

VI. INSTITUTIONAL ARRANGEMENTS

VI.1. CONFERENCE OF THE PARTIES

1. A Conference of the Parties is hereby established. [It shall be the highest authority under the Convention.] [[Any] [All] other bodies established by or under the Convention shall be subsidiary to the Conference of the Parties.]

2. The Conference of the Parties shall keep under [continuous] review the implementation of this Convention and any [protocols] [other related legal instruments that may be agreed upon] and make [,within its mandate provided in this Article,] the decisions necessary to [ensure] [promote] the effective [operation] [implementation] [and as necessary the future development] of the Convention. To this end, it shall, [*inter alia*,]:
 - (a) [Periodically examine] [Review [and revise, as necessary,]] [in the light of the experience gained, in the implementation of the Convention and of the evolution of scientific knowledge] in accordance with Article [VII.3.] (Amendments), the [objectives of the Convention] [the efficiency of measures taken, the obligations of the Parties and the institutional arrangements provided for under the present Convention and recