuring a fair and equitable sharing of both monetary and non-monetary benefits.

2. The access and benefit-sharing committee shall be composed of 15 members possessing appropriate qualifications in related fields, so as to ensure the effective exercise of the functions of the committee. The members shall be nominated by Parties and elected by the Conference of the Parties, taking into account gender balance and equitable geographical distribution and providing for representation on the committee from developing States, including from the least developed countries, from small island developing States and from landlocked developing countries. The terms of reference and modalities for the operation of the committee shall be determined by the Conference of the Parties.

3. The committee may make recommendations to the Conference of the Parties on matters relating to this Part, including on the following matters:

(a) Guidelines or a code of conduct for activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction in accordance with this Part;

(b) Measures to implement decisions taken in accordance with this Part;

(c) Rates or mechanisms for the sharing of monetary benefits in accordance with article 14;

(d) Matters relating to this Part in relation to the Clearing-House Mechanism;

(e) Matters relating to this Part in relation to the financial mechanism established under article 52;

(f) Any other matters relating to this Part that the Conference of the Parties may request the access and benefit-sharing committee to address.

4. Each Party shall make available to the access and benefit-sharing committee, through the Clearing-House Mechanism, the information required under this Agreement, which shall include:

(a) Legislative, administrative and policy measures on access and benefit-sharing;

(b) Contact details and other relevant information on national focal points;

(c) Other information required pursuant to the decisions taken by the Conference of the Parties.

5. The access and benefit-sharing committee may consult and facilitate the exchange of information with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies on activities under its mandate, including benefit-sharing, the use of digital sequence information on marine genetic resources, best practices, tools and methodologies, data governance and lessons learned.

6. The access and benefit-sharing committee may make recommendations to the Conference of the Parties in relation to information obtained under paragraph 5 above.

Article 16
Monitoring and transparency

1. Monitoring and transparency of activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction shall be achieved through notification to the Clearing-House Mechanism, through the use of “BBNJ” standardized batch identifiers in accordance with this Part and according to procedures adopted by the Conference of the Parties as recommended by the access and benefit-sharing committee.

2. Parties shall periodically submit reports to the access and benefit-sharing committee on their implementation of the provisions in this Part on activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction and the sharing of benefits therefrom, in accordance with this Part.

3. The access and benefit-sharing committee shall prepare a report based on the information received through the Clearing-House Mechanism and make it available to Parties, which may submit comments. The access and benefit-sharing committee shall submit the report, including comments received, for the consideration of the Conference of the Parties. The Conference of the Parties, taking into account the recommendation of the access and benefit-sharing committee, may determine appropriate guidelines for the implementation of this article, which shall take into account the national capabilities and circumstances of Parties.

PART III
MEASURES SUCH AS AREA-BASED MANAGEMENT TOOLS, INCLUDING MARINE PROTECTED AREAS

Article 17
Objectives

The objectives of this Part are to:

(a) Conserve and sustainably use areas requiring protection, including through the establishment of a comprehensive system of area-based management tools, with ecologically representative and well-connected networks of marine protected areas;

(b) Strengthen cooperation and coordination in the use of area-based management tools, including marine protected areas, among States, relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;

(c) Protect, preserve, restore and maintain biological diversity and ecosystems, including with a view to enhancing their productivity and health, and strengthen resilience to stressors, including those related to climate change, ocean acidification and marine pollution;

(d) Support food security and other socioeconomic objectives, including the protection of cultural values;

(e) Support developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries, taking into account the special circumstances of small island developing States, through capacity-building and the development and transfer of marine technology in developing, implementing, monitoring, managing and enforcing area-based management tools, including marine protected areas.

Article 18
Area of application

The establishment of area-based management tools, including marine protected areas, shall not include any areas within national jurisdiction and shall not be relied upon as a basis for asserting or denying any claims to sovereignty, sovereign rights or jurisdiction, including in respect of any disputes relating thereto. The Conference of the Parties shall not consider for decision proposals for the establishment of such area-based management tools, including marine protected areas, and in no case shall such proposals be interpreted as recognition or non-recognition of any claims to sovereignty, sovereign rights or jurisdiction.

Article 19
Proposals

1. Proposals regarding the establishment of area-based management tools, including marine protected areas, under this Part shall be submitted by Parties, individually or collectively, to the secretariat.

2. Parties shall collaborate and consult, as appropriate, with relevant stakeholders, including States and global, regional, subregional and sectoral bodies, as well as civil

society, the scientific community, the private sector, Indigenous Peoples and local communities, for the development of proposals, as set out in this Part.

3. Proposals shall be formulated on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, taking into account the precautionary approach and an ecosystem approach.

4. Proposals with regard to identified areas shall include the following key elements:

(a) A geographic or spatial description of the area that is the subject of the proposal by reference to the indicative criteria specified in Annex I;

(b) Information on any of the criteria specified in Annex I, as well as any criteria that may be further developed and revised in accordance with paragraph 5 below applied in identifying the area;

(c) Human activities in the area, including uses by Indigenous Peoples and local communities, and their possible impact, if any;

(d) A description of the state of the marine environment and biological diversity in the identified area;

(e) A description of the conservation and, where appropriate, sustainable use objectives that are to be applied to the area;

(f) A draft management plan encompassing the proposed measures and outlining proposed monitoring, research and review activities to achieve the specified objectives;

(g) The duration of the proposed area and measures, if any;

(h) Information on any consultations undertaken with States, including adjacent coastal States and/or relevant global, regional, subregional and sectoral bodies, if any;

(i) Information on area-based management tools, including marine protected areas, implemented under relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;

(j) Relevant scientific input and, where available, traditional knowledge of Indigenous Peoples and local communities.

5. Indicative criteria for the identification of such areas shall include, as relevant, those specified in Annex I and may be further developed and revised as necessary by the Scientific and Technical Body for consideration and adoption by the Conference of the Parties.

6. Further requirements regarding the contents of proposals, including the modalities for the application of indicative criteria as specified in paragraph 5 above, and guidance on proposals specified in paragraph 4 (b) above shall be elaborated by the Scientific and Technical Body, as necessary, for consideration and adoption by the Conference of the Parties.

Article 20
Publicity and preliminary review of proposals

Upon receipt of a proposal in writing, the secretariat shall make the proposal publicly available and transmit it to the Scientific and Technical Body for a preliminary review. The purpose of the review is to ascertain that the proposal

contains the information required under article 19, including indicative criteria described in this Part and in Annex I. The outcome of that review shall be made publicly available and shall be conveyed to the proponent by the secretariat. The proponent shall retransmit the proposal to the secretariat, having taken into account the preliminary review by the Scientific and Technical Body. The secretariat shall notify the Parties and make that retransmitted proposal publicly available and facilitate consultations pursuant to article 21.

Article 21
Consultations on and assessment of proposals

1. Consultations on proposals submitted under article 19 shall be inclusive, transparent and open to all relevant stakeholders, including States and global, regional, subregional and sectoral bodies, as well as civil society, the scientific community, Indigenous Peoples and local communities.

2. The secretariat shall facilitate consultations and gather input as follows:

(a) States, in particular adjacent coastal States, shall be notified and invited to submit, inter alia:

(i) Views on the merits and geographic scope of the proposal;

(ii) Any other relevant scientific input;

(iii) Information regarding any existing measures or activities in adjacent or related areas within national jurisdiction and beyond national jurisdiction;

(iv) Views on the potential implications of the proposal for areas within national jurisdiction;

(v) Any other relevant information;

(b) Bodies of relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies shall be notified and invited to submit, inter alia:

(i) Views on the merits of the proposal;

(ii) Any other relevant scientific input;

(iii) Information regarding any existing measures adopted by that instrument, framework or body for the relevant area or for adjacent areas;

(iv) Views regarding any aspects of the measures and other elements for a draft management plan identified in the proposal that fall within the competence of that body;

(v) Views regarding any relevant additional measures that fall within the competence of that instrument, framework or body;

(vi) Any other relevant information;

(c) Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders shall be invited to submit, inter alia:

(i) Views on the merits of the proposal;

(ii) Any other relevant scientific input;

(iii) Any relevant traditional knowledge of Indigenous Peoples and local communities;

(iv) Any other relevant information.

3. Contributions received pursuant to paragraph 2 above shall be made publicly available by the secretariat.

4. In cases where the proposed measure affects areas that are entirely surrounded by the exclusive economic zones of States, proponents shall:

(a) Undertake targeted and proactive consultations, including prior notification, with such States;

(b) Consider the views and comments of such States on the proposed measure and provide written responses specifically addressing such views and comments and, where appropriate, revise the proposed measure accordingly.

5. The proponent shall consider the contributions received during the consultation period, as well as the views of and information from the Scientific and Technical Body, and, as appropriate, revise the proposal accordingly or respond to substantive contributions not reflected in the proposal.

6. The consultation period shall be time-bound.

7. The revised proposal shall be submitted to the Scientific and Technical Body, which shall assess the proposal and make recommendations to the Conference of the Parties.

8. The modalities for the consultation and assessment process, including duration, shall be further elaborated by the Scientific and Technical Body, as necessary, at its first meeting, for consideration and adoption by the Conference of the Parties, taking into account the special circumstances of small island developing States.

Article 22
Establishment of area-based management tools, including marine protected areas

1. The Conference of the Parties, on the basis of the final proposal and the draft management plan, taking into account the contributions and scientific input received during the consultation process established under this Part, and the scientific advice and recommendations of the Scientific and Technical Body:

(a) Shall take decisions on the establishment of area-based management tools, including marine protected areas, and related measures;

(b) May take decisions on measures compatible with those adopted by relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, in cooperation and coordination with those instruments, frameworks and bodies;

(c) May, where proposed measures are within the competences of other global, regional, subregional or sectoral bodies, make recommendations to Parties to this Agreement and to global, regional, subregional and sectoral bodies to promote the adoption of relevant measures through such instruments, frameworks and bodies, in accordance with their respective mandates.

2. In taking decisions under this article, the Conference of the Parties shall respect the competences of, and not undermine, relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

3. The Conference of the Parties shall make arrangements for regular consultations to enhance cooperation and coordination with and among relevant legal instruments

and frameworks and relevant global, regional, subregional and sectoral bodies with regard to area-based management tools, including marine protected areas, as well as coordination with regard to related measures adopted under such instruments and frameworks and by such bodies.

4. Where the achievement of the objectives and the implementation of this Part so requires, to further international cooperation and coordination with respect to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, the Conference of the Parties may consider and, subject to paragraphs 1 and 2 above, may decide, as appropriate, to develop a mechanism regarding existing area-based management tools, including marine protected areas, adopted by relevant legal instruments and frameworks or relevant global, regional, subregional or sectoral bodies.

5. Decisions and recommendations adopted by the Conference of the Parties in accordance with this Part shall not undermine the effectiveness of measures adopted in respect of areas within national jurisdiction and shall be made with due regard for the rights and duties of all States, in accordance with the Convention. In cases where measures proposed under this Part would affect or could reasonably be expected to affect the superjacent water above the seabed and subsoil of submarine areas over which a coastal State exercises sovereign rights in accordance with the Convention, such measures shall have due regard to the sovereign rights of such coastal States. Consultations shall be undertaken to that end, in accordance with the provisions of this Part.

6. In cases where an area-based management tool, including a marine protected area, established under this Part subsequently falls, either wholly or in part, within the national jurisdiction of a coastal State, the part within national jurisdiction shall immediately cease to be in force. The part remaining in areas beyond national jurisdiction shall remain in force until the Conference of the Parties, at its following meeting, reviews and decides whether to amend or revoke the area-based management tool, including a marine protected area, as necessary.

7. Upon the establishment of, or amendment to the competence of, a relevant legal instrument or framework or a relevant global, regional, subregional or sectoral body, any area-based management tool, including a marine protected area, or related measures adopted by the Conference of the Parties under this Part that subsequently falls within the competence of such instrument, framework or body, either wholly or in part, shall remain in force until the Conference of the Parties reviews and decides, in close cooperation and coordination with that instrument, framework or body, to maintain, amend or revoke the area-based management tool, including a marine protected area, and related measures, as appropriate.

Article 23
Decision-making

1. As a general rule, the decisions and recommendations under this Part shall be taken by consensus.

2. If no consensus is reached, decisions and recommendations under this Part shall be taken by a three-fourths majority of the Parties present and voting, before which the Conference of the Parties shall decide, by a two-thirds majority of the Parties present and voting that all efforts to reach consensus have been exhausted.

3. Decisions taken under this Part shall enter into force 120 days after the meeting of the Conference of the Parties at which they were taken and shall be binding on all Parties.

4. During the period of 120 days provided for in paragraph 3 above, any Party may, by notification in writing to the secretariat, make an objection with respect to a decision adopted under this Part, and that decision shall not be binding on that Party. An objection to a decision may be withdrawn at any time by written notification to the secretariat and, thereupon, the decision shall be binding for that Party 90 days following the date of the notification stating that the objection is withdrawn.

5. A Party making an objection under paragraph 4 above shall provide to the secretariat, in writing, at the time of making its objection, the explanation of the grounds for its objection, which shall be based on one or more of the following grounds:

(a) The decision is inconsistent with this Agreement or the rights and duties of the objecting Party in accordance with the Convention;

(b) The decision unjustifiably discriminates in form or in fact against the objecting Party;

(c) The Party cannot practicably comply with the decision at the time of the objection after making all reasonable efforts to do so.

6. A Party making an objection under paragraph 4 above shall, to the extent practicable, adopt alternative measures or approaches that are equivalent in effect to the decision to which it has objected and shall not adopt measures nor take actions that would undermine the effectiveness of the decision to which it has objected unless such measures or actions are essential for the exercise of rights and duties of the objecting Party in accordance with the Convention.

7. The objecting Party shall report to the next ordinary meeting of the Conference of the Parties following its notification under paragraph 4 above, and periodically thereafter, on its implementation of paragraph 6 above, to inform the monitoring and review under article 26.

8. An objection to a decision made in accordance with paragraph 4 above may only be renewed if the objecting Party considers it still necessary, every three years after the entry into force of the decision, by written notification to the secretariat. Such written notification shall include an explanation of the grounds of its initial objection.

9. If no notification of renewal pursuant to paragraph 8 above is received, the objection shall be considered automatically withdrawn and, thereupon, the decision shall be binding for that Party 120 days after that objection is automatically withdrawn. The secretariat shall notify the Party 60 days prior to the date on which the objection will be automatically withdrawn.

10. Decisions of the Conference of the Parties adopted under this Part, and objections to those decisions, shall be made publicly available by the secretariat and shall be transmitted to all States and relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

Article 24
Emergency measures

1. The Conference of the Parties shall take decisions to adopt measures in areas beyond national jurisdiction, to be applied on an emergency basis, if necessary, when a natural phenomenon or human-caused disaster has caused, or is likely to cause, serious or irreversible harm to marine biological diversity of areas beyond national jurisdiction, to ensure that the serious or irreversible harm is not exacerbated.

2. Measures adopted under this article shall be considered necessary only if, following consultation with relevant legal instruments or frameworks or relevant

global, regional, subregional or sectoral bodies, the serious or irreversible harm cannot be managed in a timely manner through the application of the other articles of this Agreement or by a relevant legal instrument or framework or a relevant global, regional, subregional or sectoral body.

3. Measures adopted on an emergency basis shall be based on the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities and shall take into account the precautionary approach. Such measures may be proposed by Parties or recommended by the Scientific and Technical Body and may be adopted intersessionally. The measures shall be temporary and must be reconsidered for decision at the next meeting of the Conference of the Parties following their adoption.

4. The measures shall terminate two years following their entry into force or shall be terminated earlier by the Conference of the Parties upon being replaced by area-based management tools, including marine protected areas, and related measures established in accordance with this Part, or by measures adopted by a relevant legal instrument or framework or relevant global, regional, subregional or sectoral body, or by a decision of the Conference of the Parties when the circumstances that necessitated the measure cease to exist.

5. Procedures and guidance for the establishment of emergency measures, including consultation procedures, shall be elaborated by the Scientific and Technical Body, as necessary, for consideration and adoption by the Conference of the Parties at its earliest opportunity. Such procedures shall be inclusive and transparent.

Article 25
Implementation

1. Parties shall ensure that activities under their jurisdiction or control that take place in areas beyond national jurisdiction are conducted consistently with the decisions adopted under this Part.

2. Nothing in this Agreement shall prevent a Party from adopting more stringent measures with respect to its nationals and vessels or with regard to activities under its jurisdiction or control in addition to those adopted under this Part, in accordance with international law and in support of the objectives of the Agreement.

3. The implementation of the measures adopted under this Part should not impose a disproportionate burden on Parties that are small island developing States or least developed countries, directly or indirectly.

4. Parties shall promote, as appropriate, the adoption of measures within relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies of which they are members, to support the implementation of the decisions and recommendations made by the Conference of the Parties under this Part.

5. Parties shall encourage those States that are entitled to become Parties to this Agreement, in particular those whose activities, vessels or nationals operate in an area that is the subject of an established area-based management tool, including a marine protected area, to adopt measures supporting the decisions and recommendations of the Conference of the Parties on area-based management tools, including marine protected areas, established under this Part.

6. A Party that is not a party to or a participant in a relevant legal instrument or framework, or a member of a relevant global, regional, subregional or sectoral body, and that does not otherwise agree to apply the measures established under such instruments and frameworks and by such bodies shall not be discharged from the

obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

Article 26
Monitoring and review

1. Parties shall, individually or collectively, report to the Conference of the Parties on the implementation of area-based management tools, including marine protected areas, established under this Part and related measures. Such reports, as well as the information and the review referred to in paragraphs 2 and 3 below, respectively, shall be made publicly available by the secretariat.

2. The relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies shall be invited to provide information to the Conference of the Parties on the implementation of measures that they have adopted to achieve the objectives of area-based management tools, including marine protected areas, established under this Part.

3. Area-based management tools, including marine protected areas, established under this Part, including related measures, shall be monitored and periodically reviewed by the Scientific and Technical Body, taking into account the reports and information referred to in paragraphs 1 and 2 above, respectively.

4. In the review referred to in paragraph 3 above, the Scientific and Technical Body shall assess the effectiveness of area-based management tools, including marine protected areas, established under this Part, including related measures and the progress made in achieving their objectives, and provide advice and recommendations to the Conference of the Parties.

5. Following the review, the Conference of the Parties shall, as necessary, take decisions or recommendations on the amendment, extension or revocation of area-based management tools, including marine protected areas, and any related measures adopted by the Conference of the Parties, on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, taking into account the precautionary approach and an ecosystem approach.

PART IV
ENVIRONMENTAL IMPACT ASSESSMENTS

Article 27
Objectives

The objectives of this Part are to:

(a) Operationalize the provisions of the Convention on environmental impact assessment for areas beyond national jurisdiction by establishing processes, thresholds and other requirements for conducting and reporting assessments by Parties;

(b) Ensure that activities covered by this Part are assessed and conducted to prevent, mitigate and manage significant adverse impacts for the purpose of protecting and preserving the marine environment;

(c) Support the consideration of cumulative impacts and impacts in areas within national jurisdiction;

(d) Provide for strategic environmental assessments;

(e) Achieve a coherent environmental impact assessment framework for activities in areas beyond national jurisdiction;

(f) Build and strengthen the capacity of Parties, particularly developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries, to prepare, conduct and evaluate environmental impact assessments and strategic environmental assessments in support of the objectives of this Agreement.

Article 28
Obligation to conduct environmental impact assessments

1. Parties shall ensure that the potential impacts on the marine environment of planned activities under their jurisdiction or control that take place in areas beyond national jurisdiction are assessed as set out in this Part before they are authorized.

2. When a Party with jurisdiction or control over a planned activity that is to be conducted in marine areas within national jurisdiction determines that the activity may cause substantial pollution of or significant and harmful changes to the marine environment in areas beyond national jurisdiction, that Party shall ensure that an environmental impact assessment of such activity is conducted in accordance with this Part or that an environmental impact assessment is conducted under the Party's national process. A Party conducting such an assessment under its national process shall:

(a) Make relevant information available through the Clearing-House Mechanism, in a timely manner, during the national process;

(b) Ensure that the activity is monitored in a manner consistent with the requirements of its national process;

(c) Ensure that environmental impact assessment reports and any relevant monitoring reports are made available through the Clearing-House Mechanism as set out in this Agreement.

3. Upon receiving the information referred to in paragraph 2 (a) above, the Scientific and Technical Body may provide comments to the Party with jurisdiction or control over the planned activity.

Article 29
Relationship between this Agreement and environmental impact assessment processes under relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies

1. Parties shall promote the use of environmental impact assessments and the adoption and implementation of the standards and/or guidelines developed under article 38 in relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies of which they are members.

2. The Conference of the Parties shall develop mechanisms under this Part for the Scientific and Technical Body to collaborate with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies that regulate activities in areas beyond national jurisdiction or protect the marine environment.

3. When developing or updating standards or guidelines for the conduct of environmental impact assessments of activities in areas beyond national jurisdiction by Parties to this Agreement under article 38, the Scientific and Technical Body shall, as appropriate, collaborate with relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

4. It is not necessary to conduct a screening or an environmental impact assessment of a planned activity in areas beyond national jurisdiction, provided that the Party with jurisdiction or control over the planned activity determines:

(a) That the potential impacts of the planned activity or category of activity have been assessed in accordance with the requirements of other relevant legal instruments or frameworks or by relevant global, regional, subregional or sectoral bodies;

(b) That:

(i) the assessment already undertaken for the planned activity is equivalent to the one required under this Part, and the results of the assessment are taken into account; or

(ii) the regulations or standards of the relevant legal instruments or frameworks or relevant global, regional, subregional or sectoral bodies arising from the assessment were designed to prevent, mitigate or manage potential impacts below the threshold for environmental impact assessments under this Part, and they have been complied with.

5. When an environmental impact assessment for a planned activity in areas beyond national jurisdiction has been conducted under a relevant legal instrument or framework or a relevant global, regional, subregional or sectoral body, the Party concerned shall ensure that the environmental impact assessment report is published through the Clearing-House Mechanism.

6. Unless the planned activities that meet the criteria set out in paragraph 4 (b) (i) above are subject to monitoring and review under a relevant legal instrument or framework or relevant global, regional, subregional or sectoral body, Parties shall monitor and review the activities and ensure that the monitoring and review reports are published through the Clearing-House Mechanism.

Article 30
Thresholds and factors for conducting environmental impact assessments

1. When a planned activity may have more than a minor or transitory effect on the marine environment, or the effects of the activity are unknown or poorly understood, the Party with jurisdiction or control of the activity shall conduct a screening of the activity under article 31, using the factors set out in paragraph 2 below, and:

(a) The screening shall be sufficiently detailed for the Party to assess whether it has reasonable grounds for believing that the planned activity may cause substantial pollution of or significant and harmful changes to the marine environment and shall include:

(i) A description of the planned activity, including its purpose, location, duration and intensity; and

(ii) An initial analysis of the potential impacts, including consideration of cumulative impacts and, as appropriate, alternatives to the planned activity;

(b) If it is determined on the basis of the screening that the Party has reasonable grounds for believing that the activity may cause substantial pollution of or significant and harmful changes to the marine environment, an environmental impact assessment shall be conducted in accordance with the provisions of this Part.

2. When determining whether planned activities under their jurisdiction or control meet the threshold set out in paragraph 1 above, Parties shall consider the following non-exhaustive factors:

(a) The type of and technology used for the activity and the manner in which it is to be conducted;

(b) The duration of the activity;

(c) The location of the activity;

(d) The characteristics and ecosystem of the location (including areas of particular ecological or biological significance or vulnerability);

(e) The potential impacts of the activity, including the potential cumulative impacts and the potential impacts in areas within national jurisdiction;

(f) The extent to which the effects of the activity are unknown or poorly understood;

(g) Other relevant ecological or biological criteria.

Article 31
Process for environmental impact assessments

1. Parties shall ensure that the process for conducting an environmental impact assessment pursuant to this Part includes the following steps:

(a) *Screening.* Parties shall undertake screening, in a timely manner, to determine whether an environmental impact assessment is required in respect of a planned activity under its jurisdiction or control, in accordance with article 30, and make its determination publicly available:

(i) If a Party determines that an environmental impact assessment is not required for a planned activity under its jurisdiction or control, it shall make relevant information, including under article 30, paragraph 1 (a), publicly available through the Clearing-House Mechanism under this Agreement;

(ii) On the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, a Party may register its views on the potential impacts of a planned activity on which a determination has been made in accordance with subparagraph (a) (i) above with the Party that made the determination and the Scientific and Technical Body, within 40 days of the publication thereof;

(iii) If the Party that registered its views expressed concerns on the potential impacts of a planned activity on which the determination was made, the Party that made that determination shall give consideration to such concerns and may review its determination;

(iv) Upon consideration of the concerns registered by a Party under subparagraph (a) (ii) above, the Scientific and Technical Body shall consider and may evaluate the potential impacts of the planned activity on the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities and, as appropriate, may make recommendations to the Party that made the determination after giving that Party an opportunity to respond to the concerns registered and taking into account such response;

(v) The Party that made the determination under subparagraph (a) (i) above shall give consideration to any recommendations of the Scientific and Technical Body;

(vi) The registration of views and the recommendations of the Scientific and Technical Body shall be made publicly available, including through the Clearing-House Mechanism;

(b) *Scoping*. Parties shall ensure that key environmental and any associated impacts, such as economic, social, cultural and human health impacts, including potential cumulative impacts and impacts in areas within national jurisdiction, as well as alternatives to the planned activity, if any, to be included in the environmental impact assessments that shall be conducted under this Part, are identified. The scope shall be defined by using the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities;

(c) *Impact assessment and evaluation*. Parties shall ensure that the impacts of planned activities, including cumulative impacts and impacts in areas within national jurisdiction, are assessed and evaluated using the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities;

(d) *Prevention, mitigation and management of potential adverse effects*. Parties shall ensure that:

(i) Measures to prevent, mitigate and manage potential adverse effects of the planned activities under their jurisdiction or control are identified and analysed to avoid significant adverse impacts. Such measures may include the consideration of alternatives to the planned activity under their jurisdiction or control;

(ii) Where appropriate, these measures are incorporated into an environmental management plan;

(e) Parties shall ensure public notification and consultation in accordance with article 32;

(f) Parties shall ensure the preparation and publication of an environmental impact assessment report in accordance with article 33.

2. Parties may conduct joint environmental impact assessments, in particular for planned activities under the jurisdiction or control of small island developing States.

3. A roster of experts shall be created under the Scientific and Technical Body. Parties with capacity constraints may request advice and assistance from those experts to conduct and evaluate screenings and environmental impact assessments for a planned activity under their jurisdiction or control. The experts cannot be appointed to another part of the environmental impact assessment process of the same activity. The Party that requested the advice and assistance shall ensure that such

environmental impact assessments are submitted to it for review and decision-making.

Article 32
Public notification and consultation

1. Parties shall ensure timely public notification of a planned activity, including by publication through the Clearing-House Mechanism and through the secretariat, and planned and effective time-bound opportunities, as far as practicable, for participation by all States, in particular adjacent coastal States and any other States adjacent to the activity when they are potentially most affected States, and stakeholders in the environmental impact assessment process. Notification and opportunities for participation, including through the submission of comments, shall take place throughout the environmental impact assessment process, as appropriate, including when identifying the scope of an environmental impact assessment under article 31, paragraph 1 (b), and when a draft environmental impact assessment report has been prepared under article 33, before a decision is made as to whether to authorize the activity.

2. Potentially most affected States shall be determined by taking into account the nature and potential effects on the marine environment of the planned activity and shall include:

(a) Coastal States whose exercise of sovereign rights for the purpose of exploring, exploiting, conserving or managing natural resources may reasonably be believed to be affected by the activity;

(b) States that carry out, in the area of the planned activity, human activities, including economic activities, that may reasonably be believed to be affected.

3. Stakeholders in this process include Indigenous Peoples and local communities with relevant traditional knowledge, relevant global, regional, subregional and sectoral bodies, civil society, the scientific community and the public.

4. Public notification and consultation shall, in accordance with article 48, paragraph 3, be inclusive and transparent, be conducted in a timely manner and be targeted and proactive when involving small island developing States.

5. Substantive comments received during the consultation process, including from adjacent coastal States and any other States adjacent to the planned activity when they are potentially most affected States, shall be considered and responded to or addressed by Parties. Parties shall give particular regard to comments concerning potential impacts in areas within national jurisdiction and provide written responses, as appropriate, specifically addressing such comments, including regarding any additional measures meant to address those potential impacts. Parties shall make public the comments received and the responses or descriptions of the manner in which they were addressed.

6. Where a planned activity affects areas of the high seas that are entirely surrounded by the exclusive economic zones of States, Parties shall:

(a) Undertake targeted and proactive consultations, including prior notification, with such surrounding States;

(b) Consider the views and comments of those surrounding States on the planned activity and provide written responses specifically addressing such views and comments and, as appropriate, revise the planned activity accordingly.

7. Parties shall ensure access to information related to the environmental impact assessment process under this Agreement. Notwithstanding this, Parties shall not be required to disclose confidential or proprietary information. The fact that confidential or proprietary information has been redacted shall be indicated in public documents.

Article 33
Environmental impact assessment reports

1. Parties shall ensure the preparation of an environmental impact assessment report for any such assessment undertaken pursuant to this Part.

2. The environmental impact assessment report shall include, at a minimum, the following information: a description of the planned activity, including its location; a description of the results of the scoping exercise; a baseline assessment of the marine environment likely to be affected; a description of potential impacts, including potential cumulative impacts and any impacts in areas within national jurisdiction; a description of potential prevention, mitigation and management measures; a description of uncertainties and gaps in knowledge; information on the public consultation process; a description of the consideration of reasonable alternatives to the planned activity; a description of follow-up actions, including an environmental management plan; and a non-technical summary.

3. The Party shall make the draft environmental impact assessment report available through the Clearing-House Mechanism during the public consultation process, to provide an opportunity for the Scientific and Technical Body to consider and evaluate the report.

4. The Scientific and Technical Body, as appropriate and in a timely manner, may make comments to the Party on the draft environmental impact assessment report. The Party shall give consideration to any comments made by the Scientific and Technical Body.

5. Parties shall publish the reports of the environmental impact assessments, including through the Clearing-House Mechanism. The secretariat shall ensure that all Parties are notified in a timely manner when reports are published through the Clearing-House Mechanism.

6. Final environmental impact assessment reports shall be considered by the Scientific and Technical Body, on the basis of relevant practices, procedures and knowledge under this Agreement, for the purpose of developing guidelines, including the identification of best practices.

7. A selection of the published information used in the screening process to make decisions on whether to conduct an environmental impact assessment, in accordance with articles 30 and 31, shall be considered and reviewed by the Scientific and Technical Body, on the basis of relevant practices, procedures and knowledge under this Agreement, for the purpose of developing guidelines, including the identification of best practices.

Article 34
Decision-making

1. A Party under whose jurisdiction or control a planned activity falls shall be responsible for determining if it may proceed.

2. When determining whether the planned activity may proceed under this Part, full account shall be taken of an environmental impact assessment conducted in

accordance with this Part. A decision to authorize the planned activity under the jurisdiction or control of a Party shall only be made when, taking into account mitigation or management measures, the Party has determined that it has made all reasonable efforts to ensure that the activity can be conducted in a manner consistent with the prevention of significant adverse impacts on the marine environment.

3. Decision documents shall clearly outline any conditions of approval related to mitigation measures and follow-up requirements. Decision documents shall be made public, including through the Clearing-House Mechanism.

4. At the request of a Party, the Conference of the Parties may provide advice and assistance to that Party when determining whether a planned activity under its jurisdiction or control may proceed.

Article 35
Monitoring of impacts of authorized activities

Parties shall, by using the best available science and scientific information and, where available, the relevant traditional knowledge of Indigenous Peoples and local communities, keep under surveillance the impacts of any activities in areas beyond national jurisdiction that they permit or in which they engage in order to determine whether these activities are likely to pollute or have adverse impacts on the marine environment. In particular, each Party shall monitor the environmental and any associated impacts, such as economic, social, cultural and human health impacts, of an authorized activity under their jurisdiction or control in accordance with the conditions set out in the approval of the activity.

Article 36
Reporting on impacts of authorized activities

1. Parties, whether acting individually or collectively, shall periodically report on the impacts of the authorized activity and the results of the monitoring required under article 35.

2. Monitoring reports shall be made public, including through the Clearing-House Mechanism, and the Scientific and Technical Body may consider and evaluate the monitoring reports.

3. Monitoring reports shall be considered by the Scientific and Technical Body, on the basis of relevant practices, procedures and knowledge under this Agreement, for the purpose of developing guidelines on the monitoring of impacts of authorized activities, including the identification of best practices.

Article 37
Review of authorized activities and their impacts

1. Parties shall ensure that the impacts of the authorized activity monitored pursuant to article 35 are reviewed.

2. Should the Party with jurisdiction or control over the activity identify significant adverse impacts that either were not foreseen in the environmental impact assessment, in nature or severity, or that arise from a breach of any of the conditions set out in the approval of the activity, the Party shall review its decision authorizing the activity, notify the Conference of the Parties, other Parties and the public, including through the Clearing-House Mechanism, and:

(a) Require that measures be proposed and implemented to prevent, mitigate and/or manage those impacts or take any other necessary action and/or halt the activity, as appropriate; and

(b) Evaluate, in a timely manner, any measures implemented or actions taken under subparagraph (a) above.

3. On the basis of the reports received under article 36, the Scientific and Technical Body may notify the Party that authorized the activity if it considers that the activity may have significant adverse impacts that were either not foreseen in the environmental impact assessment or that arise from a breach of any conditions of approval of the authorized activity and, as appropriate, may make recommendations to the Party.

4. (a) On the basis of the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities, a Party may register its concerns, with the Party that authorized the activity and with the Scientific and Technical Body, that the authorized activity may have significant adverse impacts that were either not foreseen in the environmental impact assessment, in nature or severity, or that arise from a breach of any conditions of approval of the authorized activity;

(b) The Party that authorized the activity shall give consideration to such concerns;

(c) Upon consideration of the concerns registered by a Party, the Scientific and Technical Body shall consider and may evaluate the matter based on the best available science and scientific information and, where available, relevant traditional knowledge of Indigenous Peoples and local communities and may notify the Party that authorized the activity, if it considers that such activity may have significant adverse impacts that were either not foreseen in the environmental impact assessment or that arise from a breach of any conditions of approval of the authorized activity and, after giving that Party an opportunity to respond to the concerns registered and taking into account such response and as appropriate, may make recommendations to the Party that authorized the activity;

(d) The registration of concerns, any notifications issued and any recommendations made by the Scientific and Technical Body shall be made publicly available, including through the Clearing-House Mechanism;

(e) The Party that authorized the activity shall give consideration to any notifications issued and any recommendations made by the Scientific and Technical Body.

5. All States, in particular adjacent coastal States and any other States adjacent to the activity when they are potentially most affected States, and stakeholders shall be kept informed through the Clearing-House Mechanism and may be consulted in the monitoring, reporting and review processes in respect of an activity authorized under this Agreement.

6. Parties shall publish, including through the Clearing-House Mechanism:

(a) Reports on the review of the impacts of the authorized activity;

(b) Decision documents, including a record of the reasons for the decision by the Party, when a Party has changed its decision authorizing the activity.

Article 38
Standards and/or guidelines to be developed by the Scientific and Technical Body related to environmental impact assessments

1. The Scientific and Technical Body shall develop standards or guidelines for consideration and adoption by the Conference of the Parties on:

(a) The determination of whether the thresholds for the conduct of a screening or an environmental impact assessment under article 30 have been met or exceeded for planned activities, including on the basis of the non-exhaustive factors set out in paragraph 2 of that article;

(b) The assessment of cumulative impacts in areas beyond national jurisdiction and how those impacts should be taken into account in the environmental impact assessment process;

(c) The assessment of impacts, in areas within national jurisdiction, of planned activities in areas beyond national jurisdiction and how those impacts should be taken into account in the environmental impact assessment process;

(d) The public notification and consultation process under article 32, including the determination of what constitutes confidential or proprietary information;

(e) The required content of environmental impact assessment reports and published information used in the screening process pursuant to article 33, including best practices;

(f) The monitoring of and reporting on the impacts of authorized activities as set out in articles 35 and 36, including the identification of best practices;

(g) The conduct of strategic environmental assessments.

2. The Scientific and Technical Body may also develop standards and guidelines for consideration and adoption by the Conference of the Parties, including on:

(a) An indicative non-exhaustive list of activities that require or do not require an environmental impact assessment, as well as any criteria related to those activities, which shall be periodically updated;

(b) The conduct of environmental impact assessments by Parties to this Agreement in areas identified as requiring protection or special attention.

3. Any standard shall be set out in an annex to this Agreement, in accordance with article 74.

Article 39
Strategic environmental assessments

1. Parties shall, individually or in cooperation with other Parties, consider conducting strategic environmental assessments for plans and programmes relating to activities under their jurisdiction or control, to be conducted in areas beyond national jurisdiction, in order to assess the potential effects of such plans or programmes, as well as of alternatives, on the marine environment.

2. The Conference of the Parties may conduct a strategic environmental assessment of an area or region to collate and synthesize the best available information about the area or region, assess current and potential future impacts and identify data gaps and research priorities.

3. When undertaking environmental impact assessments pursuant to this Part, Parties shall take into account the results of relevant strategic environmental assessments carried out under paragraphs 1 and 2 above, where available.

4. The Conference of the Parties shall develop guidance on the conduct of each category of strategic environmental assessment described in this article.

PART V
CAPACITY-BUILDING AND THE TRANSFER OF MARINE TECHNOLOGY

Article 40
Objectives

The objectives of this Part are to:

(a) Assist Parties, in particular developing States Parties, in implementing the provisions of this Agreement, to achieve its objectives;

(b) Enable inclusive, equitable and effective cooperation and participation in the activities undertaken under this Agreement;

(c) Develop the marine scientific and technological capacity, including with respect to research, of Parties, in particular developing States Parties, with regard to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including through access to marine technology by, and the transfer of marine technology to, developing States Parties;

(d) Increase, disseminate and share knowledge on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(e) More specifically, support developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries, through capacity-building and the development and transfer of marine technology under this Agreement, in achieving the objectives relating to:

(i) Marine genetic resources, including the sharing of benefits, as reflected in article 9;

(ii) Measures such as area-based management tools, including marine protected areas, as reflected in article 17;

(iii) Environmental impact assessments, as reflected in article 27.

Article 41
Cooperation in capacity-building and the transfer of marine technology

1. Parties shall cooperate, directly or through relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, to assist Parties, in particular developing States Parties, in achieving the objectives of this Agreement through capacity-building and the development and transfer of marine science and marine technology.

2. In providing capacity-building and the transfer of marine technology under this Agreement, Parties shall cooperate at all levels and in all forms, including through

partnerships with and involving all relevant stakeholders, such as, where appropriate, the private sector, civil society, and Indigenous Peoples and local communities as holders of traditional knowledge, as well as through strengthening cooperation and coordination between relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies.

3. In giving effect to this Part, Parties shall give full recognition to the special requirements of developing States Parties, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States, coastal African States, archipelagic States and developing middle-income countries. Parties shall ensure that the provision of capacity-building and the transfer of marine technology is not conditional on onerous reporting requirements.

Article 42
Modalities for capacity-building and for the transfer of marine technology

1. Parties, within their capabilities, shall ensure capacity-building for developing States Parties and shall cooperate to achieve the transfer of marine technology, in particular to developing States Parties that need and request it, taking into account the special circumstances of small island developing States and of least developed countries, in accordance with the provisions of this Agreement.

2. Parties shall provide, within their capabilities, resources to support such capacity-building and the development and transfer of marine technology and to facilitate access to other sources of support, taking into account their national policies, priorities, plans and programmes.

3. Capacity-building and the transfer of marine technology should be a country-driven, transparent, effective and iterative process that is participatory, cross-cutting and gender-responsive. It shall build upon, as appropriate, and not duplicate existing programmes and be guided by lessons learned, including those from capacity-building and transfer of marine technology activities under relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies. Insofar as possible, it shall take into account these activities with a view to maximizing efficiency and results.

4. Capacity-building and the transfer of marine technology shall be based on and be responsive to the needs and priorities of developing States Parties, taking into account the special circumstances of small island developing States and of least developed countries, identified through needs assessments on an individual case-by-case, subregional or regional basis. Such needs and priorities may be self-assessed or facilitated through the capacity-building and transfer of marine technology committee and the Clearing-House Mechanism.

Article 43
Additional modalities for the transfer of marine technology

1. Parties share a long-term vision of the importance of fully realizing technology development and transfer for inclusive, equitable and effective cooperation and participation in the activities undertaken under this Agreement and in order to fully achieve its objectives.

2. The transfer of marine technology undertaken under this Agreement shall take place on fair and most favourable terms, including on concessional and preferential terms, and in accordance with mutually agreed terms and conditions as well as the objectives of this Agreement.

3. Parties shall promote and encourage economic and legal conditions for the transfer of marine technology to developing States Parties, taking into account the special circumstances of small island developing States and of least developed countries, which may include providing incentives to enterprises and institutions.

4. The transfer of marine technology shall take into account all rights over such technologies and be carried out with due regard for all legitimate interests, including, inter alia, the rights and duties of holders, suppliers and recipients of marine technology and taking into particular consideration the interests and needs of developing States for the attainment of the objectives of this Agreement.

5. Marine technology transferred pursuant to this Part shall be appropriate, relevant and, to the extent possible, reliable, affordable, up to date, environmentally sound and available in an accessible form for developing States Parties, taking into account the special circumstances of small island developing States and of least developed countries.

Article 44
Types of capacity-building and of the transfer of marine technology

1. In support of the objectives set out in article 40, the types of capacity-building and of the transfer of marine technology may include, but are not limited to, support for the creation or enhancement of the human, financial management, scientific, technological, organizational, institutional and other resource capabilities of Parties, such as:

(a) The sharing and use of relevant data, information, knowledge and research results;

(b) Information dissemination and awareness-raising, including with respect to relevant traditional knowledge of Indigenous Peoples and local communities, in line with the free, prior and informed consent of these Indigenous Peoples and, as appropriate, local communities;

(c) The development and strengthening of relevant infrastructure, including equipment and capacity of personnel for its use and maintenance;

(d) The development and strengthening of institutional capacity and national regulatory frameworks or mechanisms;

(e) The development and strengthening of human and financial management resource capabilities and of technical expertise through exchanges, research collaboration, technical support, education and training and the transfer of marine technology;

(f) The development and sharing of manuals, guidelines and standards;

(g) The development of technical, scientific and research and development programmes;

(h) The development and strengthening of capacities and technological tools for effective monitoring, control and surveillance of activities within the scope of this Agreement.

2. Further details concerning the types of capacity-building and of the transfer of marine technology identified in this article are elaborated in Annex II.

3. The Conference of the Parties, taking account of the recommendations of the capacity-building and transfer of marine technology committee, shall periodically, as

necessary, review, assess and further develop and provide guidance on the indicative and non-exhaustive list of types of capacity-building and of transfer of marine technology elaborated in Annex II, to reflect technological progress and innovation and to respond and adapt to the evolving needs of States, subregions and regions.

Article 45
Monitoring and review

1. Capacity-building and the transfer of marine technology undertaken in accordance with the provisions of this Part shall be monitored and reviewed periodically.

2. The monitoring and review referred to in paragraph 1 above shall be carried out by the capacity-building and transfer of marine technology committee under the authority of the Conference of the Parties and shall be aimed at:

(a) Assessing and reviewing the needs and priorities of developing States Parties in terms of capacity-building and the transfer of marine technology, paying particular attention to the special requirements of developing States Parties and to the special circumstances of small island developing States and of least developed countries, in accordance with article 42, paragraph 4;

(b) Reviewing the support required, provided and mobilized, as well as gaps in meeting the assessed needs of developing States Parties in relation to this Agreement;

(c) Identifying and mobilizing funds under the financial mechanism established under article 52 to develop and implement capacity-building and the transfer of marine technology, including for the conduct of needs assessments;

(d) Measuring performance on the basis of agreed indicators and reviewing results-based analyses, including on the output, outcomes, progress and effectiveness of capacity-building and transfer of marine technology under this Agreement, as well as successes and challenges;

(e) Making recommendations for follow-up activities, including on how capacity-building and the transfer of marine technology could be further enhanced to allow developing States Parties, taking into account the special circumstances of small island developing States and of least developed countries, to strengthen their implementation of the Agreement in order to achieve its objectives.

3. In supporting the monitoring and review of capacity-building and the transfer of marine technology, Parties shall submit reports to the capacity-building and transfer of marine technology committee. Those reports should be in a format and at intervals to be determined by the Conference of the Parties, taking into account the recommendations of the capacity-building and transfer of marine technology committee. In submitting their reports, Parties shall take into account, where applicable, input from regional and subregional bodies on capacity-building and the transfer of marine technology. The reports submitted by Parties, as well as any input from regional and subregional bodies on capacity-building and the transfer of marine technology, should be made publicly available. The Conference of the Parties shall ensure that reporting requirements should be streamlined and not onerous, in particular for developing States Parties, including in terms of costs and time requirements.

Article 46
Capacity-building and transfer of marine technology committee

1. A capacity-building and transfer of marine technology committee is hereby established.

2. The committee shall consist of members possessing appropriate qualifications and expertise, to serve objectively in the best interest of the Agreement, nominated by Parties and elected by the Conference of the Parties, taking into account gender balance and equitable geographical distribution and providing for representation on the committee from the least developed countries, from the small island developing States and from the landlocked developing countries. The terms of reference and modalities for the operation of the committee shall be decided by the Conference of the Parties at its first meeting.

3. The committee shall submit reports and recommendations that the Conference of the Parties shall consider and take action on as appropriate.

PART VI
INSTITUTIONAL ARRANGEMENTS

Article 47
Conference of the Parties

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Secretary-General of the United Nations no later than one year after the entry into force of this Agreement. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference of the Parties. Extraordinary meetings of the Conference of the Parties may be held at other times, in accordance with the rules of procedure.

3. The Conference of the Parties shall ordinarily meet at the seat of the secretariat or at United Nations Headquarters.

4. The Conference of the Parties shall by consensus adopt, at its first meeting, rules of procedure for itself and its subsidiary bodies, financial rules governing its funding and the funding of the secretariat and any subsidiary bodies and, thereafter, rules of procedure and financial rules for any further subsidiary body that it may establish. Until such time as the rules of procedure have been adopted, the rules of procedure of the intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction shall apply.

5. The Conference of the Parties shall make every effort to adopt decisions and recommendations by consensus. Except as otherwise provided in this Agreement, if all efforts to reach consensus have been exhausted, decisions and recommendations of the Conference of the Parties on questions of substance shall be adopted by a two-thirds majority of the Parties present and voting, and decisions on questions of procedure shall be adopted by a majority of the Parties present and voting.

6. The Conference of the Parties shall keep under review and evaluation the implementation of this Agreement and, for this purpose, shall:

(a) Adopt decisions and recommendations related to the implementation of this Agreement;

(b) Review and facilitate the exchange of information among Parties relevant to the implementation of this Agreement;

(c) Promote, including by establishing appropriate processes, cooperation and coordination with and among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, with a view to promoting coherence among efforts towards the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(d) Establish such subsidiary bodies as deemed necessary to support the implementation of this Agreement;

(e) Adopt a budget by a three-fourths majority of the Parties present and voting if all efforts to reach consensus have been exhausted, at such frequency and for such a financial period as it may determine;

(f) Undertake other functions identified in this Agreement or as may be required for its implementation.

7. The Conference of the Parties may decide to request the International Tribunal for the Law of the Sea to give an advisory opinion on a legal question on the conformity with this Agreement of a proposal before the Conference of the Parties on any matter within its competence. A request for an advisory opinion shall not be sought on a matter within the competences of other global, regional, subregional or sectoral bodies, or on a matter that necessarily involves the concurrent consideration of any dispute concerning sovereignty or other rights over continental or insular land territory or a claim thereto, or the legal status of an area as within national jurisdiction. The request shall indicate the scope of the legal question on which the advisory opinion is sought. The Conference of the Parties may request that such opinion be given as a matter of urgency.

8. The Conference of the Parties shall, within five years of the entry into force of this Agreement and thereafter at intervals to be determined by it, assess and review the adequacy and effectiveness of the provisions of this Agreement and, if necessary, propose means of strengthening the implementation of those provisions in order to better address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

Article 48
Transparency

1. The Conference of the Parties shall promote transparency in decision-making processes and other activities carried out under this Agreement.

2. All meetings of the Conference of the Parties and its subsidiary bodies shall be open to observers participating in accordance with the rules of procedure unless otherwise decided by the Conference of the Parties. The Conference of the Parties shall publish and maintain a public record of its decisions.

3. The Conference of the Parties shall promote transparency in the implementation of this Agreement, including through the public dissemination of information and the facilitation of the participation of, and consultation with, relevant global, regional, subregional and sectoral bodies, Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders, as appropriate and in accordance with the provisions of this Agreement.

4. Representatives of States not party to this Agreement, relevant global, regional, subregional and sectoral bodies, Indigenous Peoples and local communities with relevant traditional knowledge, the scientific community, civil society and other relevant stakeholders with an interest in matters pertaining to the Conference of the Parties may request to participate as observers in the meetings of the Conference of the Parties and of its subsidiary bodies. The rules of procedure of the Conference of the Parties shall provide for modalities for such participation and shall not be unduly restrictive in this respect. The rules of procedure shall also provide for such representatives to have timely access to all relevant information.

Article 49
Scientific and Technical Body

1. A Scientific and Technical Body is hereby established.

2. The Scientific and Technical Body shall be composed of members serving in their expert capacity and in the best interest of the Agreement, nominated by Parties and elected by the Conference of the Parties, with suitable qualifications, taking into account the need for multidisciplinary expertise, including relevant scientific and technical expertise and expertise in relevant traditional knowledge of Indigenous Peoples and local communities, gender balance and equitable geographical representation. The terms of reference and modalities for the operation of the Scientific and Technical Body, including its selection process and the terms of members' mandates, shall be determined by the Conference of the Parties at its first meeting.

3. The Scientific and Technical Body may draw on appropriate advice emanating from relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, as well as from other scientists and experts, as may be required.

4. Under the authority and guidance of the Conference of the Parties, and taking into account the multidisciplinary expertise referenced in paragraph 2 above, the Scientific and Technical Body shall provide scientific and technical advice to the Conference of the Parties, perform the functions assigned to it under this Agreement and such other functions as may be determined by the Conference of the Parties and provide reports to the Conference of the Parties on its work.

Article 50
Secretariat

1. A secretariat is hereby established. The Conference of the Parties, at its first meeting, shall make arrangements for the functioning of the secretariat, including deciding on its seat.

2. Until such time as the secretariat commences its functions, the Secretary-General of the United Nations, through the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations Secretariat, shall perform the secretariat functions under this Agreement.

3. The secretariat and the host State may conclude a headquarters agreement. The secretariat shall enjoy legal capacity in the territory of the host State and be granted such privileges and immunities by the host State as are necessary for the exercise of its functions.

4. The secretariat shall:

(a) Provide administrative and logistical support to the Conference of the Parties and its subsidiary bodies for the purposes of the implementation of this Agreement;

(b) Arrange and service the meetings of the Conference of the Parties and of any other bodies as may be established under this Agreement or by the Conference of the Parties;

(c) Circulate information relating to the implementation of this Agreement in a timely manner, including making decisions of the Conference of the Parties publicly available and transmitting them to all Parties, as well as to relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies;

(d) Facilitate cooperation and coordination, as appropriate, with the secretariats of other relevant international bodies and, in particular, enter into such administrative and contractual arrangements as may be required for that purpose and for the effective discharge of its functions, subject to approval by the Conference of the Parties;

(e) Prepare reports on the execution of its functions under this Agreement and submit them to the Conference of the Parties;

(f) Provide assistance with the implementation of this Agreement and perform such other functions as may be determined by the Conference of the Parties or assigned to it under this Agreement.

Article 51
Clearing-House Mechanism

1. A Clearing-House Mechanism is hereby established.

2. The Clearing-House Mechanism shall consist primarily of an open-access platform. The specific modalities for the operation of the Clearing-House Mechanism shall be determined by the Conference of the Parties.

3. The Clearing-House Mechanism shall:

(a) Serve as a centralized platform to enable Parties to access, provide and disseminate information with respect to activities taking place pursuant to the provisions of this Agreement, including information relating to:

(i) Marine genetic resources of areas beyond national jurisdiction, as set out in Part II of this Agreement;

(ii) The establishment and implementation of area-based management tools, including marine protected areas;

(iii) Environmental impact assessments;

(iv) Requests for capacity-building and the transfer of marine technology and opportunities with respect thereto, including research collaboration and training opportunities, information on sources and availability of technological information and data for the transfer of marine technology, opportunities for facilitated access to marine technology and the availability of funding;

(b) Facilitate the matching of capacity-building needs with the support available and with providers for the transfer of marine technology, including governmental, non-governmental or private entities interested in participating as donors in the transfer of marine technology, and facilitate access to related know-how and expertise;

(c) Provide links to relevant global, regional, subregional, national and sectoral clearing-house mechanisms and other gene banks, repositories and databases, including those pertaining to relevant traditional knowledge of Indigenous Peoples and local communities, and promote, where possible, links with publicly available private and non-governmental platforms for the exchange of information;

(d) Build on global, regional and subregional clearing-house institutions, where applicable, when establishing regional and subregional mechanisms under the global mechanism;

(e) Foster enhanced transparency, including by facilitating the sharing of environmental baseline data and information relating to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction between Parties and other relevant stakeholders;

(f) Facilitate international cooperation and collaboration, including scientific and technical cooperation and collaboration;

(g) Perform such other functions as may be determined by the Conference of the Parties or assigned to it under this Agreement.

4. The Clearing-House Mechanism shall be managed by the secretariat, without prejudice to possible cooperation with other relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies as determined by the Conference of the Parties, including the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization, the International Seabed Authority, the International Maritime Organization and the Food and Agriculture Organization of the United Nations.

5. In the management of the Clearing-House Mechanism, full recognition shall be given to the special requirements of developing States Parties, as well as the special circumstances of small island developing States Parties, and their access to the mechanism shall be facilitated to enable those States to utilize it without undue obstacles or administrative burdens. Information shall be included on activities to promote information-sharing, awareness-raising and dissemination in and with those States, as well as to provide specific programmes for those States.

6. The confidentiality of information provided under this Agreement and rights thereto shall be respected. Nothing under this Agreement shall be interpreted as requiring the sharing of information that is protected from disclosure under the domestic law of a Party or other applicable law.

PART VII
FINANCIAL RESOURCES AND MECHANISM

Article 52
Funding

1. Each Party shall provide, within its capabilities, resources in respect of those activities that are intended to achieve the objectives of this Agreement, taking into account its national policies, priorities, plans and programmes.

2. The institutions established under this Agreement shall be funded through assessed contributions of the Parties.

3. A mechanism for the provision of adequate, accessible, new and additional and predictable financial resources under this Agreement is hereby established. The mechanism shall assist developing States Parties in implementing this Agreement,

including through funding in support of capacity-building and the transfer of marine technology, and perform other functions as set out in this article for the conservation and sustainable use of marine biological diversity.

4. The mechanism shall include:

(a) A voluntary trust fund established by the Conference of the Parties to facilitate the participation of representatives of developing States Parties, in particular least developed countries, landlocked developing countries and small island developing States, in the meetings of the bodies established under this Agreement;

(b) A special fund that shall be funded through the following sources:

(i) Annual contributions in accordance with article 14, paragraph 6;

(ii) Payments in accordance with article 14, paragraph 7;

(iii) Additional contributions from Parties and private entities wishing to provide financial resources to support the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(c) The Global Environment Facility trust fund.

5. The Conference of the Parties may consider the possibility of establishing additional funds, as part of the financial mechanism, to support the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, to finance rehabilitation and ecological restoration of marine biological diversity of areas beyond national jurisdiction.

6. The special fund and the Global Environment Facility trust fund shall be utilized in order to:

(a) Fund capacity-building projects under this Agreement, including effective projects on the conservation and sustainable use of marine biological diversity and activities and programmes, including training related to the transfer of marine technology;

(b) Assist developing States Parties in implementing this Agreement;

(c) Support conservation and sustainable use programmes by Indigenous Peoples and local communities as holders of traditional knowledge;

(d) Support public consultations at the national, subregional and regional levels;

(e) Fund the undertaking of any other activities as decided by the Conference of the Parties.

7. The financial mechanism should seek to ensure that duplication is avoided, and complementarity and coherence promoted, among the utilization of the funds within the mechanism.

8. Financial resources mobilized in support of the implementation of this Agreement may include funding provided through public and private sources, both national and international, including, but not limited to, contributions from States, international financial institutions, existing funding mechanisms under global and regional instruments, donor agencies, intergovernmental organizations, non-governmental organizations and natural and juridical persons, and through public-private partnerships.

9. For the purposes of this Agreement, the mechanism shall function under the authority, where appropriate, and guidance of the Conference of the Parties and shall be accountable thereto. The Conference of the Parties shall provide guidance on

overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources.

10. The Conference of the Parties and the Global Environment Facility shall agree upon arrangements to give effect to the above paragraphs at the first meeting of the Conference of the Parties.

11. In recognition of the urgency to address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, the Conference of the Parties shall determine an initial resource mobilization goal through 2030 for the special fund from all sources, taking into account, inter alia, the institutional modalities of the special fund and the information provided through the capacity-building and transfer of marine technology committee.

12. Eligibility for access to funding under this Agreement shall be open to developing States Parties on the basis of need. Funding under the special fund shall be distributed according to equitable sharing criteria, taking into account the needs for assistance of Parties with special requirements, in particular the least developed countries, landlocked developing countries, geographically disadvantaged States, small island developing States and coastal African States, archipelagic States and developing middle-income countries, and taking into account the special circumstances of small island developing States and of least developed countries. The special fund shall be aimed at ensuring efficient access to funding through simplified application and approval procedures and enhanced readiness of support for such developing States Parties.

13. In the light of capacity constraints, Parties shall encourage international organizations to grant preferential treatment to, and consider the specific needs and special requirements of developing States Parties, in particular the least developed countries, landlocked developing countries and small island developing States, and taking into account the special circumstances of small island developing States and of least developed countries, in the allocation of appropriate funds and technical assistance and the utilization of their specialized services for the purposes of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

14. The Conference of the Parties shall establish a finance committee on financial resources. It shall be composed of members possessing appropriate qualifications and expertise, taking into account gender balance and equitable geographical distribution. The terms of reference and modalities for the operation of the committee shall be decided by the Conference of the Parties. The committee shall periodically report and make recommendations on the identification and mobilization of funds under the mechanism. It shall also collect information and report on funding under other mechanisms and instruments contributing directly or indirectly to the achievement of the objectives of this Agreement. In addition to the considerations provided in this article, the committee shall consider, inter alia:

(a) The assessment of the needs of the Parties, in particular developing States Parties;

(b) The availability and timely disbursement of funds;

(c) The transparency of decision-making and management processes concerning fundraising and allocations;

(d) The accountability of the recipient developing States Parties with respect to the agreed use of funds.

15. The Conference of the Parties shall consider the reports and recommendations of the finance committee and take appropriate action.

16. The Conference of the Parties shall, in addition, undertake a periodic review of the financial mechanism to assess the adequacy, effectiveness and accessibility of financial resources, including for the delivery of capacity-building and the transfer of marine technology, in particular for developing States Parties.

PART VIII
IMPLEMENTATION AND COMPLIANCE

Article 53
Implementation

Parties shall take the necessary legislative, administrative or policy measures, as appropriate, to ensure the implementation of this Agreement.

Article 54
Monitoring of implementation

Each Party shall monitor the implementation of its obligations under this Agreement and shall, in a format and at intervals to be determined by the Conference of the Parties, report to the Conference on measures that it has taken to implement this Agreement.

Article 55
Implementation and Compliance Committee

1. An Implementation and Compliance Committee to facilitate and consider the implementation of and promote compliance with the provisions of this Agreement is hereby established. The Implementation and Compliance Committee shall be facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive.

2. The Implementation and Compliance Committee shall consist of members possessing appropriate qualifications and experience nominated by Parties and elected by the Conference of the Parties, with due consideration given to gender balance and equitable geographical representation.

3. The Implementation and Compliance Committee shall operate under the modalities and rules of procedure adopted by the Conference of the Parties at its first meeting. The Implementation and Compliance Committee shall consider issues of implementation and compliance at the individual and systemic levels, inter alia, and report periodically and make recommendations, as appropriate while cognizant of respective national circumstances, to the Conference of the Parties.

4. In the course of its work, the Implementation and Compliance Committee may draw on appropriate information from bodies established under this Agreement, as well as relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, as may be required.

PART IX
SETTLEMENT OF DISPUTES

Article 56
Prevention of disputes

Parties shall cooperate in order to prevent disputes.

Article 57
Obligation to settle disputes by peaceful means

Parties have the obligation to settle their disputes concerning the interpretation or application of this Agreement by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 58
Settlement of disputes by any peaceful means chosen by the Parties

Nothing in this Part impairs the right of any Party to this Agreement to agree at any time to settle a dispute between them concerning the interpretation or application of this Agreement by any peaceful means of their own choice.

Article 59
Disputes of a technical nature

Where a dispute concerns a matter of a technical nature, the Parties concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the Parties concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes under article 60 of this Agreement.

Article 60
Procedures for the settlement of disputes

1. Disputes concerning the interpretation or application of this Agreement shall be settled in accordance with the provisions for the settlement of disputes provided for in Part XV of the Convention.

2. The provisions of Part XV of and Annexes V, VI, VII and VIII to the Convention shall be deemed to be replicated for the purpose of the settlement of disputes involving a Party to this Agreement that is not a Party to the Convention.

3. Any procedure accepted by a Party to this Agreement that is also a Party to the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that Party, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 of the Convention for the settlement of disputes under this Part.

4. Any declaration made by a Party to this Agreement that is also a Party to the Convention pursuant to article 298 of the Convention shall apply to the settlement of

disputes under this Part, unless that Party, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, has made a different declaration pursuant to article 298 of the Convention for the settlement of disputes under this Part.

5. Pursuant to paragraph 2 above, a Party to this Agreement that is not a Party to the Convention, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, submitted to the depositary, one or more of the following means for the settlement of disputes concerning the interpretation or application of this Agreement:

(a) The International Tribunal for the Law of the Sea;

(b) The International Court of Justice;

(c) An Annex VII arbitral tribunal;

(d) An Annex VIII special arbitral tribunal for one or more of the categories of disputes specified in said Annex.

6. A Party to this Agreement that is not a Party to the Convention that has not issued a declaration shall be deemed to have accepted the option in paragraph 5 (c) above. If the parties to a dispute have accepted the same procedure for the settlement of the dispute, it may be submitted only to that procedure, unless the parties otherwise agree. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration under Annex VII to the Convention, unless the parties otherwise agree. Article 287, paragraphs 6 to 8, of the Convention shall apply to declarations made under paragraph 5 above.

7. A Party to this Agreement that is not a Party to the Convention may, when signing, ratifying, approving, accepting or acceding to this Agreement, or at any time thereafter, without prejudice to the obligations arising under this Part, declare in writing that it does not accept any or more of the procedures provided for in Part XV, section 2, of the Convention with respect to one or more of the categories of disputes set out in article 298 of the Convention for the settlement of disputes under this Part. Article 298 of the Convention shall apply to such a declaration.

8. The provisions of this article shall be without prejudice to the procedures on the settlement of disputes to which Parties have agreed as participants in a relevant legal instrument or framework, or as members of a relevant global, regional, subregional or sectoral body concerning the interpretation or application of such instruments and frameworks.

9. Nothing in this Agreement shall be interpreted as conferring jurisdiction upon a court or tribunal over any dispute that concerns or necessarily involves the concurrent consideration of the legal status of an area as within national jurisdiction, nor over any dispute concerning sovereignty or other rights over continental or insular land territory or a claim thereto of a Party to this Agreement, provided that nothing in this paragraph shall be interpreted as limiting the jurisdiction of a court or tribunal under Part XV, section 2, of the Convention.

10. For the avoidance of doubt, nothing in this Agreement shall be relied upon as a basis for asserting or denying any claims to sovereignty, sovereign rights or jurisdiction over land or maritime areas, including in respect to any disputes relating thereto.

Article 61
Provisional arrangements

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.

PART X
NON-PARTIES TO THIS AGREEMENT

Article 62
Non-parties to this Agreement

Parties shall encourage non-parties to this Agreement to become Parties thereto and to adopt laws and regulations consistent with its provisions.

PART XI
GOOD FAITH AND ABUSE OF RIGHTS

Article 63
Good faith and abuse of rights

Parties shall fulfil in good faith the obligations assumed under this Agreement and exercise the rights recognized therein in a manner that would not constitute an abuse of right.

PART XII
FINAL PROVISIONS

Article 64
Right to vote

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

2. A regional economic integration organization Party to this Agreement, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Agreement. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Article 65
Signature

This Agreement shall be open for signature by all States and regional economic integration organizations from 20 September 2023 and shall remain open for signature at United Nations Headquarters in New York until 20 September 2025.

Article 66
Ratification, approval, acceptance and accession

This Agreement shall be subject to ratification, approval or acceptance by States and regional economic integration organizations. It shall be open for accession by States and regional economic integration organizations from the day after the date on which the Agreement is closed for signature. Instruments of ratification, approval, acceptance and accession shall be deposited with the Secretary-General of the United Nations.

Article 67
Division of the competence of regional economic integration organizations and their member States in respect of the matters governed by this Agreement

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

2. In its instrument of ratification, approval, acceptance or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Agreement. Any such organization shall also inform the depositary, who shall in turn inform the Parties, of any relevant modification of the extent of its competence.

Article 68
Entry into force

1. This Agreement shall enter into force 120 days after the date of deposit of the sixtieth instrument of ratification, approval, acceptance or accession.

2. For each State or regional economic integration organization that ratifies, approves or accepts this Agreement or accedes thereto after the deposit of the sixtieth instrument of ratification, approval, acceptance or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification, approval, acceptance or accession, subject to paragraph 1 above.

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 the member States of that organization.

Article 69
Provisional application

1. This Agreement may be applied provisionally by a State or regional economic integration organization that consents to its provisional application by so notifying the depositary in writing at the time of signature or deposit of its instrument of ratification, approval, acceptance or accession. Such provisional application shall become effective from the date of receipt of the notification by the depositary.

2. Provisional application by a State or regional economic integration organization shall terminate upon the entry into force of this Agreement for that State or regional economic integration organization or upon notification by that State or regional economic integration organization to the depositary in writing of its intention to terminate its provisional application.

Article 70
Reservations and exceptions

No reservations or exceptions may be made to this Agreement, unless expressly permitted by other articles of this Agreement.

Article 71
Declarations and statements

Article 70 does not preclude a State or regional economic integration organization, when signing, ratifying, approving, accepting 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 regional economic integration organization.

Article 72
Amendment

1. A Party may, by written communication addressed to the secretariat, propose amendments to this Agreement. The secretariat shall circulate such a communication to all Parties. If, within six months from the date of the circulation of the communication, not less than one half of the Parties reply favourably to the request, the proposed amendment shall be considered at the following meeting of the Conference of the Parties.

2. An amendment to this Agreement adopted in accordance with article 47 shall be communicated by the depositary to all Parties for ratification, approval or acceptance.

3. Amendments to this Agreement shall enter into force for the Parties ratifying, approving or accepting them on the thirtieth day following the deposit of instruments of ratification, approval or acceptance by two thirds of the number of Parties to this Agreement as at the time of adoption of the amendment. Thereafter, for each Party depositing its instrument of ratification, approval or acceptance of 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, approval or acceptance.

4. An amendment may provide, at the time of its adoption, that a smaller or larger number of ratifications, approvals or acceptances shall be required for its entry into force than required under this article.

5. For the purposes of paragraphs 3 and 4 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by the member States of that organization.

6. A State or regional economic integration organization that becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 3

above shall, failing an expression of a different intention by that State or regional economic integration organization:

(a) Be considered as a Party to this Agreement as so amended;

(b) Be considered as a Party to the unamended Agreement in relation to any Party not bound by the amendment.

Article 73
Denunciation

1. A 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 Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 74
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 provisions of article 72 relating to the amendment of this Agreement shall also apply to the proposal, adoption and entry into force of a new annex to the Agreement.

3. Any Party may propose an amendment to any annex to this Agreement for consideration at the next meeting of the Conference of the Parties. The annexes may be amended by the Conference of the Parties. Notwithstanding the provisions of article 72, the following provisions shall apply in relation to amendments to annexes to this Agreement:

(a) The text of the proposed amendment shall be communicated to the secretariat at least 150 days before the meeting. The secretariat shall, upon receiving the text of the proposed amendment, communicate it to the Parties. The secretariat shall consult relevant subsidiary bodies, as required, and shall communicate any response to all Parties not later than 30 days before the meeting;

(b) Amendments adopted at a meeting shall enter into force 180 days after the close of that meeting for all Parties, except those that make an objection in accordance with paragraph 4 below.

4. During the period of 180 days provided for in paragraph 3 (b) above, any Party may, by notification in writing to the depositary, make an objection with respect to the amendment. Such objection may be withdrawn at any time by written notification to the depositary and, thereupon, the amendment to the annex shall enter into force for that Party on the thirtieth day after the date of withdrawal of the objection.

Article 75
Depositary

The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 76
Authentic texts

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

ANNEX I

Indicative criteria for identification of areas

(a) Uniqueness;

(b) Rarity;

(c) Special importance for the life history stages of species;

(d) Special importance of the species found therein;

(e) The importance for threatened, endangered or declining species or habitats;

(f) Vulnerability, including to climate change and ocean acidification;

(g) Fragility;

(h) Sensitivity;

(i) Biological diversity and productivity;

(j) Representativeness;

(k) Dependency;

(l) Naturalness;

(m) Ecological connectivity;

(n) Important ecological processes occurring therein;

(o) Economic and social factors;

(p) Cultural factors;

(q) Cumulative and transboundary impacts;

(r) Slow recovery and resilience;

(s) Adequacy and viability;

(t) Replication;

(u) Sustainability of reproduction;

(v) Existence of conservation and management measures.

ANNEX II

Types of capacity-building and of the transfer of marine technology

Under this Agreement, capacity-building and transfer of marine technology initiatives may include but are not limited to:

(a) The sharing of relevant data, information, knowledge and research, in user-friendly formats, including:

(i) The sharing of marine scientific and technological knowledge;

(ii) The exchange of information on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

(iii) The sharing of research and development results;

(b) Information dissemination and awareness-raising, including with regard to:

(i) Marine scientific research, marine sciences and related marine operations and services;

(ii) Environmental and biological information collected through research conducted in areas beyond national jurisdiction;

(iii) Relevant traditional knowledge in line with the free, prior and informed consent of the holders of such knowledge;

(iv) Stressors on the ocean that affect marine biological diversity of areas beyond national jurisdiction, including the adverse effects of climate change, such as warming and ocean deoxygenation, as well as ocean acidification;

(v) Measures such as area-based management tools, including marine protected areas;

(vi) Environmental impact assessments;

(c) The development and strengthening of relevant infrastructure, including equipment, such as:

(i) The development and establishment of necessary infrastructure;

(ii) The provision of technology, including sampling and methodology equipment (e.g., for water, geological, biological or chemical samples);

(iii) The acquisition of the equipment necessary to support and further develop research and development capabilities, including in data management, in the context of activities with respect to marine genetic resources and digital sequence information on marine genetic resources of areas beyond national jurisdiction, measures such as area-based management tools, including marine protected areas, and the conduct of environmental impact assessments;

(d) The development and strengthening of institutional capacity and national regulatory frameworks or mechanisms, including:

(i) Governance, policy and legal frameworks and mechanisms;

(ii) Assistance in the development, implementation and enforcement of national legislative, administrative or policy measures, including associated regulatory, scientific and technical requirements at the national, subregional or regional level;

(iii) Technical support for the implementation of the provisions of this Agreement, including for data monitoring and reporting;

(iv) Capacity to translate information and data into effective and efficient policies, including by facilitating access to and the acquisition of knowledge necessary to inform decision makers in developing States Parties;

(v) The establishment or strengthening of the institutional capacities of relevant national and regional organizations and institutions;

(vi) The establishment of national and regional scientific centres, including as data repositories;

(vii) The development of regional centres of excellence;

(viii) The development of regional centres for skills development;

(ix) Increasing cooperative links between regional institutions, for example, North-South and South-South collaboration and collaboration among regional seas organizations and regional fisheries management organizations;

(e) The development and strengthening of human and financial management resource capabilities and of technical expertise through exchanges, research collaboration, technical support, education and training and the transfer of marine technology, such as:

(i) Collaboration and cooperation in marine science, including through data collection, technical exchange, scientific research projects and programmes, and the development of joint scientific research projects in cooperation with institutions in developing States;

(ii) Education and training in:

a. The natural and social sciences, both basic and applied, to develop scientific and research capacity;

b. Technology, and the application of marine science and technology, to develop scientific and research capacities;

c. Policy and governance;

d. The relevance and application of traditional knowledge;

(iii) The exchange of experts, including experts on traditional knowledge;

(iv) The provision of funding for the development of human resources and technical expertise, including through:

a. The provision of scholarships or other grants for representatives of small island developing States Parties in workshops, training programmes or other relevant programmes to develop their specific capacities;

b. The provision of financial and technical expertise and resources, in particular for small island developing States, concerning environmental impact assessments;

(v) The establishment of a networking mechanism among trained human resources;

(f) The development and sharing of manuals, guidelines and standards, including:

(i) Criteria and reference materials;

(ii) Technology standards and rules;

(iii) A repository for manuals and relevant information to share knowledge and capacity on how to conduct environmental impact assessments, lessons learned and best practices;

(g) The development of technical, scientific and research and development programmes, including biotechnological research activities.

Annex 160

Alpine Convention, 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 proces-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 Proces-verbal of rectification: German and French.

Registered by Austria on 25 *March 1996.*

MULTILATERAL

Convention sur la protection des Alpes (Convention alpine) [avec listes des unites administratives, carte et proces-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, franrais, italien et slovene.

Textes authentiques du Proces-verbal de rectification: allemand etfranrais.

Enregistree 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 161

Protocol on Climate Change Adaptation and Disaster Risk Management in Fisheries and Aquaculture in the Caribbean, The Food and Agriculture Organization of the United Nations and Caribbean Regional Fisheries Mechanism, 11 October 2018

Caribbean Regional Fisheries Mechanism

PROTOCOL ON CLIMATE CHANGE ADAPTATION AND DISASTER RISK MANAGEMENT IN FISHERIES AND AQUACULTURE IN THE CARIBBEAN

Barbados, 11 October 2018

With the technical support of

Food and Agriculture Organization of the United Nations

PROTOCOL ON CLIMATE CHANGE ADAPTATION AND DISASTER RISK MANAGEMENT IN FISHERIES AND AQUACULTURE IN THE CARIBBEAN

Barbados, 11 October 2018

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
and
CARIBBEAN REGIONAL FISHERIES MECHANISM Secretariat
Rome, Belmopan, 2021

Required citation:
FAO and Caribbean Regional Fisheries Mechanism. 2021. *Protocol on Climate Change Adaptation and Disaster Risk Management in Fisheries and Aquaculture in the Caribbean.* Barbados, 18 April 2018. Rome, Belmopan. https://doi.org/10.4060/cb4205en

ISBN 978-92-5-134252-7 [FAO]

PREPARATION OF THIS DOCUMENT

The development of the Protocol on Climate Change Adaptation and Disaster Risk Management in Fisheries and Aquaculture under the Caribbean Community Common Fisheries Policy was funded by the Climate Change Adaptation in the Eastern Caribbean Fisheries Sector (CC4FISH) Project of the Food and Agriculture Organization (FAO), funded by the Global Environment Facility (GEF). The Protocol applies to national waters but also onboard vessels on the High Seas which fly the flags of participating states and wherever participating states have jurisdiction.

The Protocol was developed by the Caribbean Regional Fisheries Mechanism (CRFM) in consultation with stakeholders with interests in fisheries, disaster risk management and climate change adaptation and mitigation and technical support of the FAO. The preparation included developing and administering a survey instrument and conducting desk research to collect information for drafting of the Protocol; facilitating a one-day workshop if stakeholders where the draft Protocol was reviewed; incorporating into the Protocol the various comments and suggestions provided by the stakeholders; and producing the final draft for the consideration of the CRFM Ministerial Council. The Protocol was approved by CARICOM States during a high-level meeting of the Ministerial Council of the CRFM in October 2018.

ABSTRACT

This document presents the Protocol on Climate Change Adaptation (CCA) and Disaster Risk Management (DRM) in Fisheries and Aquaculture in the Caribbean under the Caribbean Community Common Fisheries Policy. The Protocol was approved by CARICOM States during the 8th Special Meeting of the Ministerial Council of the Caribbean Regional Fisheries Mechanism (CRFM), which was held in Barbados on 11 October 2018.

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ACKNOWLEDGEMENTS

The Protocol on Climate Change Adaptation and Disaster Risk Management in Fisheries and Aquaculture under the Caribbean Community Common Fisheries Policy was prepared with funding from the Global Environment Facility/ Special Climate Change Fund through the Climate Change Adaptation in the Eastern Caribbean Fisheries Sector Project (CC4FISH) of the Food and Agriculture Organization (FAO), funded by the Global Environment Facility (GEF).

The Caribbean Regional Fisheries Mechanism (CRFM) and FAO wish to acknowledge the valuable contribution of Mr Leslie Walling, consultant, for his assistance with this initiative. This includes developing and administering a survey instrument and conducting desk research to collect information for drafting of the Protocol; facilitating a one-day regional workshop where the draft Protocol was reviewed by regional governments and stakeholders; incorporating the various comments and suggestions provided by the stakeholders into the Protocol; and assisting with the preparation of the final draft Protocol for submission to the CRFM Ministerial Council. The regional workshop was attended by Directors of Fisheries from CRFM member states and representatives of regional organisations such as the Caribbean Community Climate Change Centre (CCCCCC), Caribbean Network of Fisherfolk Organizations (CNFO), the University of the West Indies (UWI), and the Commission of the Organization of Eastern Caribbean States (OECS). Technical support was also provided by Ms. Iris Monnereau, Regional Project Coordinator of the CC4FISH Project at FAO.

The CRFM and FAO further express their gratitude to the CRFM member states, climate change and disaster risk management partners and other fisheries related partners in the Caribbean (CCCCC, UWI, the Caribbean Disaster and Emergency Management Agency (CDEMA), and the Caribbean Institute for Meteorology and Hydrology (CIMH), for provision of the resource materials and reviewing of the draft document. A special acknowledgement goes to the CNFO and the fisherfolk of the CRFM region, for their contributions during the workshop session and reviewing and providing written comments on the draft document.

ABBREVIATIONS and ACRONYMS

CARICOM	Caribbean Community
CCA	climate change adaptation
CCCCCC	Caribbean Community Climate Change Centre
CCCFP	Caribbean Community Common Fisheries Policy
CC4FISH	Climate Change Adaptation for the Eastern Caribbean Fisheries Sector Project
CDEMA	Caribbean Disaster and Emergency Management Agency
CDM	comprehensive disaster management
CFF	Caribbean Fisheries Forum
CIMH	Caribbean Institute for Meteorology and Hydrology
CNFO	Caribbean Network of Fisherfolk Organizations
CRFM	Caribbean Regional Fisheries Mechanism
DRM	disaster risk management
FAO	Food and Agriculture Organization of the United Nations
GEF	Global Environment Facility
NICs	national inter-sectoral coordinating mechanisms
OECS	Organization of Eastern Caribbean States
RFADRCC	Regional Framework for Achieving Development Resilience to Climate Change
SDG	Sustainable Development Goals
UWI	University of the West Indies

PROTOCOL ON CLIMATE CHANGE ADAPTATION AND DISASTER RISK MANAGEMENT IN FISHERIES AND AQUACULTURE UNDER THE CARIBBEAN COMMUNITY COMMON FISHERIES POLICY

PREAMBLE

The Ministerial Council of the Caribbean Regional Fisheries Mechanism:

Aware that the Caribbean region is one of the most vulnerable regions in the world to the impacts of climatic variability and climate change;

Recognising that global climate change is a development issue, requiring the formulation and implementation of cost-effective policies and measures to ensure that the risks posed by a changing climate to the development prospects of the region are significantly reduced;

Concerned that climate change and ocean acidification will impact the health of coastal and marine habitats such as coral reefs, seagrasses and mangroves, and will significantly affect the distribution, abundance, seasonality, sustainability and production of fisheries in the Caribbean;

Deeply concerned that these changes will have significant social and economic implications for coastal communities and those working in the fisheries sector and will affect livelihood and employment, health and safety, food security and cultural practices;

Deeply concerned that delayed action in adapting to a changing climate will result in significant increases in the social, environmental, and economic costs of responding;

Conscious that the Caribbean in general, and the fisheries sector specifically, faces the challenges of adapting to current climate variability, ocean acidification and Climate Hazard risks, while preparing for the projected impacts of global climate change;

Mindful that the scale of the challenges posed by a changing climate, limits the ability of any CARICOM country acting on its own to build resilience, therefore requiring CARICOM States and the regionally-mandated organisations to work collectively through the regional enabling and support mechanisms to maximise their resources and technical expertise to the benefit of all;

Noting the guidance of the *2030 Agenda for Sustainable Development* and in particular Goal 13: Take urgent action to combat climate change and its impacts, and Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development;

Considering the guidance on measures to address disaster risks and climate change as presented in Section 9 of the *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication*;

Committed to working within the CARICOM enabling frameworks established by the *Caribbean Community Common Fisheries Policy*, the *CARICOM Regional Comprehensive Disaster Management (CDM) Strategy and Results Framework 2014-2024*, the *Regional Framework for Achieving Development Resilience to climate Change 2009-2015,* and its implementation plan, *Delivering Transformational Change 2011-2021*;

Encouraged by the efforts already undertaken by CARICOM bodies, civil society and private sector organisations to strengthen cooperation for the sustainable development management and conservation of national and regional fisheries resources and the supporting ecosystems and ecosystem services through *inter alia*, the activities of the *Caribbean Regional Fisheries Mechanism* and the *Caribbean Community Common Fisheries Policy*;

Noting that Article 7.2. of the *Caribbean Community Common Fisheries Policy* creates a general undertaking that the Participating Parties will prepare and adopt, as appropriate, Protocols establishing detailed rules for the implementation of the Policy;

Noting also that Article 20.4. of the *Caribbean Community Common Fisheries Policy* provides that such Protocols which have been adopted shall form an integral part of the Policy and, unless expressly provided otherwise, a reference to Policy includes a reference to the Protocols;

Have agreed as follows:

ARTICLE 1 - USE OF TERMS

For the purposes of this Protocol:

1.1 **"Caribbean Regional Fisheries Mechanism" or "CRFM"** means the organisation established by Article 2 of the 2002 Agreement Establishing the Caribbean Regional Fisheries Mechanism. The CRFM consists of three bodies: the Ministerial Council; the Caribbean Fisheries Forum; and the CRFM Secretariat. The CRFM is comprised of 17 Member States.

1.2 **"Competent Agency"** means the CRFM.

1.3 **"Fisheries Sector"** means both the capture fisheries and aquaculture sub-sectors and the associated value chains.

1.4 **"Climate Hazard"** means a physical process or event (hydro-meteorological or oceanographic variables or phenomena) that can harm human health, livelihoods, or natural resources.

1.5 **"Member State"** or **"Participating Party"** means any State or Territory that has signed or acceded to the CRFM Agreement.

1.6 **"Policy"** means the *Caribbean Community Common Fisheries Policy* and the definitions in Article 1 of the Policy apply to this Protocol.

1.7 **"Protocol"** means this instrument, mandated under Article 7 and made under Article 20 of the *Caribbean Community Common Fisheries Policy*.

ARTICLE 2 - GOAL

2.1 The goal of this Protocol is to ensure development of a regional fishery sector that is resilient to climate change and ocean acidification, and enhanced through comprehensive disaster management, and sustainable use of marine and other aquatic living resources and ecosystems.

ARTICLE 3 - OBJECTIVES

3.1 The overall objective of the Protocol is to support member states in adapting to the impacts of climate change and building resilience in fisheries sector livelihoods assets and ecosystems, through research and integrated adaptive planning and policy development, awareness and capacity building and regulatory reforms.

ARTICLE 4 - SCOPE

4.1 This Protocol is an integral part of the *Caribbean Community Common Fisheries Policy* and shall be interpreted and applied in the context of, and in a manner consistent with the Policy. The Protocol shall apply to all aspects of fisheries and aquaculture and livelihood assets under the jurisdiction of member states.

4.2 The Protocol shall consider all meteorological climate hazards, climate variability, climate change and ocean acidification impacts that may affect the fisheries sector and related livelihoods assets.

ARTICLE 5 - PRINCIPLES

The implementation of the Protocol shall be guided by the following principles:

5.1 **Take Proactive Action:** Anticipate the impacts of climate change and climate hazards and plan for the incidents as if they were to occur, rather than waiting for the impact to occur before responding.

5.2 **Apply the Precautionary Principle:** Preparedness for climate change and all climate hazards, and resilient activities should be based on the best available scientific data. However, in cases where scientific data are inadequate or lacking but there is reasonable suspicion that climate change, ocean acidification or climate hazards events are likely to cause severe harm, the best information available, at the time, including traditional ecological knowledge, shall be used in adaptation, preparedness and resilient decision-making and planning.

5.3 **Flexibility:** The Protocol shall be a flexible and living document that allows for the inclusion of additional data, information and ideas as they become available.

5.4 **Participatory Approaches:** Decision making shall involve everyone who has a stake in the fisheries sector. Due consideration shall be given to their views, traditional rights and special needs.

5.5 **Subsidiarity:** Action to adapt to climate change and climate hazard impacts on the fisheries sector should be taken at the lowest level of competency.

5.6 **Interactive Governance:** An integrative, inclusive, nested, multi-level, regional governance system for fisheries livelihoods assets that is built on linkages between the global, regional, sub-regional and national levels; and embraces complete policy cycles and support processes for continually improving policies and practices, through coordinated and structured learning from the outcomes of previously employed policies and practices.

ARTICLE 6 - ROLE OF MEMBER STATES

6.1 Member states shall take action and adopt measures to combat climate change and ocean acidification and their impacts, build resilience and protect fisheries sector livelihood assets, and in doing so shall pay attention to:

i. Determining the possible impacts of climate change and climate hazards events on the fisheries sector, including the relevant livelihoods assets (natural, human, social, physical and financial) and governance systems (laws, policies and institutions);

ii. Preparing and implementing a complimentary combination of climate smart policies, plans and measures to mitigate, cope and recover from these impacts;

iii. Incorporating climate change adaptation and disaster risk management into the planning, budgetary, development and decision-making processes at the national level;

iv. Preparing and implementing public education and awareness raising measures for climate change and disaster risk reduction in the fisheries sector.

v. Preparing and implementing monitoring and evaluation planning and policies arrangements to ensure that the adaptation measures meet accepted criteria for environmental, cost and distributional effectiveness and institutional feasibility;

vi. Enhancing governance systems to ensure the sustainability of fish stocks and their ecosystems in the light of the impacts of climate change and climate hazards as well as the fisheries sector production systems.

6.2 Member states shall promote and conduct research and establish monitoring systems to strengthen the knowledge base and inform the preparation and implementation of local, national and regional adaptation policies, plans, and legislation as well as public education and awareness raising measures, to combat climate change, ocean acidification and disaster risk reduction in the fisheries sector.

6.3 Each member state shall incorporate in their fisheries management, national adaptation, economic development, physical development, land-use, data collection and management, and hazard risk management plans and policies affecting the fisheries sector, provisions for climate change information, climate change adaptation and disaster risk management. These provisions shall provide for, *inter alia*:

i. Identifying fisheries stakeholder livelihood assets and governance systems that are critical to the fisheries sector that are likely to be impacted by climate change, ocean acidification and climate hazard events, and indicate how they are likely to be impacted;

ii. Identifying the actions and resources required to reduce the negative impacts of climate change, ocean acidification and climate hazard events, aid recovery and build resilience in the fisheries sector;

iii. Assessing the ability of the national fisheries sector to resist, cope and recover in a timely and efficient manner from the effects of climate change, ocean acidification or climate hazard events;

iv. Developing and adopting policies and measures to ensure the maintenance of food security, hygiene and sanitary and phyto-sanitary standards, and supply of fish and seafood products in the face of climate change, ocean acidification and climate hazards;

v. Enacting climate smart national policies and enabling legislation for, *inter alia,* protected areas, wildlife protection, fisheries and marine ecosystem conservation and management, environmental protection, pollution and waste management, the observance of which will support and further the objectives of this Protocol;

vi. Creating an enabling policy environment for the private sector and civil society to self-organise, learn and adapt with minimal or no external inputs;

vii. Keeping the provisions under constant review;

viii. Lodging copies of their fisheries management plans with the CRFM Secretariat and thereafter reporting to the Secretariat to document progress made, and challenges experienced, in implementing the provisions of the Protocol in those plans;

ix. Reporting to the CRFM immediately, and sharing with other Member State, any information or event of which they are aware, that is likely to adversely impact the fisheries sector at the national or regional levels;

x. Appointing a National fisheries sector climate change focal point to:

a. Champion the incorporation of climate change adaptation and disaster risk management in the fisheries sector into the planning, budgetary development and decision-making processes at the national level;

b. Work with stakeholders to keep the provisions under constant review;

c. Coordinate activities (include training) at the national level to combat the adverse effect of climate change, ocean acidification and climate hazards on the fisheries sector;

d. Monitor and report to the CRFM on the impact of climate change, ocean acidification and climate hazards on the fisheries sector, and implement plans to address the impacts, and;

e. Coordinate the development of education and public awareness programmes on climate change adaptation and disaster risk management in the fisheries sector.

ARTICLE 7 - ROLE OF THE COMPETENT AGENCY

7.1 The CRFM, where requested by one or more member states, and in accordance with the principle of subsidiarity in Article 5, shall cooperate with, and assist those member states in order to support them in achieving the objectives of this Protocol and in discharging their obligations and commitments under it.

7.2 The functions that may be performed by the CRFM pursuant to paragraph 7.1 include coordinating activities, as required, with development partners, fisheries sector stakeholders and national focal points, for the purpose of:

i. Identifying the actions and resources required to mitigate negative climate change, ocean acidification and climate hazard impacts, aid recovery and build resilience;

ii. Assessing the ability of the member states to resist, cope with, and recover from, the effects of climate change, ocean acidification or climate hazard events, in a timely and efficient manner;

iii. Providing policy briefs and guidance to member states, as required, to facilitate implementation of the provisions of this Protocol;

iv. Reviewing existing mechanisms, tools, and strategies to ensure that they reflect the climate change and climate hazards preparedness and resilience needs of the fisheries sector;

v. Building capacity at the regional and national levels to combat the adverse effects of climate change, ocean acidification and climate hazard events on fisheries sector livelihoods assets and operations;

vi. Mobilizing financial resources and technical assistance to assist member states and the CRFM in strengthening national and regional response to the impacts of changing climate, ocean acidification and climate hazards on the fisheries sector;

vii. Assisting regional and national organizations to develop the necessary skills and capabilities for data collection, analysis and research to inform decision making to enhance the resilience and reduce risks arising from climate change, ocean acidification and climate hazard;

viii. Assisting member states in:

   a. Anticipating and assessing climate change, ocean acidification and climate hazard impacts;

   b. Developing climate change and climate hazard preparedness and resilience plans and budgets; and

   c. Preparing and implementing measures to reduce the impacts of climate change and climate hazard events on fisheries sector assets and operations.

ix. Functioning as a repository for data and information relating to climate change, ocean acidification and climate hazard impacts on the fisheries sector livelihoods assets at the regional level;

x. Analyzing the data and information collected and make the results available to member states in a format, and in accordance with, conditions agreed to by member states and approved by the Ministerial Council;

xi. Assisting member states to develop fisheries sector education and public awareness programmes;

xii. Highlighting, at regional and international fora, the resources and technical assistance required by the regional fisheries sector to combat climate change, ocean acidification and climate hazards and build resilience;

xiii. Providing guidance and advice to stakeholders on addressing the impacts of climate change, ocean acidification and climate hazards as they affect the fisheries sector;

xiv. Collaborate with other regional agencies working in the areas of climate change, ocean acidification, disaster management, public education and awareness, and research, in support of the above actions;

xv. Regularly reporting on notifications received from member states of the actions taken pursuant to the provisions set out in Article 6.

ARTICLE 8 - COORDINATION

8.1 The CRFM shall be responsible for coordinating activities to support the implementation of the Protocol.

8.2 The CRFM shall coordinate its work with national, regional and international organisations active in the region in climate change adaptation and disaster risk management, including, but not limited to, the Caribbean Disaster and Emergency Management Agency (CDEMA), the Caribbean Community Climate Change Centre (CCCCC); Government Ministries, National Focal Point organisations, National Inter-sectoral Coordinating Mechanisms (NICs), the Caribbean Network of Fisherfolk Organisation (CNFO), private sector and community based organisations, and donors and any other agencies that may be determined from time to time by the Ministerial Council.

ARTICLE 9 - MONITORING AND EVALUATION

9.1 The Member States will meet regularly, using the CRFM governance mechanisms to review the Protocol and its implementation.

9.2 The objective of the review process will be to ensure that the Protocol and its guidance to member states and stakeholders continues to enable and support stakeholders in their respective, local, national and regional efforts to enhance resilience and reduce risks arising from climate change, ocean acidification and climate hazard.

9.3 The review of the Protocol will, as far as possible, be undertaken in coordination with the review cycles of relevant CARICOM policies and strategies on climate change adaptation and disaster risk management to secure guidance and feedback, and enhance coordination in support of climate change adaptation and disaster risk management in the fishers sector.

9.4 Where appropriate, the updating of the Protocol will take place every five years.

ARTICLE 10 - COMPLIANCE WITH THIS PROTOCOL

10.1 Each Member State shall take appropriate measures within its competence, including the adoption of laws and regulations, administrative actions and enforcement measures, to ensure the implementation of this Protocol.

10.2 Each Member State shall notify all other member states through the CRFM Secretariat of the measures it takes pursuant to the applicable measures set out in Article 5.

10.3 Each Member State shall draw to the attention of all other member states, any activity which in its opinion affects the implementation of the objectives and principles of this Protocol.

10.4 The implementation of this Protocol is voluntary.

GLOSSARY OF TERMS

a) "**Climate change"** refers to any change in climate over time, whether due to natural variability or as a result of human activity.

b) "Climate variability" refers to variations in the mean state and other statistics of climate variables, such as temperature and rainfall, either above or below average, beyond that of individual weather events. Variability may be due to natural internal processes within the climate system, or to variations in natural or anthropogenic external forcing.

c) "Climate change adaptation" means the process by which the adverse (and beneficial) effects of climate change are considered, evaluated, and, appropriately addressed, to prevent or minimise the damage they can cause or taking advantage of opportunities that may arise.

d) "Comprehensive disaster management" means the management of all hazards through all phases of the disaster management cycle – prevention, mitigation, preparedness, response, recovery and rehabilitation – by all stakeholders– public and private sectors, all segments of civil society and the general population in hazard prone areas.

e) "Disaster" means a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources.

f) "Disaster risk management" means the systematic process of using administrative directives, organisations, and operational skills and capacities to implement strategies, policies and improve coping capacities to lessen the adverse impacts of hazards and the possibility of disaster.

g) "Disaster risk reduction" means the practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters and hazards, to lessen vulnerability of people and property through wise management of land and the environment and improve preparedness for adverse events.

h) "Governance system" means the organisations or institutions that set and implement policies enforce legislation or perform functions which affect fisheries stakeholders' livelihoods and the fisheries/aquaculture sector and value chain (the *Structures*) and the laws (local, regional, international and local instruments) and policies, that define the way things are done, how fishers interact with each other or how structures interact and operate (the *Processes*).

i) "Hazard" means a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihoods and services, social and economic disruption, or environmental damage.

j) Livelihoods assets" means *Natural Assets* (fisheries resources, ecosystem services, supporting ecosystem), *Human Assets* (skills, knowledge, health, ability to work), *Social Assets* (relationships, networks, community), *Physical Assets* (boats, gear equipment, infrastructure) and *Financial Assets* (income, saving, credit, debt, Insurance).

k) "**Ocean acidification**" refers to a reduction in the pH of the ocean over time, caused primarily by increased uptake of the greenhouse gas carbon dioxide, from the atmosphere. The ocean absorbs about 30 percent of the carbon dioxide that is released into the atmosphere, and as levels of atmospheric carbon dioxide increase, so do the levels in the ocean causing the seawater to become more acidic.

This Report presents the Protocol on Climate Change Adaptation and Disaster Risk Management in Fisheries and Aquaculture was approved for CARICOM States in a high-level meeting of the Ministerial Council of the Caribbean Regional Fisheries Mechanism (CRFM) in 2018. At the 8th Special Meeting of the CRFM Ministerial Council held in Barbados on Thursday, 11 October, 2018, the ministers approved the protocol to the Caribbean Community Common Fisheries Policy (CCCFP).

This protocol is of paramount importance in the region, given the urgent and ever-increasing threats to fishing communities, fishers and the health of marine ecosystems and associated fish stocks in the region posed not only by warming waters and climate change but also by the acidification of the oceans as a result of increased absorption of carbon dioxide from the atmosphere. The protocol provides pragmatic tools and measures to enable States and stakeholders to adapt and build resilience by working together and sharing experiences and best practices.

Annex 162

The Ibero-American Environmental Charter, adopted in the XXVIII Ibero-American Summit of Heads of State and Government, 25 March 2023 (Spanish original and English translation)

Carta Medioambiental Iberoamericana

Compromiso con las próximas generaciones iberoamericanas

Las Jefas y los Jefes de Estado y de Gobierno de los países iberoamericanos, reunidos el 25 de marzo de 2023 en Santo Domingo, República Dominicana:

PREÁMBULO

i. reafirmando los principios contenidos en la Declaración de la I Cumbre Iberoamericana de Jefas y Jefes de Estado y de Gobierno, celebrada en Guadalajara (México) en 1991, y destacando el valor de nuestra comunidad para examinar y propiciar soluciones a los desafíos que enfrentan nuestros países, basados en el diálogo, la cooperación y la solidaridad y fortalecidos por el conjunto de afinidades históricas y culturales que nos unen;

ii. destacando que uno de los objetivos que cimentaron la comunidad iberoamericana, desde la I Cumbre Iberoamericana de Jefes de Estado y de Gobierno, fue el de impulsar soluciones al deterioro ambiental, tomando como base el pleno respeto de la soberanía de los Estados sobre sus recursos naturales y a sus políticas ambientales, el principio de las responsabilidades comunes pero diferenciadas y a la luz de las diferentes circunstancias nacionales y capacidades respectivas;

iii. reconociendo la necesidad de promover el desarrollo sostenible, con base en un sistema económico inclusivo, respetuoso con el medio ambiente y el clima y contando con la cooperación internacional;

iv. considerando el rico acervo contenido en las declaraciones de las reuniones de Ministras y Ministros de Medio Ambiente de la Conferencia Iberoamericana, así como en las declaraciones y comunicados especiales adoptados en las Cumbres Iberoamericanas de Jefas y Jefes de Estado y de Gobierno, que incorporan mandatos y acuerdos sobre diversas temáticas, entre las que se encuentran cambio climático, pérdida de la biodiversidad, desertificación, degradación de tierras y sequía, contaminación, acceso al agua potable y saneamiento, uso sostenible de los océanos y bosques, acceso a la información, participación pública y acceso a la justicia, energía sostenible y armonía con la naturaleza, entre otros;

v. destacando la labor de múltiples actores y mecanismos de diálogo y cooperación que tienen lugar en la Comunidad Iberoamericana, como la Red Iberoamericana de Oficinas deCambio Climático (RIOCC), la Conferencia de Directores Iberoamericanos del Agua (CODIA), la Conferencia de Directores de los Servicios Meteorológicos e Hidrológicos Iberoamericanos (CIMHET), la Red de Reservas de la Biosfera de Iberoamérica y el Caribe

(IberoMaB), la Red Latinoamericana de Cooperación Técnica en Parques Nacionales, otras Áreas Protegidas, Flora y Fauna Silvestre (Redparques), la Red Iberoamericana de Parques Nacionales y Otras Áreas Protegidas (Ripanap) y el Observatorio Iberoamericano de Desarrollo Sostenible y Cambio Climático de La Rábida (Huelva, España), por su contribución a la búsqueda de soluciones conjuntas ante los desafíos ambientales y a la promoción de buenas prácticas sostenibles, inclusivos e innovadores de desarrollo;

vi. reconociendo la necesidad de profundizar el esfuerzo internacional para alcanzar las metas de la Agenda 2030 para el Desarrollo Sostenible, según el principio de las responsabilidades comunes pero diferenciadas y capacidades respectivas, a la luz de las diferentes circunstancias nacionales, en la promoción del desarrollo sostenible en todas sus dimensiones y en la consecución de los Objetivos de Desarrollo Sostenible (ODS);

vii. reconociendo que el incremento de la intensidad y frecuencia de fenómenos climáticos extremos y el alarmante avance de fenómenos de evolución lenta suponen una amenaza para nuestras sociedades, para la biodiversidad, para la coexistencia de todas las formas de vida que habitan nuestro planeta y para los ecosistemas que conforman actualmente nuestro hábitat y por su impacto incluso en los sistemas productivos y en general para alcanzar el desarrollo sostenible;

viii. conscientes de la urgencia de acelerar las acciones globales de lucha contra el cambio climático, en un contexto en el que existe una brecha entre la ambición comprometida por los países y las reducciones necesarias para mantener el calentamiento global por debajo de 1,5ºC;

ix. reconociendo que la mayoría de los países iberoamericanos están altamente expuestos, son vulnerables y han sido fuertemente impactados por el cambio climático y que esta vulnerabilidad se incrementa debido a la desigualdad, la pobreza, el crecimiento de la población, la densidad poblacional, los patrones insostenibles de consumo y producción, la degradación de los ecosistemas y la pérdida de biodiversidad. Los riesgos asociados al cambio climático tienen profundas implicaciones en las comunidades agrícolas y rurales, en la salud pública, en la producción de energía, en la seguridad y soberanía alimentaria y afectaciones a infraestructuras entre otros, con un enorme costo tanto en recursos financieros como en vidas humanas;

x. destacando que Iberoamérica alberga una enorme diversidad biológica, contando con varios países megadiversos, con la cuarta parte de los bosques tropicales del mundo y el 50% de la biodiversidad global, y sobre la cual los efectos adversos del cambio climático representan una seria amenaza;

xi. reconociendo la importante contribución de los comunidades locales, pueblos indígenas y afrodescendientes a la protección de los bosques y los ecosistemas naturales;

xii. siendo conscientes de la creciente participación y movilización de la ciudadanía, especialmente de la juventud, demandando a los y las líderes globales mayor ambición y

compromiso en la lucha contra el cambio climático;

xiii. reconociendo que las mujeres sufren de manera más aguda el deterioro de las condiciones ambientales, de la pérdida de biodiversidad, la degradación de ecosistemas y los efectos del cambio climático por lo que se hace indispensable promover un mayor protagonismo de las mujeres en todos los niveles de adopción de decisiones sobre el medio ambiente y que las respuestas a las crisis medioambientales incorporen una adecuada atención y respuesta a las necesidades específicas de las mujeres

xiv. reconociendo que la naturaleza mundial del cambio climático requiere la cooperación más amplia posible de todos los países y su participación en una respuesta internacional efectiva y apropiada, de conformidad con sus responsabilidades comunes pero diferenciadas, sus capacidades respectivas y sus condiciones sociales y económicas;

xv. coincidiendo en que "un desarrollo resiliente bajo en emisiones y respetuoso con el medio ambiente y la conservación y uso sostenible de la biodiversidad es clave para no comprometer la capacidad de dar respuesta a los crecientes impactos del cambio climático, garantizando las necesidades de las generaciones presentes y futuras, velando por no dejar a nadie atrás";

xvi. reconociendo la estrecha relación entre la salud y el medio ambiente y el enorme costo sanitario asociado a la disminución de la superficie de los ecosistemas naturales, así como los efectos de la contaminación y el cambio climático en la salud;

xvii. coincidiendo en que la crisis climática, de pérdida de biodiversidad y de contaminación, intrínsecamente interrelacionadas, son de tal magnitud, que no hay momento para vacilaciones. Es tiempo de tomar acciones urgentes, ya que los costos de la inacción son mucho mayores que los costos de la acción y pueden comprometer la vida de las generaciones futuras;

xviii. convencidos de que la Comunidad Iberoamericana puede y debe contribuir, desde su peculiaridad y diversidad, con un enfoque propio a la configuración de respuestas a los desafíos ambientales internacionales y, con ello, al desarrollo y bienestar de nuestros pueblos, sustentada en una cultura de cooperación internacional en la que confluyen intereses y objetivos compartidos entre las naciones de Iberoamérica, de características únicas en el mundo, y que representa un potencial para trasladar la voz, compromiso y liderazgo de los países iberoamericanos a escenarios multilaterales;

xix. acordamos adoptar esta **Carta Medioambiental Iberoamericana** en la que se consolida la visión compartida de la Comunidad Iberoamericana frente a los desafíos del cambio climático, la pérdida de biodiversidad y la contaminación, y se establecen compromisos que buscan garantizar el derecho de las futuras generaciones de iberoamericanos e

iberoamericanas al desarrollo sostenible y al disfrute de un medio ambiente sano:

PRINCIPIOS

Reafirmamos todos los principios refrendados en la Declaración de Río sobre el Medio Ambiente y el Desarrollo y nuestro compromiso con la aplicación de la Agenda 2030 para el Desarrollo Sostenible y sus Objetivos de Desarrollo Sostenible y acuerdos ambientales multilaterales, así como todos los principios contenidos en la Declaraciones y Comunicados Especiales de las Cumbres Iberoamericanas de Jefes y Jefas de Estados y de Gobierno en materia medioambiental y las Declaraciones de los Foros y Conferencias de Ministras y Ministros Iberoamericanos de Medioambiente y destacamos en particular:

i. El derecho de nuestros ciudadanos y de las futuras generaciones a un medio ambiente limpio, saludable y sostenible que garantice el bienestar de todas y para todas las personas, sin dejar a nadie atrás.
ii. El diálogo, la cooperación y la solidaridad son características fundacionales de la Comunidad Iberoamericana y orientan todas nuestras acciones.
iii. Cada país dispone de diferentes enfoques, modelos e instrumentos para lograr el desarrollo sostenible, en función de sus circunstancias y prioridades nacionales.
iv. La protección del medioambiente debe considerarse como parte integral del desarrollo. La Comunidad Iberoamericana cuenta con espacios políticos y de cooperación en los que nos comprometemos a fortalecer, consolidar y transversalizar de forma coordinada las consideraciones medioambientales y climáticas.
v. La necesidad de lograr un desarrollo resiliente y bajo en carbono, un incremento de los niveles de conservación y uso sostenible de la biodiversidad, y patrones de producción y consumo sostenibles, de manera consistente con las prioridades y programas de desarrollo ambiental, económico y social de cada país.
vi. La responsabilidad de nuestros gobiernos en contar con políticas de Estado claras e innovadoras que promuevan el desarrollo sostenible de nuestros pueblos.
vii. La necesidad de enfrentar las consecuencias interrelacionadas de la degradación ambiental, incluyendo pérdida de biodiversidad y hábitat, cambio climático, desertificación y deforestación, la contaminación del aire, el suelo y el agua incluyendo los océanos, la explotación insostenible de los recursos naturales, la flora y fauna y el aumento de los desastres de origen natural y de las enfermedades zoonóticas.
viii. La necesidad de fortalecer la interfaz científico-política en todos los niveles, al objeto de que la toma de decisiones se sustente en el mejor conocimiento científico disponible, para la protección, conservación y uso sostenible del medio ambiente y mejorar la comprensión

de los impactos del cambio climático; y promover acciones efectivas, oportunas y progresivas a nivel local, regional y global.

ix. Reconocer la importancia de la ciencia, la tecnología y la innovación tanto para la comprensión de los fenómenos medioambientales y climáticos, como por su potencial para promover, para prevenir y hacer frente a los cambios bruscos o disruptivos provocados por el cambio climático, la pérdida de biodiversidad, los desastres naturales y las crisis sanitarias, con apoyo de la cooperación internacional.

x. La educación y la promoción de estilos de vida sostenibles son instrumentos fundamentales para abordar los desafíos actuales y promover una relación sostenible de las sociedades humanas con la naturaleza.

xi. La participación ciudadana es el mejor modo de tratar las cuestiones ambientales. Igualmente, impulsar políticas que promuevan un diálogo social eficaz e inclusivo y que apoyen a las comunidades afectadas, poniendo en marcha procesos de transición justa que no dejen a nadie atrás.

xii. Los retos ambientales de la Comunidad Iberoamericana pueden ser superados, en gran medida, intensificando y reforzando las vías de colaboración ya existentes, ampliando los cauces para compartir el patrimonio de capacidades, conocimientos y experiencias que la Comunidad Iberoamericana alberga en materia ambiental**.**

OBJETIVOS

1. Contribuir, desde la diversidad y riqueza de la Comunidad Iberoamericana, a lograr los compromisos nacionales ambiciosos en materia de recuperación y sostenibilidad ambiental para enfrentar la seria crisis climática, la acelerada pérdida de biodiversidad y los impactos de la creciente contaminación, desertificación, degradación de tierras y sequias como un aporte que permita el desarrollo sostenible de nuestros países y contribuya con la sostenibilidad global.

2. Poner a disposición las diversas instancias de la Conferencia Iberoamericana para brindar respuestas multisectoriales y holísticas que contribuyan a la implementación de las agendas internacionales de biodiversidad, cambio climático, contaminación, degradación de tierras, la gestión integral de los recursos hídricos, y del riesgo de desastres.

3. Mejorar la integración de las tres dimensiones del desarrollo sostenible y aportar beneficios tanto para la economía y la sociedad como para el medio ambiente, abriendo nuevas vías para las oportunidades de inversión ambientalmente sostenibles que fomenten la innovación, vinculando al sector empresarial iberoamericano, que promuevan nuevos negocios y puestos de trabajo sostenibles, así como nuevas líneas de investigación,

respondiendo a los retos cada vez más acuciantes y urgentes, y que contribuya a la reactivación de la economía.

4. Abordar las limitaciones financieras y de transferencia de conocimiento y tecnología que afectan a la capacidad de nuestros países para fomentar el desarrollo sostenible, incluida, entre otras cosas, la reducción de la carga de la deuda, brindando ayuda en la transición de los sectores productivos, la creación de puestos de trabajo y el desarrollo de proyectos de infraestructura resilientes.

EJES TEMATICOS

1. MITIGACIÓN Y ADAPTACIÓN AL CAMBIO CLIMÁTICO:

Iberoamérica constituye un espacio privilegiado para el diálogo y concertación en materia de cambio climático, conscientes de la necesidad urgente de acelerar los esfuerzos para implementar el Acuerdo de París de la Convención Marco de las Naciones Unidas sobre Cambio Climático, incluyendo la mitigación, la adaptación y los medios de implementación. Coincidimos en que la acción para hacer frente a sus desafíos debe ser global y destacamos que su impacto afecta los ecosistemas de nuestros países y compromete la reducción de la pobreza y nuestro desarrollo sostenible.

Teniendo en cuenta los impactos actuales y futuros, nos comprometemos a aumentar nuestra capacidad de respuesta y adaptación a la crisis climática, que refleje la equidad y el principio de las responsabilidades comunes pero diferenciadas y las capacidades respectivas, a la luz de las diferentes circunstancias nacionales, en conformidad con la Convención Marco de las Naciones Unidas sobre el Cambio Climático y su Acuerdo de París.

Con el fin de limitar el aumento de la temperatura promedio global a 1.5 °C, asumimos, sobre la base de nuestras circunstancias y capacidades nacionales, el reto de descarbonizar nuestras economías, lo que pudiera incluir el desacoplamiento del crecimiento económico de la tendencia incremental en emisiones y el consumo de combustibles fósiles, así como la protección y restauración de los ecosistemas costeros, marinos y terrestres que contribuyen a la absorción de Gases de Efecto Invernadero (GEI), y también en particular haciendo frente a la deforestación y degradación de bosques, la pérdida de biodiversidad y la degradación de ecosistemas marinos y costeros. Colaboraremos para que este compromiso iberoamericano se traslade y sea visible en escenarios internacionales relevantes.

Continuaremos avanzando hacia la estructuración de sistemas de gobernanza y arreglos institucionales para limitar las emisiones de gases de efecto invernadero y adaptarnos a los efectos del cambio climático, implementando las acciones necesarias para cumplir con nuestras Contribuciones Determinadas a nivel Nacional - NDC (por sus siglas en inglés), planes nacionales de adaptación y estrategias climáticas de largo plazo; y a fortalecer las acciones nacionales relacionadas con estos compromisos.

La adaptación al cambio climático no es una opción, sino una máxima prioridad en muchos de nuestros países, por lo que es esencial una implementación global equilibrada del Acuerdo de París de la Convención Marco de las Naciones Unidas sobre Cambio Climático en materia de adaptación y mitigación. Sin una cuidadosa atención a la adaptación no podemos hablar de una verdadera ambición en nuestras acciones de lucha contra el cambio climático.

Reconocemos que la financiación internacional actual no es suficiente y que no aborda apropiadamente las necesidades de adaptación ni a la hora de responder a las pérdidas y daños derivados de los impactos de los eventos climáticos extremos y fenómenos de evolución lenta y que es necesario acelerar los esfuerzos globales para asegurar la coherencia de todos los flujos financieros con un desarrollo bajo en emisiones y resiliente al clima, incluyendo un incremento sustantivo en los recursos financieros, según el principio de las responsabilidades comunes pero diferenciadas y capacidades respectivas, a la luz de las diferentes circunstancias nacionales.

En este sentido, impulsaremos la necesaria transformación y el fortalecimiento de la financiación climática, con el objetivo de asegurar la coherencia de los flujos financieros con un desarrollo sostenible bajo en emisiones y resiliente al cambio climático, en línea con el Acuerdo de París. Para Iberoamérica es de alto interés que se cumpla el compromiso de los países desarrollados para el financiamiento, y a la vez garantizar su acceso de manera justa, ágil, equitativa y oportuna, para implementar, a través de la movilización de financiación, el desarrollo y la transferencia de tecnología, investigación científica y el fomento de las capacidades, medidas de mitigación y de adaptación, así como frente a las pérdidas y daños asociados al clima.

2. BIODIVERSIDAD Y RESTAURACIÓN DE ECOSISTEMAS

Iberoamérica alberga ecosistemas y recursos naturales que son la base del sustento de millones de personas y que son esenciales para el desempeño de una variedad de sectores productivos, al tiempo que son de enorme vulnerabilidad al cambio climático, y aboga por la plena implementación del Marco Mundial Kunming-Montreal sobre Diversidad Biológica, acordado en la 15ª Conferencia de las Partes del Convenio sobre la Diversidad Biológica, con el fin de revertir el deterioro del estado actual de la biodiversidad y sentar las bases para el uso sostenible de la misma.

Reconocemos que los bosques y los ecosistemas naturales son una de las formas de resguardar la vida de las poblaciones que los habitan, en particular de las comunidades locales, pueblos indígenas, y afrodescendientes, por lo que su conservación, protección restauración y uso sostenible son nuestra prioridad.

Coincidimos en que la conservación, la recuperación y el uso sostenible de la biodiversidad y la gestión integral de los ecosistemas, incluso bajo un fuerte enfoque de adaptación, así como las

soluciones basadas en la naturaleza, enfoques basados en los ecosistemas y otros enfoques son una efectiva respuesta a la multiplicación de riesgos asociados al cambio climático. Converger en la conservación y restauración de ecosistemas terrestres, acuáticos, marinos y costeros biodiversos y funcionales y luchar contra el comercio ilegal de especies es una inversión para nuestro futuro, nuestra salud, nuestra economía y nuestra calidad de vida.

Estamos comprometidos a responder a la magnitud del desafío de la pérdida de biodiversidad, invirtiendo en la naturaleza como fuente de salud y empleo promoviendo acciones para la conservación, uso sostenible y restauración de los ecosistemas terrestres, acuáticos, marinos y costeros. Destacamos la importancia de los incentivos para evitar la deforestación, fomentar la recuperación de suelos degradados e impulsar la agricultura y pesca sostenibles.

Reconocemos la importancia de la plena implementación del Marco Mundial Kunming-Montreal de la Diversidad Biológica, incluyendo sus indicadores y metas, y enfatizamos la necesidad de contar con adecuados medios de implementación, incluyendo el incremento de recursos financieros y técnicos especialmente a los países en desarrollo, en concordancia con el artículo 20 del Convenio sobre la Diversidad Biológica y sobre la base de las decisiones adoptadas en la COP 15 del Convenio sobre la Diversidad Biológica.

Redoblaremos esfuerzos e intercambiaremos experiencias para el manejo efectivo de las áreas naturales protegidas, especialmente las áreas de particular importancia para la biodiversidad, para asegurar su integridad y conectividad ecológica, detener la pérdida acelerada de especies y proteger los ecosistemas y, en consecuencia, la prestación de servicios ambientales a favor de las personas y la naturaleza.

Nos comprometemos a incrementar la conservación de los territorios de Iberoamérica reafirmando nuestro compromiso de conservar nuestra vida marina y terrestre.

3. RECURSOS HÍDRICOS Y OCÉANOS

Reafirmamos que la sostenibilidad del agua es imprescindible para la humanidad y constituye una característica de las prioridades medioambientales de la Comunidad Iberoamericana. Dados los importantes impactos del cambio climático sobre los recursos hídricos y su trascendencia sobre las actividades económicas y el bienestar social y económico de las personas, estos deben ser objeto de un manejo integral y transversal por parte de nuestros países.

Nos comprometemos a avanzar para lograr una gestión integral de los recursos hídricos, orientada a garantizar la disponibilidad y la gestión sostenible del agua y el saneamiento para los y las habitantes de cada Estado dentro de su territorio.

Consideramos que el derecho humano al agua es el derecho de los habitantes de cada Estado a disponer dentro de su territorio de agua suficiente, salubre, aceptable, accesible y asequible para el uso personal y doméstico y para reducir el riesgo de las enfermedades relacionadas con el agua. En este sentido, acordamos generar espacios de diálogo político de alto nivel para avanzar en la construcción de lineamientos nacionales en la implementación del derecho humano al aguapotable y saneamiento y a la gestión integral de los recursos hídricos;

Igualmente, reiteramos la importancia que reviste para toda la humanidad tener océanos saludables, la conservación, protección y uso sostenible de sus recursos y su relación con el cambio climático, como un recursos esencial para el desarrollo de nuestros países, por lo que abogamos en la necesidad de adoptar acciones concretas a través de políticas públicas, para enfrentar las amenazas que los afectan y que tienen una directa incidencia en los países de la región, sus habitantes y las comunidades costeras.

4. CONTAMINACIÓN Y RESIDUOS SÓLIDOS, INCLUYENDO PLÁSTICOS Y MICRO PLÁSTICOS

El derecho a un medio ambiente limpio y saludable, es fundamental para el desarrollo sostenible en todas sus dimensiones. Reconocemos los desafíos actuales de la contaminación del suelo, del aire, de los océanos y del agua dulce y sus vínculos con el cambio climático, la pérdida de biodiversidad y la salud humana, lo que a su vez nos impulsa a actuar para prevenir y revertir estos impactos antropogénicos.

Consideramos fundamental actuar para frenar y revertir los impactos adversos de las diferentes formas de contaminación, incluyendo las emisiones y descargas al ambiente, los desechos peligrosos, los residuos sólidos, los plásticos y microplásticos, de acuerdo a las circunstancias y capacidades nacionales.

Promoveremos medidas para prevenir y reducir la contaminación por plásticos incluyendo los microplásticos, abordando todo el ciclo de vida del plástico, incluidas las relacionadas con el consumo y la producción sostenibles, que pueden incluir enfoques de economía circular y, la elaboración e implementación de planes de acción nacionales, así como el intercambio de buenas prácticas, investigación, educación ambiental y concientización mediante la cooperación internacional.

Fortaleceremos las capacidades de nuestros países para atender los desafíos de todos los tipos de contaminación, a través de políticas públicas, instrumentos técnicos y jurídicos de gestión

ambiental, y el intercambio de experiencias y la promoción de patrones de producción y consumo sostenibles.

SEGUIMIENTO E IMPLEMENTACIÓN

La Presidencia Pro Tempore de la Conferencia Iberoamericana será responsable de incorporar los principios, objetivos y ejes temáticos contenidos en esta Carta Medioambiental Iberoamericana en sus planes de trabajo en preparación de cada Cumbre Iberoamericana de Jefas y Jefes de Estado y de Gobierno.

La Conferencia Iberoamericana y en particular las Ministras y Ministros de medio ambiente de Iberoamérica impulsarán el seguimiento e implementación de la Carta Medioambiental a través, entre otras acciones, de impulsar la "Agenda Medioambiental Iberoamericana", compuesta por acciones estratégicas para el cumplimiento de los objetivos aquí plasmados, afianzando las alianzas con organismos internacionales y redes de cooperación y promoviendo el abordaje multisectorial al interior de la Conferencia Iberoamericana.

Los contenidos de esta Carta Medioambiental Iberoamericana serán la base de los procesos de planificación estratégica de la Cooperación Iberoamericana, así como el trabajo de las redes y demás instituciones con origen en la Comunidad Iberoamericana, presentado los avances en su implementación en las Conferencias Iberoamericana de Ministras y Ministros de Medio Ambiente.

La Secretaria General Iberoamericana consolidará y coordinará el entorno de actores iberoamericanos que abordan temáticas medioambientales y climáticas, integrando los ministerios de medio ambiente, las redes iberoamericanas, el Observatorio Iberoamericano de Desarrollo Sostenible y Cambio Climático, entre otras entidades afines a estos temas, que puedan contribuir y trabajar conjuntamente en escenarios internacionales relevantes y generando las sinergias necesarias para la implementación de la presente Carta, con miras a posicionar a Iberoamérica como un espacio de cooperación comprometido con el medio ambiente, la lucha y acción efectiva contra el cambio climático, la contaminación, desertificación, degradación de tierras y sequias, dispuestos a fomentar las capacidades de los Estados de la región para promover la conservación y uso sostenible de la biodiversidad terrestre y marina y de los recursos hídricos.

[Translated Ibero-American Environmental Charter from Spanish original]

Ibero-American Environmental Charter

Commitment to the coming Ibero-American generations

The Heads of State and Government of the Ibero-American countries, meeting on March 25, 2023, in Santo Domingo, Dominican Republic:

PREAMBLE

i. reaffirming the principles contained in the Declaration of the First Ibero-American Summit of Heads of State and Government, held in Guadalajara, Mexico, in 1991, and emphasizing the value of our community in examining and promoting solutions to the challenges facing our countries, based on dialogue, cooperation and solidarity and strengthened by the set of historical and cultural affinities that unite us;

ii. emphasizing that one of the objectives that have underpinned the Ibero-American community, since the First Ibero-American Summit of Heads of State and Government, was to promote solutions to environmental deterioration, based on full respect for the sovereignty of the States over their natural resources and their environmental policies, the principle of common but differentiated responsibilities and in light of the different national circumstances and respective capacities;

iii. recognizing the need to promote sustainable development, based on an inclusive economic system, respectful of the environment and the climate, and relying on international cooperation;

iv. considering the rich body of material contained in the declarations of the meetings of Ministers of the Environment of the Ibero-American Conference, as well as in the declarations and special communiqués adopted at the Ibero-American Summits of Heads of State and Government, which incorporate mandates and agreements on various topics, including climate change, biodiversity loss, desertification, land degradation and drought, pollution, access to drinking water and sanitation, sustainable use of oceans and forests, access to information, public participation and access to justice, sustainable energy, and harmony with nature, among others;

v. highlighting the work of multiple actors and mechanisms for dialogue and cooperation that take place in the Ibero-American Community, such as the Ibero-American Network of Climate Change Offices (RIOCC), the Conference of Ibero-American Water Directors (CODIA), the Conference of Directors of Ibero-American Meteorological and Hydrological Services (CIMHET), the Network of Biosphere Reserves of Ibero-America and the Caribbean

(IberoMaB), the Latin American Network for Technical Cooperation in National Parks, other Protected Areas, Flora and Wildlife (Redparques), the Ibero-American Network of National Parks and Other Protected Areas (Ripanap) and the Ibero-American Observatory for Sustainable Development and Climate Change of La Rabida (Huelva, Spain), for their contribution to the search for joint solutions to environmental challenges and the promotion of good sustainable, inclusive and innovative development practices;

vi. recognizing the need to deepen the international effort to achieve the goals of the 2030 Agenda for Sustainable Development, according to the principle of common but differentiated responsibilities and respective capacities, in light of different national circumstances, in the promotion of sustainable development in all its dimensions and in the achievement of the Sustainable Development Goals (SDGs);

vii. recognizing that the increase in the intensity and frequency of extreme climatic phenomena and the alarming advance of slow-onset phenomena pose a threat to our societies, to biodiversity, to the coexistence of all forms of life that inhabit our planet and to the ecosystems that currently make up our habitat, including their impact on productive systems and, in general, to the achievement of sustainable development;

viii. aware of the urgency of accelerating global actions to combat climate change, in a context in which there is a gap between the ambition committed to by countries and the reductions needed to keep global warming below 1.5ºC;

ix. recognizing that most Ibero-American countries are highly exposed, vulnerable and have been strongly impacted by climate change and that this vulnerability is increased by inequality, poverty, population growth, population density, unsustainable consumption and production patterns, ecosystem degradation and biodiversity loss. The risks associated with climate change have profound implications for agricultural and rural communities, public health, energy production, food security and sovereignty, and infrastructure, among others, with an enormous cost in both financial resources and human lives;

x. emphasizing that Ibero-America is home to enormous biological diversity, with several megadiverse countries, a quarter of the world's tropical forests and 50% of global biodiversity, and to which the adverse effects of climate change represent a serious threat;

xi. recognizing the important contribution of local communities, indigenous peoples and afro-descendants to the protection of forests and natural ecosystems;

xii. being aware of the growing participation and mobilization of citizens, especially the youth, demanding more ambition and commitment from global leaders

to the fight against climate change;

xiii. recognizing that women suffer more acutely from deteriorating environmental conditions, biodiversity loss, ecosystem degradation and the effects of climate change, and that it is therefore essential to promote a greater role for women at all levels of environmental decision-making and that responses to environmental crises incorporate adequate attention and responses to the specific needs of women

xiv. recognizing that the global nature of climate change requires 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, respective capabilities and social and economic conditions;

xv. agreeing that "resilient development that is low in emissions and respects the environment and the conservation and sustainable use of biodiversity is key to not compromising the capacity to respond to the growing impacts of climate change, guaranteeing the needs of present and future generations, while ensuring that no one is left behind";

xvi. recognizing the close relationship between health and the environment and the enormous health costs associated with the decrease in the surface area of natural ecosystems, as well as the effects of pollution and climate change on health;

xvii. agreeing that the climate, biodiversity loss and pollution crises, which are intrinsically interrelated, are of such magnitude that there is no time for hesitation. It is time to take urgent action, as the costs of inaction are far greater than the costs of action and may compromise the lives of future generations;

xviii. convinced that the Ibero-American Community can and must contribute, from its peculiarity and diversity, with its own approach to the configuration of responses to international environmental challenges and, with it, to the development and well-being of our peoples, sustained by a culture of international cooperation in which shared interests and objectives converge among the nations of Ibero-America, with unique characteristics in the world, and which represents a potential for transferring the voice, commitment and leadership of the Ibero-American countries to multilateral scenarios;

xix. agree to adopt this Ibero-American Environmental Charter, which consolidates the shared vision of the Ibero-American Community in the face of the challenges of climate change, biodiversity loss and pollution, and establishes commitments that seek to guarantee the right of future generations of Ibero-Americans

to sustainable development and to the enjoyment of a healthy environment:

PRINCIPLES

We reaffirm all the principles endorsed in the Rio Declaration on Environment and Development and our commitment to the implementation of the 2030 Agenda for Sustainable Development and its Sustainable Development Goals and multilateral environmental agreements, as well as all the principles contained in the Declarations and Special Statements of the Ibero-American Summits of Heads of State and Government on environmental matters and the Declarations of the Ibero-American Forums and Conferences of Ministers and Ministers of the Environment and we highlight in particular:

i. The right of our citizens and future generations to a clean, healthy and sustainable environment that ensures the well-being of all and for all people, leaving no one behind.
ii. Dialogue, cooperation and solidarity are foundational characteristics of the Ibero-American Community and guide all our actions.
iii. Each country has different approaches, models and instruments to achieve sustainable development, depending on its national circumstances and priorities.
iv. Environmental protection must be considered as an integral part of development. The Ibero-American Community has political and cooperation spaces in which we are committed to strengthening, consolidating and mainstreaming environmental and climate considerations in a coordinated manner.
v. The need to achieve resilient and low-carbon development, increased levels of conservation and sustainable use of biodiversity, and sustainable production and consumption patterns, consistent with the environmental, economic and social development priorities and programs of each country.
vi. The responsibility of our governments to have clear and innovative State policies that promote the sustainable development of our peoples.
vii. The need to address the interrelated consequences of environmental degradation, including loss of biodiversity and habitat, climate change, desertification and deforestation, pollution of air, soil and water, including the oceans, unsustainable exploitation of natural resources, flora and fauna, and the increase in natural disasters and zoonotic diseases.
viii. The need to strengthen the science-policy interface at all levels, so that decision-making is based on the best available scientific knowledge, for the protection, conservation and sustainable use of the environment and to improve the understanding

of the impacts of climate change; and to promote effective, timely and progressive actions at the local, regional and global levels.

ix. Recognize the importance of science, technology and innovation both for the understanding of environmental and climate phenomena, as well as for their potential to promote, prevent and address abrupt or disruptive changes caused by climate change, biodiversity loss, natural disasters and health crises, with the support of international cooperation.

x. Education and the promotion of sustainable lifestyles are key tools to address current challenges and promote a sustainable relationship of human societies with nature.

xi. Citizen participation is the best way to deal with environmental issues. Likewise, foster policies that promote effective and inclusive social dialogue and support affected communities, setting in motion just transition processes that leave no one behind.

xii. The environmental challenges of the Ibero-American Community can be overcome, to a great extent, by intensifying and reinforcing the already existing collaboration channels, broadening the channels to share the wealth of capabilities, knowledge and experiences that the Ibero-American Community has in environmental matters.

OBJECTIVES

1. To contribute, from the diversity and richness of the Ibero-American Community, to achieve ambitious national commitments in terms of environmental recovery and sustainability to face the serious climate crisis, the accelerated loss of biodiversity and the impacts of increasing pollution, desertification, land degradation and droughts as a contribution that allows the sustainable development of our countries and contributes to global sustainability.

2. To make available the various bodies of the Ibero-American Conference to provide multisectoral and holistic responses that contribute to the implementation of the international agendas on biodiversity, climate change, pollution, land degradation, integrated management of water resources, and disaster risk.

3. To improve the integration of the three dimensions of sustainable development and bring benefits for the economy and society as well as for the environment, opening new avenues for environmentally sustainable investment opportunities that foster innovation, linking the Ibero-American business sector, promoting new businesses and sustainable jobs, as well as new lines of research,

responding to the increasingly pressing and urgent challenges and contributing to the reactivation of the economy.

4. To address the financial and knowledge and technology transfer constraints that affect our countries' ability to foster sustainable development, including, inter alia, debt relief, assisting in the transition of productive sectors, job creation, and the development of resilient infrastructure projects.

CORE TOPICS

1. MITIGATION AND ADAPTATION TO CLIMATE CHANGE:

Ibero-America constitutes a privileged space for dialogue and agreement on climate change, aware of the urgent need to accelerate efforts to implement the Paris Agreement of the United Nations Framework Convention on Climate Change, including mitigation, adaptation and means of implementation. We agree that action to address its challenges must be global and stress that its impact affects the ecosystems of our countries and compromises poverty reduction and our sustainable development.

Taking into account current and future impacts, we commit to enhance our capacity to respond and adapt to the climate crisis, reflecting equity and the principle of common but differentiated responsibilities and respective capabilities, in light of different national circumstances, in accordance with the United Nations Framework Convention on Climate Change and its Paris Agreement.

In order to limit the increase in global average temperature to 1.5°C, we assume, based on our national circumstances and capacities, the challenge of decarbonizing our economies, which could include decoupling economic growth from the increasing trend in fossil fuel emissions and consumption, as well as protecting and restoring coastal, marine and terrestrial ecosystems that contribute to the absorption of Greenhouse Gases (GHG), and also in particular addressing deforestation and forest degradation, biodiversity loss and the degradation of marine and coastal ecosystems. We will collaborate so that this Ibero-American commitment is transferred and becomes visible in relevant international scenarios.

We will continue to move towards structuring governance systems and institutional arrangements to limit greenhouse gas emissions and adapt to the effects of climate change, implementing the necessary actions to meet our Nationally Determined Contributions (NDCs), national adaptation plans and long-term climate strategies; and to strengthen national actions related to these commitments.

Adaptation to climate change is not an option, but a top priority in many of our countries, so a balanced global implementation of the Paris Agreement of the United Nations Framework Convention on Climate Change on adaptation and mitigation is essential. Without careful attention to adaptation, we cannot speak of real ambition in our actions to combat climate change.

We recognize that current international funding is not sufficient and that it does not adequately address adaptation needs or respond to loss and damage from the impacts of extreme weather events and slow onset phenomena and that there is a need to accelerate global efforts to ensure coherence of all financial flows with low-emission and climate-resilient development, including a substantive increase in financial resources, according to the principle of common but differentiated responsibilities and respective capabilities, in light of different national circumstances.

In this regard, we will promote the necessary transformation and strengthening of climate finance, with the aim of ensuring the coherence of financial flows with sustainable development that is low in emissions and resilient to climate change, in line with the Paris Agreement. It is of great interest to Ibero-America that the commitment of developed countries to finance is fulfilled, and at the same time guarantee its access in a fair, agile, equitable and timely manner, in order to implement, through the mobilization of financing, the development and transfer of technology, scientific research and capacity building, mitigation and adaptation measures, as well as to address climate-related losses and damages.

2. BIODIVERSITY AND ECOSYSTEM RESTORATION

Ibero-America is home to ecosystems and natural resources that are the basis for the livelihoods of millions of people and are essential for the performance of a variety of productive sectors, while at the same time being highly vulnerable to climate change, and advocates for the full implementation of the Kunming-Montreal Global Framework on Biodiversity, agreed at the 15th Conference of the Parties to the Convention on Biological Diversity, in order to reverse the deterioration of the current state of biodiversity and lay the foundations for its sustainable use.

We recognize that forests and natural ecosystems are one of the ways of safeguarding the lives of the populations that inhabit them, particularly local communities, indigenous peoples, and Afro-descendants, and therefore their conservation, protection, restoration and sustainable use are our priority.

We agree that the conservation, recovery and sustainable use of biodiversity and the integrated management of ecosystems, including under a strong focus on adaptation, as well as the

nature-based solutions, ecosystem-based approaches and other approaches are an effective response to the multiplication of risks associated with climate change. Converging on the conservation and restoration of biodiverse and functional terrestrial, aquatic, marine and coastal ecosystems and combating illegal trade in species is an investment in our future, our health, our economy and our quality of life.

We are committed to respond to the magnitude of the challenge of biodiversity loss, investing in nature as a source of health and employment by promoting actions for the conservation, sustainable use and restoration of terrestrial, aquatic, marine and coastal ecosystems. We emphasize the importance of incentives to avoid deforestation, encourage the recovery of degraded soils and promote sustainable agriculture and fisheries.

We recognize the importance of the full implementation of the Kunming-Montreal Global Biodiversity Framework, including its indicators and targets, and emphasize the need for adequate means of implementation, including increased financial and technical resources especially to developing countries, in accordance with Article 20 of the Convention on Biological Diversity and based on the decisions adopted at COP 15 of the Convention on Biological Diversity.

We will redouble our efforts and exchange experiences for the effective management of natural protected areas, especially areas of particular importance for biodiversity, to ensure their integrity and ecological connectivity, halt the accelerated loss of species and protect ecosystems and, consequently, the provision of environmental services in favour of people and nature.

We pledge to increase the conservation of Ibero-American territories by reaffirming our commitment to conserve our marine and terrestrial life.

3. WATER RESOURCES AND OCEANS

We reaffirm that water sustainability is essential for humanity and is a characteristic of the environmental priorities of the Ibero-American Community. Given the significant impacts of climate change on water resources and their transcendence on economic activities and the social and economic well-being of people, these must be subject to comprehensive and cross-cutting management by our countries.

We commit ourselves to move forward to achieve an integrated management of water resources, aimed at guaranteeing the availability and sustainable management of water and sanitation for the inhabitants of each State within its territory.

We consider that the human right to water is the right of the inhabitants of each State to have sufficient, safe, acceptable, accessible and affordable water within its territory for personal and domestic use and to reduce the risk of water-related diseases. In this regard, we agreed to generate spaces for high-level political dialogue to advance in the construction of national guidelines for the implementation of the human right to drinking water and sanitation and the comprehensive management of water resources;

We also reiterate the importance for all humanity to have healthy oceans, the conservation, protection and sustainable use of their resources and their relationship with climate change, as an essential resource for the development of our countries, so we advocate the need to take concrete actions through public policies to address the threats that affect them and that have a direct impact on the countries of the region, its inhabitants and coastal communities.

4. POLLUTION AND SOLID WASTE, INCLUDING PLASTICS AND MICROPLASTICS

The right to a clean and healthy environment is fundamental to sustainable development in all its dimensions. We recognize the current challenges of soil, air, ocean and freshwater pollution and their links to climate change, biodiversity loss and human health, which in turn drives us to act to prevent and reverse these anthropogenic impacts.

We consider it essential to act to curb and reverse the adverse impacts of different forms of pollution, including emissions and discharges to the environment, hazardous wastes, solid wastes, plastics and microplastics, according to national circumstances and capacities.

We will promote measures to prevent and reduce plastic pollution including microplastics, addressing the entire life cycle of plastics, including those related to sustainable consumption and production, which may include circular economy approaches and, the development and implementation of national action plans, as well as the exchange of best practices, research, environmental education and awareness raising through international cooperation.

We will strengthen the capacities of our countries to address the challenges of all types of pollution through public policies, technical and legal instruments

for environmental management, the exchange of experiences, and the promotion of sustainable production and consumption patterns.

FOLLOW-UP AND IMPLEMENTATION

The Pro Tempore Presidency of the Ibero-American Conference will be responsible for incorporating the principles, objectives and thematic axes contained in this Ibero-American Environmental Charter in its work plans in preparation for each Ibero-American Summit of Heads of State and Government.

The Ibero-American Conference and in particular the Ministers of the Environment of Ibero-America will promote the follow-up and implementation of the Environmental Charter through, among other actions, promoting the "Ibero-American Environmental Agenda", composed of strategic actions for the fulfilment of the objectives set forth herein, strengthening alliances with international organizations and cooperation networks and promoting a multisectoral approach within the Ibero-American Conference.

The contents of this Ibero-American Environmental Charter will be the basis for the strategic planning processes of the Ibero-American Cooperation, as well as the work of the networks and other institutions originating in the Ibero-American Community, presenting the advances in its implementation at the Ibero-American Conferences of Ministers of the Environment.

The Ibero-American General Secretariat will consolidate and coordinate the environment of Ibero-American actors that address environmental and climate issues, integrating the Ministries of Environment, Ibero-American networks, the Ibero-American Observatory for Sustainable Development and Climate Change, among other entities related to these issues, that can contribute and work together in relevant international scenarios and generate the necessary synergies for the implementation of this Charter, with a view to positioning Ibero-America as a space for cooperation committed to the environment, the fight and effective action against climate change, pollution, desertification, land degradation and droughts, willing to foster the capacities of the States of the region to promote the conservation and sustainable use of terrestrial and marine biodiversity and water resources.

Annex 163

Convention on the Rights of Persons with Disabilities, 13 December 2006, 2515 UNTS 3

[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION ON THE RIGHTS OF PERSONS
WITH DISABILITIES

Preamble

The States Parties to the present Convention,

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

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

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

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

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

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

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

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

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

(j) Recognizing the need to promote and protect the human rights of all persons with

disabilities, including those who require more intensive support,

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

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

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

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

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

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

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

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

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

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

(u) Bearing in mind that conditions of peace and security based on full respect for the purposes and principles contained in the Charter of the United Nations and observance of applicable human rights instruments are indispensable for the full protection of persons with

disabilities, in particular during armed conflicts and foreign occupation,

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

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

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

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

Have agreed as follows:

Article 1
Purpose

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

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

Article 2
Definitions

For the purposes of the present Convention:

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

"Language" includes spoken and signed languages and other forms of non spoken languages;

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

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

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

Article 3
General principles

The principles of the present Convention shall be:

(a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;

(b) Non-discrimination;

(c) Full and effective participation and inclusion in society;

(d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;

(e) Equality of opportunity;

(f) Accessibility;

(g) Equality between men and women;

(h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 4
General obligations

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

(a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;

(b) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;

(c) To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;

(d) To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;

(e) To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;

(f) To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;

(g) To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;

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

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

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

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

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

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

Article 5
Equality and non-discrimination

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

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

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

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

Article 6
Women with disabilities

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

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

Article 7
Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be

a primary consideration.

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

Article 8
Awareness-raising

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

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

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

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

2. Measures to this end include:

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

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

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

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

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

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

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

Article 9
Accessibility

1. To enable persons with disabilities to live independently and participate fully in all

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

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

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

2. States Parties shall also take appropriate measures:

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

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

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

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

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

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

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

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

Article 10
Right to life

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

basis with others.

Article 11
Situations of risk and humanitarian emergencies

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

Article 12
Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

Article 13
Access to justice

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

2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Article 14
Liberty and security of person

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

(a) Enjoy the right to liberty and security of person;

(b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.

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

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

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

Article 16
Freedom from exploitation, violence and abuse

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

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

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

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

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

Article 17
Protecting the integrity of the person

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

Article 18
Liberty of movement and nationality

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

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

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

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

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

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

Article 19
Living independently and being included in the community

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

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

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

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

Article 20
Personal mobility

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

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

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

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

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

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

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

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

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

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

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

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

Article 22
Respect for privacy

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

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

Article 23
Respect for home and the family

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

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

(b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

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

with others.

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

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

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

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

Article 24
Education

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 25
Health

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

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

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

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

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

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

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

Article 26
Habilitation and rehabilitation

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

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

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

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

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

rehabilitation.

Article 27
Work and employment

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

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

(b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;

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

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

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

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

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

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

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

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

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

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

Article 28
Adequate standard of living and social protection

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

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

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

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

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

(d) To ensure access by persons with disabilities to public housing programmes;

(e) To ensure equal access by persons with disabilities to retirement benefits and programmes.

Article 29
Participation in political and public life

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

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

(i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

(ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;

(iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

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

(i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;

(ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

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

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

(a) Enjoy access to cultural materials in accessible formats;

(b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;

(c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

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

3. States Parties shall take all appropriate steps, in accordance with international law, to

ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

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

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

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

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

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

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

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

Article 31
Statistics and data collection

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

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

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

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

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

Article 32
International cooperation

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

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

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

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

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

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

Article 33
National implementation and monitoring

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

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

3. Civil society, in particular persons with disabilities and their representative organizations,

shall be involved and participate fully in the monitoring process.

Article 34
Committee on the Rights of Persons with Disabilities

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 35
Reports by States Parties

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

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

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

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

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

Article 36
Consideration of reports

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

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

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

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

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

Article 37
Cooperation between States Parties and the Committee

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

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

Article 38
Relationship of the Committee with other bodies

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

(a) The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized

agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

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

Article 39
Report of the Committee

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

Article 40
Conference of States Parties

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

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

Article 41
Depositary

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

Article 42
Signature

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

Article 43
Consent to be bound

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

Article 44
Regional integration organizations

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

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

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

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

Article 45
Entry into force

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

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

Article 46
Reservations

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

2. Reservations may be withdrawn at any time.

Article 47
Amendments

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

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

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

Article 48
Denunciation

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

Article 49
Accessible format

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

Article 50
Authentic texts

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

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

[See list of signatories after Spanish text.]

Annex 164

Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, 1249 UNTS 13

No. 20378

MULTILATERAL

Convention on the Elimination of All Forms of Discrimination against Women. Adopted by the General Assembly of tbe United Nations on 18 December 1979

Authentic texts: English, French, Arabic, Chinese, Russian and Spanish.
Registered ex officio *on 3 September 1981.*

MULTILATÉRAL

Convention snr l'élimination de tontes les formes de discrimination à l'égard des femmes. Adoptée par l'Assemblée générale des Nations Unies le 18 décembre 1979

Textes authentiques : anglais, français, arabe, chinois, russe et espagnol.
Enregistrée d'office le 3 septembre 1981.

CONVENTION[1] ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,

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[1] Came into force on 3 September 1981, i.e., the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, in accordance with article 27 (1). Instruments of ratification and accession were deposited as indicated:

State	*Date of deposit of the instrument of ratification or accession (a)*
Barbados	16 October 1980
Byelorussian Soviet Socialist Republic*	4 February 1981
Cape Verde	5 December 1980 *a*
China*	4 November 1980
Cuba*	17 July 1980
Dominica	15 September 1980
German Domocratic Repuhlic*	9 July 1980
Guyana	17 July 1980
Haiti	20 July 1981
Hungary*	22 Decemher 1980
Mexico	23 March 1981
Mongolia*	20 July 1981
Norway	21 May 1981
Poland*	30 July 1980
Portugal	30 July 1980
Rwanda	2 March 1981
Saint Vincent and the Grenadines	4 August 1981 *a*
Sweden	2 July 1980
Ukrainian Soviet Socialist Republic*	12 March 1981
Union of Soviet Socialist Republics*	23 January 1981

Subsequently, the Convention came into force for the following States on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of their instruments of ratification or accession, in accordance with article 27 (2):

State	*Date of deposit of the instrument of ratification*
Philippines	5 August 1981
(With effect from 4 September 1981.)	
Lao People's Democratic Republic	14 August 1981
(With effect from 13 September 1981.)	

* See p. 121 of this volume for the texts of the reservations and declarations made upon ratification.

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of *apartheid*, of all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, and in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the

measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article 1. For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2. States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(*a*) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

(*b*) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

(*c*) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

(*d*) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

(*e*) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

(*f*) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(*g*) To repeal all national penal provisions which constitute discrimination against women.

Article 3. States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4. 1. Adoption by States Parties of temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5. States Parties shall take all appropriate measures:

(*a*) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

(*b*) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6. States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7. States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(*a*) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(*b*) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(*c*) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8. States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9. 1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III

Article 10. States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(*a*) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in preschool, general, technical, professional and higher technical education, as well as in all types of vocational training;

(*b*) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

(*c*) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

(*d*) The same opportunities to benefit from scholarships and other study grants;

(*e*) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

(*f*) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(*g*) The same opportunities to participate actively in sports and physical education;

(*h*) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11. 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(*a*) The right to work as an inalienable right of all human beings;

(*b*) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;

(*c*) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

(*d*) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;

(*e*) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;

(*f*) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(*a*) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(*b*) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(*c*) To encourage the provision of the nccessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-carc facilities;

(*d*) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12. 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connexion with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13. States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(*a*) The right to family benefits;

(*b*) The right to bank loans, mortgages and other forms of financial credit;

(*c*) The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14. 1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

(*a*) To participate in the elaboration and implementation of development planning at all levels;

(*b*) To have access to adequate health care facilities, including information, counselling and services in family planning;

(*c*) To benefit directly from social security programmes;

(*d*) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, *inter alia*, the benefit of all community and extension services, in order to increase their technical proficiency;

(*e*) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

(*f*) To participate in all community activities;

(*g*) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

(*h*) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15. 1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16. 1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(*a*) The same right to enter into marriage;

(*b*) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;

(*c*) The same rights and responsibilities during marriage and at its dissolution;

(*d*) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;

(*e*) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;

(*f*) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(*g*) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(*h*) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17. 1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18. 1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

(*a*) Within one year after the entry into force for the State concerned; and

(*b*) Thereafter at least every four years and further whenever the Committee so requests.

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

Article 19. 1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

Article 20. 1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21. 1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22. The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI

Article 23. Nothing in this Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

(*a*) In the legislation of a State Party; or

(*b*) In any other international convention, treaty or agreement in force for that State.

Article 24. States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25. 1. The present Convention shall be open for signature by all States.

2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.

3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26. 1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27. 1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28. 1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29. 1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

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

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

Article 30. The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

Annex 165

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 18 December 1990, 2220 UNTS 3

[ENGLISH TEXT — TEXTE ANGLAIS]

INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

PREAMBLE

The States Parties to the present Convention,

Taking into account the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights,[1] the International Covenant on Economic, Social and Cultural Rights,[2] the International Covenant on Civil and Political Rights,[2] the International Convention on the Elimination of All Forms of Racial Discrimination,[3] the Convention on the Elimination of All Forms of Diserimination against Women[4] and the Convention on the Rights of the Child,[5]

Taking into account also the principles and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organisation, especially the Convention concerning Migration for Employment (No. 97), the Convention concerning Migrations in Abusive Conditions and tbe Promotion of Equality of Opportunity and Treatment of Migrant Workers (No.143), the Recommendation concerning Migration for Employment (No. 86), the Recommendation concerning Migrant Workers (No.151), the Convention concerning Forced or Compulsory Labour (No. 29) and the Convention concerning Abolition of Forced Labour (No. 105),

Reaffirming the importance of the principles contained in the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization,[6]

Recalling the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[7] the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders,[8] the Code of Conduct for Law Enforcement Officials,[9] and the Slavery Conventions,[10]

Recalling that one of the objectives of the International Labour Organisation, as stated in its Constitution, is the protection of the interests of workers when employed in countries other than their own, and bearing in mind the expertise and experience of that organization in matters related to migrant workers and members of their families,

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1. Resolution 217 A (III)
2. Resolution 2200 A (XXI), annex.
3. Resolution 2106 A (XX), annex.
4. Resolution 34/180, annex.
5. Resolution 44/25, annex.
6. United Nations, *Treaty Series,* vol. 429, No. 6193.
7. Resolution 39/46, annex.
8. See *Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Kyoto, Japan 17-26 August 1970: report prepared by the Secretariat* (United Nations, Sales No. E.71.IV.8).
9. Resolution 34/169, annex.
10. See *Human Rights: A compilation of International Instruments* (United Nations publication, Sales No. E.88.XIV.1).

Recognizing the importance of the work done in connection with migrant workers and members of their families in various organs of the United Nations, in particular in the Commission on Human Rights and the Commission for Social Development, and in the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, as well as in other international organizations,

Recognizing also the progress made by certain States on a regional or bilateral basis towards the protection of the rights of migrant workers and members of their families, as well as the importanee and usefulness of bilateral and multilateral agreements in this field,

Realizing the importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the international community,

Aware of the impact of the flows of migrant workers on States and people concerned, and desiring to establish norms which may contribute to the harmonization of the attitudes of States through the acceptance of basic principles concerning the treatment of migrant workers and members of their families,

Considering the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment,

Convinced that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and therefore require appropriate international protection,

Taking into account the fact that migration is often the cause of serious problems for the members of the families of migrant workers as well as for the workers themselves, in particular because of the scattering of the family,

Bearing in mind that the human problems involved in migration are even more serious in the case of irregular migration and convinced therefore that appropriate action should be encouraged in order to prevent and eliminate clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of their fundamental human rights,

Considering that workers who are non-documented or in an irregnlar situation are frequently employed under less favourable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition,

Considering also that recourse to the employment of migrant workers who are in an irregular situation will be discouraged if the fundamental human rights of all migrant workers are more widely recognized and, moreover, that granting certain additional rights to migrant workers and members of their families in a regular situation will encourage all migrants and employers to respect and comply with the laws and procedures established by the States concerned,

Convinced, therefore, of the need to bring about the international protection of the rights of all migrant workers and members of their families, reaffirming and establishing basic norms in a comprehensive convention which could be applied universally,

Have agreed as follows:

PART I. SCOPE AND DEFINITIONS

Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

Article 2

For the purposes of the present Convention:

1. The term "migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

2. (a) The term "frontier worker" refers to a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week;

(b) The term "seasonal worker" refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year;

(c) The term "seafarer", which includes a fisherman, refers to a migrant worker employed on board a vessel registered in a State of which he or she is not a national;

(d) The term "worker on an offshore installation" refers to a migrant worker employed on an offshore installation that is under the jurisdiction of a State of which he or she is not a national;

(e) The term "itinerant worker" refers to a migrant worker who, having his or her habitual residence in one State, has to travel to another State or States for short periods, owing to the nature of his or her occupation;

(f) The term "project-tied worker" refers to a migrant worker admitted to a State of employment for a defined period to work solely on a specific project being carried out in that State by his or her employer;

(g) The term "specified-employment worker" refers to a migrant worker:

(i) Who has been sent by his or her employer for a restricted and defined period of time to a State of employment to undertake a specific assignment or duty; or

(ii) Who engages for a restricted and defined period of time in work that requires professional, commercial, technical or other highly specialized skill; or

(iii) Who, upon the request of his or her employer in the State of employment, engages for a restricted and defined period of time in work whose nature is transitory or brief; and who is required to depart from the State of employment either at the expiration of his or her authorized period of stay, or earlier if he or she no longer undertakes that specific assignment or duty or engages in that work;

(h) The term "self-employed worker" refers to a migrant worker who is engaged in a remunerated activity otherwise than under a contract of employment and who earns his or her living through this activity normally working alone or together with members of his or her family, and to any other migrant worker recognized as self-employed by applieable legislation of the State of employment or bilateral or multilateral agreements.

Article 3

The present Convention shall not apply to:

(a) Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;

(b) Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;

(c) Persons taking up residence in a State different from their State of origin as investors;

(d) Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;

(e) Students and trainees;

(f) Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

Article 4

For the purposes of the present Convention the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.

Article 5

For the purposes of the present Convention, migrant workers and members of their families:

(a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;

(b) Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.

Article 6

For the purposes of the present Convention:

(a) The term "State of origin" means the State of which the person concerned is a national;

(b) The term "State of employment" means a State where the migrant worker is to be engaged, is engaged or has been engaged in a remunerated activity, as the case may be;

(c) The term "State of transit " means any State through which the person concerned passes on any journey to the State of employment or from the State of employment to the State of origin or the State of habitual residence.

PART II. NON-DISCRIMINATION WITH RESPECT TO RIGHTS

Article 7

States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

PART III. HUMAN RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Article 8

1. Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.

2. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.

Article 9

The right to life of migrant workers and members of their families shall be protected by law.

Article 10

No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 11

1. No migrant worker or member of his or her family shall be held in slavery or servitude.

2. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.

3. Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.

4. For the purpose of the present article the term "forced or compulsory labour" shall not include:

(a) Any work or service not referred to in paragraph 3 of the present article normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;

(b) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(c) Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.

Article 12

1. Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.

2. Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.

3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 13

1. Migrant workers and members of their families shall have the right to hold opinions without interference.

2. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.

3. The exercise of the right provided for in paragraph 2 of the present article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputation of others;

(b) For the protection of the national security of the States concerned or of public order (ordre public) or of public health or morals;

(c) For the purpose of preventing any propaganda for war;

(d) For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Article 14

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications, or to unlawful attacks on his or her honour and reputation. Each migrant worker and member of his or her family shall have the right to the protection of the law against such interference or attacks.

Article 15

No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation.

Article 16

1. Migrant workers and members of their families shall have the right to liberty and security of person.

2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.

3. Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedure established by law.

4. Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on sueh grounds and in accordance with such procedures as are established by law.

5. Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.

6. Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.

7. When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:

(a) The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefor;

(b) The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;

(c) The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.

8. Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may deeide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.

9. Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.

Article 17

1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.

2. Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.

3. Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.

4. During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.

5. During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.

6. Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.

7. Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.

8. If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.

Article 18

1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.

3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:

(a) To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;

(b) To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;

(c) To be tried without undue delay;

(d) To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;

(e) To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;

(f) To have the free assistance of an interpreter if they cannot understand or speak the language used in court;

(g) Not to be compelled to testify against themselves or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.

6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.

7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

Article 19

1. No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.

2. Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her right of residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.

Article 20

1. No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfil a contractual obligation.

2. No migrant worker or member of his or her family shall be deprived of his or her authorization of residence or work permit or expelled merely on the ground of failure to fulfil an obligation arising out of a work contract unless fulfilment of that obligation constitutes a condition for such authorization or permit.

Article 21

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.

Article 22

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.

2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.

3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.

4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.

5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.

6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.

7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.

8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.

9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

Article 23

Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.

Article 24

Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.

Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:

(a) Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;

(b) Other terms of employment, that is to say, minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.

2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.

3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.

Article 26

1. States Parties recognize the right of migrant workers and members of their families:

(a) To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;

(b) To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;

(c) To seek the aid and assistance of any trade union and of any such association as aforesaid.

2. No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

Article 27

1. With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.

2. Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.

Article 28

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment.

Article 29

Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.

Article 30

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

Article 31

1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and shall not prevent them from maintaining their cultural links with their State of origin.

2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

Article 32

Upon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned, their personal effects and belongings.

Article 33

1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning:

(a) Their rights arising out of the present Convention;

(b) The conditions of their admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State.

2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall co-operate with other States concerned.

3. Such adequatc information shall be provided upon request to migrant workers and members of their families, free of charge, and, as far as possible, in a language they are able to understand.

Article 34

Nothing in the present part of the Convention shall have the effect of relieving migrant workers and the members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.

Article 35

Nothing in the present part of the Convention shall be interpreted as implying the regularization of the situation of migrant workers or members of their families who are non-documented or in an irregular situation or any right to such regularization of their situation,

nor shall it prejudice the measures intended to ensure sound and equitable conditions for international migration as provided in part VI of the present Convention.

PART IV. OTHER RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES WHO ARE DOCUMENTED OR IN A REGULAR SITUATION

Article 36

Migrant workers and members of their families who are documented or in a regular situation in the State of employment shall enjoy the rights set forth in the present part of the Convention in addition to those set forth in part III.

Article 37

Before their departure, or at the latest at the time of their admission to the State of employment, migrant workers and members of their families shall have the right to be fully informed by the State of origin or the State of employment, as appropriate, of all conditions applicable to their admission and particularly those concerning their stay and the remunerated activities in which they may engage as well as of the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions.

Article 38

1. States of employment shall make every effort to authorize migrant workers and members of the families to be temporarily absent without effect upon their authorization to stay or to work, as the case may be. In doing so, States of employment shall take into account the special needs and obligations of migrant workers and members of their families, in particular in their States of origin.

2. Migrant workers and members of their families shall have the right to be fully informed of the terms on which such temporary absences are authorized.

Article 39

1. Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.

2. The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 40

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.

2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

Article 41

1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.

2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

Article 42

1. States Parties shall consider the establishment of procedures or institutions through which account may be taken, both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to havc their freely chosen representatives in those institutions.

2. States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.

3. Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

Article 43

1. Migrant workers shall enjoy cquality of treatment with nationals of the State of employment in relation to:

(a) Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;

(b) Access to vocational guidance and placement services;

(c) Access to vocational training and retraining facilities and institutions;

(d) Access to housing, including social housing schemes, and protcction against exploitation in respect of rents;

(e) Access to social and health services, provided that the requircments for participation in the respective schemes are met;

(f) Access to co-operatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;

(g) Access to and participation in cultural life.

2. States Parties shall promotc conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenevcr the terms of thcir stay, as authorized by the State of employment, meet the appropriate requirements.

3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 70 of the present Convention, a State of employment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.

Article 44

1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.

2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependcnt unmarried children.

3. States of employment, on humanitarian grounds, shall favourably consider granting cqual treatment, as set forth in paragraph 2 of the present article, to other family members of migrant workers.

Article 45

1. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:

(a) Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;

(b) Access to vocational guidance and training institutions and services, providcd that requirements for participation are met;

(c) Access to social and health services, provided that requirements for participation in the respective schemes are met;

(d) Access to and participation in cultural life.

2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.

3. States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.

4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

Article 46

Migrant workers and members of their families shall, subject to the applicable legislation of the States concerned, as well as relevant international agreements and the obligations of the States concerned arising out of their participation in customs unions, enjoy exemption from import and export duties and taxes in respect of their personal and household effects as well as the equipment necessary to engage in the remunerated activity for which they were admitted to the State of employment:

(a) Upon departure from the State of origin or State of habitual residence;

(b) Upon initial admission to the State of employment;

(c) Upon final departure from the State of employment;

(d) Upon final return to the State of origin or State of habitual residence.

Article 47

1. Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. Such transfers shall be made in conformity with procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.

2. States concerned shall take appropriate measures to facilitate such transfers.

Article 48

1. Without prejudice to applicable double taxation agreements, migrant workers and members of their families shall, in the matter of earnings in the State of employment:

(a) Not be liable to taxes, duties or charges of any description higher or more onerous than those imposed on nationals in similar circumstances;

(b) Be entitled to deductions or exemptions from taxes of any description and to any tax allowances applicable to nationals in similar circumstances, including tax allowances for dependent members of their families.

2. States Parties shall endeavour to adopt appropriate measures to avoid double taxation of the earnings and savings of migrant workers and members of their families.

Article 49

1. Where separate authorizations to reside and to engage in employment are required by national legislation, the States of employment shall issue to migrant workers authorization of residence for at least the same period of time as their authorization to engage in remunerated aetivity.

2. Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.

3. In order to allow migrant workers referred to in paragraph 2 of the present article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to that during which they may be entitled to unemployment benefits.

Article 50

I. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time they have already resided in that State.

2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.

3. The provisions of paragraphs 1 and 2 of the present article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by bilateral and multilateral treaties applicable to that State.

Article 51

Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. Such migrant workers shall have the right to seek alternative employment, participation in public work schemes and retraining during the remaining period of their authorization to work, subject to such conditions and limitations as are specified in the authorization to work.

Article 52

1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity, subjeet to the following restrictions or conditions.

2. For any migrant worker a State of employment may:

(a) Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;

(b) Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for recognition of such qualifications.

3. For migrant workers whose permission to work is limited in time, a State of employment may also:

(a) Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed two years;

(b) Limit access by a migrant worker to remunerated activities in pursuance of a policy of granting priority to its nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements. Any such limitation shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years.

4. States of employment shall prescribe the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his or her own account. Account shall be taken of the period during which the worker has already been lawfully in the State of employment.

Article 53

1. Members of a migrant worker's family who have themselves an authorization of residence or admission that is without limit of time or is automatically renewable shall be permitted freely to choose their remunerated activity under the same conditions as are applicable to the said migrant worker in accordance with article 52 of the present Convention.

2. With respect to members of a migrant worker's family who are not permitted freely to choose their remunerated activity, States Parties shall consider favourably granting them priority in obtaining permission to engage in a remunerated activity over other workers who seek admission to the State of employment, subject to applicable bilateral and multilateral agreements.

Article 54

1. Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:

(a) Protection against dismissal;

(b) Unemployment benefits;

(c) Access to public work schemes intended to combat unemployment;

(d) Access to alternative employment in the event of loss of work or termination of other remunerated activity, subject to article 52 of the present Convention.

2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment, on terms provided for in article 18, paragraph 1, of the present Convention.

Article 55

Migrant workers who have been granted permission to engage in a remunerated activity, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of that remunerated activity.

Article 56

1. Migrant workers and members of their families referred to in the present part of the Convention may not be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in part III.

2. Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.

3. In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.

PART V. PROVISIONS APPLICABLE TO PARTICULAR CATEGORIES OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

Article 57

The particular categories of migrant workers and members of their families specified in the present part of the Convention who are documented or in a regular situation shall enjoy the rights set forth in part III and, except as modified below, the rights set forth in part IV.

Article 58

1. Frontier workers, as defined in article 2, paragraph 2 (a), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment, taking into account that they do not have their habitual residence in that State.

2. States of employment shall consider favourably granting frontier workers the right freely to choose their remunerated activity after a specified period of time. The granting of that right shall not affect their status as frontier workers.

Article 59

1. Seasonal workers, as defined in article 2, paragraph 2 (b), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status in that State as seasonal workers, taking into account the fact that they are present in that State for only part of the year.

2. The State of employment shall, subject to paragraph 1 of the present article, consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.

Article 60

Itinerant workers, as defined in article 2, paragraph 2 (e), of the present Convention, shall be entitled to the rights provided for in part IV that can be granted to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status as itinerant workers in that State.

Article 61

1. Project-tied workers, as defined in article 2, paragraph 2 (f), of the present Convention, and members of their families shall be entitled to the rights provided for in part IV except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph 1 (d), as it pertains to social housing schemes, article 45, paragraph 1 (b), and articles 52 to 55.

2. If a project-tied worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State which has jurisdiction over that employer, on terms provided for in article 18, paragraph 1, of the present Convention.

3. Subject to bilateral or multilateral agreements in force for them, the States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their en-

gagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.

4. Without prejudice to the provisions of article 47 of the present Convention and to relevant bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.

Article 62

1. Specified-employment workers as defined in article 2, paragraph 2 (g), of the present Convention, shall be entitled to the rights provided for in part IV, except the provisions of article 43, paragraphs 1 (b) and (c), article 43, paragraph 1 (d), as it pertains to social housing schemes, article 52, and article 54, paragraph I (d).

2. Members of the families of specified-employment workers shall be entitled to the rights relating to family members of migrant workers provided for in part IV of the present Convention, except the provisions of article 53.

Article 63

1. Self-employed workers, as defined in article 2, paragraph 2 (h), of the present Convent ion , shall be entitled to the rights provided for in part IV with the exception of those rights which are exclusively applicable to workers having a contract of employment.

2. Without prejudice to articles 52 and 79 of the present Convention, the termination of the economic activity of the self-employed workers shall not in itself imply the withdrawal of the authorization for them or for the members of their families to stay or to engage in a remunerated activity in the State of employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted.

PART VI. PROMOTION OF SOUND, EQUITABLE, HUMANE AND LAWFUL CONDITIONS IN CONNECTION WITH INTERNATIONAL MIGRATION OF WORKERS AND MEMBERS OF THEIR FAMILIES

Article 64

1. Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate consult and co-operate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.

2. In this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

Article 65

1. States Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families. Their functions shall include, inter alia:

(a) The formulation and implementation of policies regarding such migration;

(b) An exchange of information, consultation and co-operation with the competent authorities of other States Parties involved in such migration;

(c) The provision of appropriate information, particularly to employers, workers and their organizations on policies, laws and regulations relating to migration and employment, on agreements concluded with other States concerning migration and on other relevant matters;

(d) The provision of information and appropriate assistance to migrant workers and members of their families regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.

2. States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.

Article 66

1. Subject to paragraph 2 of the present article, the right to undertake operations with a view to the recruitment of workers for employment in another State shall be restricted to:

(a) Public services or bodies of the State in which such operations take place;

(b) Public services or bodies of the State of employment on the basis of agreement between the States concerned;

(c) A body established by virtue of a bilateral or multilateral agreement.

2. Subject to any authorization, approval and supervision by the public authorities of the States Parties concerned as may be established pursuant to the legislation and practice of those States, agencies, prospective employers or persons acting on their behalf may also be permitted to undertake the said operations.

Article 67

1. States Parties concerned shall co-operate as appropriate in the adoption of measures regarding the orderly return of migrant workers and members of their families to the State of origin when they decide to return or their authorization of residence or employment expires or when they are in the State of employment in an irregular situation.

2. Concerning migrant workers and members of their families in a regular situation, States Parties concerned shall co-operate as appropriate, on terms agreed upon by those

States, with a view to promoting adequate economic conditions for their resettlement and to facilitating their durable social and cultural reintegration in the State of origin.

Article 68

1. States Parties, including States of transit, shall collaborate with a view to preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation. The measures to be taken to this end within the jurisdiction of each State concerned shall include:

(a) Appropriate measures against the dissemination of misleading information relating to emigration and immigration;

(b) Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities which organize, operate or assist in organizing or operating such movements;

(c) Measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their families in an irregular situation.

2. States of employment shall take all adequate and effective measures to eliminate employment in their territory of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such workers. The rights of migrant workers vis-a-vis their employer arising from employment shall not be impaired by these measures.

Article 69

1. States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.

2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.

Article 70

States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

Article 71

1. States Parties shall facilitatc, whenever necessary, the repatriation to the State of origin of the bodies of deceased migrant workers or members of their families.

2. As regards compensation matters relating to the death of a migrant worker or a member of his or her family, States Parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt scttlement of such matters. Settlement of these matters shall be carried out on the basis of applicable national law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.

PART Vll . APPLICATION OF THE CONVENTION

Article 72

1. (a) For the purposc of reviewing the application of thc present Convention, there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Familics (hereinafter referred to as "the Committee");

(b) The Committee shall consist, at the time of entry into force of the present Convention, of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts of high moral standing, impartiality and recognized competence in the field covered by the Convention.

2. (a) Members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, duc consideration being given to equitablc geographical distribution, including both States of origin and States of employment, and to the representation of the principal legal systems. Each State Party may nominate one person from among its own nationals;

(b) Members shall be elected and shall serve in their personal capacity.

3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention and subsequent elections every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to all States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties that have nominated them, and shall submit it to the States Parties not later than one month before the date of the corresponding election, together with the curricula vitae of the persons thus nominated.

4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain thc largest number of votes and an absolute majority of the votcs of the States Parties present and voting.

5. (a) The members of the Committee shall serve for a term of four years. However, the terms of five of the members elected in the first election shall expire at thc end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of thc meeting of States Parties;

(b) The election of the four additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of the present article, following the entry into force of the Convention for the forty-first State Party. The term of two of the additional members elected on this occasion shall expire at the end of two years; the names of these members shall be chosen by lot by the Chairman of the meeting of States Parties;

(c) The members of the Committee shall be eligible for re-election if renominated.

6. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party that nominated the expert shall appoint another expert from among its own nationals for the remaining part of the term. The new appointment is subject to the approval of the Committee.

7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.

8. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.

9. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.[1]

Article 73

1. States Parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the present Convention:

(a) Within one year after the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years and whenever the Committee so requests.

2. Reports prepared under the present article shall also indicate factors and difficulties, if any, affecting the implementation of the Convention and shall include information on the characteristics of migration flows in which the State Party concerned is involved.

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

4. States Parties shall make their reports widely available to the public in their own countries.

Article 74

1. The Committee shall examine the reports submitted by each State Party and shall transmit such comments as it may consider appropriate to the State Party concerned. This State Party may submit to the Committee observations on any comment made by the Committee in accordance with the present article. The Committee may request supplementary information from States Parties when considering these reports.

1. Resolution 22 A (I)

2. The Secretary-General of the United Nations shall, in due time before the opening of each regular session of the Committee, transmit to the Director-General of the International Labour Office copies of the reports submitted by States Parties concerned and information relevant to the consideration of these reports, in order to enable the Office to assist the Committee with the expertise the Office may provide regarding those matters dealt with by the present Convention that fall within the sphere of competence of the International Labour Organisation. The Committee shall consider in its deliberations such comments and materials as the Office may provide.

3. The Secretary-General of the United Nations may also, after consultation with the Committee, transmit to other specialized agencies as well as to intergovernmental organizations, copies of such parts of these reports as may fall within their competence.

4. The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit, for consideration by the Committee, written information on such matters dealt with in the present Convention as fall within the scope of their activities.

5. The International Labour Office shall be invited by the Committee to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee.

6. The Committee may invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organizations, to be present and to be heard in its meetings whenever matters falling within their field of competence are considered.

7. The Committee shall present an annual report to the General Assembly of the United Nations on the implementation of the present Convention, containing its own considerations and recommendations, based, in particular, on the examination of the reports and any observations presented by States Parties.

8. The Secretary-General of the United Nations shall transmit the annual reports of the Committee to the States Parties to the present Convention, the Economic and Social Council, the Commission on Human Rights of the United Nations, the Director-General of the International Labour Office and other relevant organizations.

Article 75

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The Committee shall normally meet annually.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 76

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obli-

gations under the present Convention. Communications under this article may be received and considered only if submitted by a State Party that has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Convention considers that another State Party is not fulfilling its obligations under the present Convention, it may, by written communication, bring the matter to the attention of that State Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving Statc of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in eonformity with the generally recognized principles of international law. This shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged;

(d) Subject to the provisions of subparagraph (c) of the present paragraph, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the present Convention;

(e) The Committee shall hold closed meetings when examining communications under the present article;

(f) In any matter referred to it in accordance with subparagraph (b) of the present paragraph, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties conccrned, referred to in subparagraph (b) of the present paragraph, shall have the right to be represented when the matter is being considered by the Committce and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b) of the present paragraph, submit a report, as follows:

(i) If a solution within the terms of subparagraph (d) of the present paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (d) is not reached, the Committee shall, in its report, set forth the relevant facts concerning the issue between the States Parties concerned. The written submissions and record of the oral submis-

sions made by the States Parties eoncerned shall be attached to the report. The Committee may also communicate only to the States Parties concerned any views that it may consider relevant to the issue between them. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of the present article shall come into force when ten States Parties to the present Convention have made a declaration under paragraph 1 of the present article. Such declarations shall be dcposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by any State Party shall be received undcr the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 77

1. A State Party to the present Convention may at any time declare under the present article that it recognizes the competence of thc Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the Committee if it concerns a State Party that has not made such a declaration.

2. The Committee shall consider inadmissible any communication under the present article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the present Convention.

3. The Committee shall not consider any communication from an individual under the present article unless it has ascertained that:

(a) The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;

(b) The individual has exhausted all available domestic remedies; this shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to that individual.

4. Subject to the provisions of paragraph 2 of the present article, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to the present Convention that has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

5. The Committee shall consider communications received under the present article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.

6. The Committee shall hold closed meetings when examining communications under the present article.

7. The Committee shall forward its views to the State Party concerned and to the individual.

8. The provisions of the present article shall come into force when ten States Parties to the present Convention have made declarations under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by or on behalf of an individual shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 78

The provisions of article 76 of the present Convention shall be applied without prejudice to any procedures for settling disputes or complaints in the field covered by the present Convention laid down in the constituent instruments of, or in conventions adopted by, the United Nations and the specialized agencies and shall not prevent the States Parties from having recourse to any procedures for settling a dispute in accordance with international agreements in force between them.

PART VIII. GENERAL PROVISIONS

Article 79

Nothing in the present Convention shall affect the right of each State Party to establish the criteria governing admission of migrant workers and members of their families. Concerning other matters related to their legal situation and treatment as migrant workers and members of their families, States Parties shall be subject to the limitations set forth in the present Convention.

Article 80

Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.

Article 81

1. Nothing in the present Convention shall affect more favourable rights or freedoms granted to migrant workers and members of their families by virtue of:

(a) The law or practice of a State Party; or

(b) Any bilateral or multilateral treaty in force for the State Party concerned.

2. Nothing in the present Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act that would impair any of the rights and frcedoms as set forth in the present Convention.

Article 82

The rights of migrant workers and members of their families provided for in the present Convention may not be renounced. It shall not be permissible to exert any form of pressure upon migrant workers and members of their families with a view to their relinquishing or foregoing any of the said rights. It shall not be possible to derogate by contract from rights recognized in the prescnt Convention. States Parties shall take appropriate measures to ensure that these principles are respected.

Article 83

Each State Party to the present Convention undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any persons seeking such a remedy shall have his or her claim reviewed and decided by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

Article 84

Each State Party undertakes to adopt the legislative and other measures that are necessary to implement the provisions of the present Convention.

PART IX. FINAL PROVISIONS

Article 85

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 86

1. The present Convention shall be open for signature by all States. It is subject to ratification.

2. The present Convention shall be open to accession by any State.

3. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 87

1. The present Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or aceession.

2. For each State ratifying or acceding to the present Convention after its entry into force, the Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of its own instrument of ratification or accession.

Article 88

A State ratifying or acceding to the present Convention may not exclude the application of any Part of it, or, without prejudice to article 3, exclude any particular category of migrant workers from its application.

Article 89

1. Any State Party may denounce the present Convention, not earlier than five years after the Convention has entered into force for the State concerned, by means of a notification in writing addressed to the Secretary-General of the United Nations.

2. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of the receipt of the notification by the Secretary-General of the United Nations.

3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.

4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 90

1. After five years from the entry into force of the Convention a request for the revision of the Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication at least one third of the States Parties favours such a confer-

ence, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting shall be submitted to the General Assembly for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties in accordance with their respective constitutional processes.

3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Convention and any earlier amendment that they have accepted.

Article 91

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of signature, ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Seeretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 92

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

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

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

Article 93

I. 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.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.

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

For the signatories, see p. 247 of this volume.

Annex 166

Convention on Environmental Impact Assessment in a Transboundary Context,
25 February 1991, 1989 UNTS 309

CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

UNITED NATIONS
1991

CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

The Parties to this Convention,

Aware of the interrelationship between economic activities and their environmental consequences,

Affirming the need to ensure environmentally sound and sustainable development,

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

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

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

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

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

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

Have agreed as follows:

Article 1

DEFINITIONS

For the purposes of this Convention,

(i) "Parties" means, unless the text otherwise indicates, the Contracting Parties to this Convention;

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

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

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

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

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

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

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

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

(x) "The Public" means one or more natural or legal persons.

Article 2

GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

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

Article 3

NOTIFICATION

1. For a proposed activity listed in Appendix I that is likely to cause a significant adverse transboundary impact, the Party of origin shall, for the purposes of ensuring adequate and effective consultations under Article 5, notify any Party which it considers may be an affected Party as early as possible and no later than when informing its own public about that proposed activity.

2. This notification shall contain, inter alia:

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

(b) The nature of the possible decision; and

(c) An indication of a reasonable time within which a response under paragraph 3 of this Article is required, taking into account the nature of the proposed activity;

and may include the information set out in paragraph 5 of this Article.

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

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

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

(a) Relevant information regarding the environmental impact assessment procedure, including an indication of the time schedule for transmittal of comments; and

(b) Relevant information on the proposed activity and its possible significant adverse transboundary impact.

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

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

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

Article 4

PREPARATION OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION

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

2. The Party of origin shall furnish the affected Party, as appropriate through a joint body where one exists, with the environmental impact assessment documentation. The concerned Parties shall arrange for distribution of the documentation to the authorities and the public of the affected Party in the areas likely to be affected and for the submission of comments to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin within a reasonable time before the final decision is taken on the proposed activity.

Article 5

CONSULTATIONS ON THE BASIS OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION

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

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

(b) Other forms of possible mutual assistance in reducing any significant adverse transboundary impact of the proposed activity; and

(c) Any other appropriate matters relating to the proposed activity.

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

Article 6

FINAL DECISION

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

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

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

Article 7

POST-PROJECT ANALYSIS

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

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

Article 8

BILATERAL AND MULTILATERAL CO-OPERATION

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

Article 9

RESEARCH PROGRAMMES

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

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

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

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

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

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

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

Article 10

STATUS OF THE APPENDICES

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

Article 11

MEETING OF PARTIES

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

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

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

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

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

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

(e) Consider and, where necessary, 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 12

RIGHT TO VOTE

1. Each Party to this Convention shall have one vote.

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

Article 13

SECRETARIAT

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

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

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

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

Article 14

AMENDMENTS TO THE CONVENTION

1. Any Party may propose amendments to this Convention.

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

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

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

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

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

Article 15

SETTLEMENT OF DISPUTES

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 Appendix VII.

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 16

SIGNATURE

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

Article 17

RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

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

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

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

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

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

Article 18

ENTRY INTO FORCE

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

Article 19

WITHDRAWAL

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

Article 20

AUTHENTIC TEXTS

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

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

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

APPENDIX I

LIST OF ACTIVITIES

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

2. Thermal power stations and other combustion installations with a heat output of 300 megawatts or more and nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).

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

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

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

6. Integrated chemical installations.

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

8. Large-diameter oil and gas pipelines.

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

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

11. Large dams and reservoirs.

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

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

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

15. Offshore hydrocarbon production.

16. Major storage facilities for petroleum, petrochemical and chemical products.

17. Deforestation of large areas.

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*/ For the purposes of this Convention:

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

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

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

(c) Is specially sign-posted as a motorway.

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

APPENDIX II

CONTENT OF THE ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTATION

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

(a) A description of the proposed activity and its purpose;

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

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

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

(e) A description of mitigation measures to keep adverse environmental impact to a minimum;

(f) An explicit indication of predictive methods and underlying assumptions as well as the relevant environmental data used;

(g) An identification of gaps in knowledge and uncertainties encountered in compiling the required information;

(h) Where appropriate, an outline for monitoring and management programmes and any plans for post-project analysis; and

(i) A non-technical summary including a visual presentation as appropriate (maps, graphs, etc.).

APPENDIX III

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

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

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

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

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

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

APPENDIX IV

INQUIRY PROCEDURE

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

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 the third expert, who shall be the president of the inquiry commission. The latter shall not be a national of one of the parties to the inquiry procedure, nor have his or her usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the matter in any other capacity.

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. After such a period, the president shall inform the Executive Secretary of the Economic Commission for Europe, who shall make this appointment within a further two-month period.

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, using all means at their disposal, shall:

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

(b) Enable it, 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 by the parties to the inquiry procedure in equal shares. The inquiry commission shall keep a record of all its expenses, and shall furnish a final statement thereof to the parties.

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

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

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.

APPENDIX V

POST-PROJECT ANALYSIS

Objectives include:

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

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

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

APPENDIX VI

ELEMENTS FOR BILATERAL AND MULTILATERAL CO-OPERATION

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

2. Bilateral and multilateral agreements or other arrangements may include:

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

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

(c) Harmonization of their policies and measures for the protection of the environment in order to attain the greatest possible similarity in standards and methods related to the implementation of environmental impact assessment;

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

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

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

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

APPENDIX VII

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 15, paragraph 2, of this Convention. The notification shall state the subject-matter of arbitration and include, in particular, the Articles of this Convention, the interpretation or application of which are at issue. The secretariat shall forward the information received to all Parties to this Convention.

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

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 in order 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; and

(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. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

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

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.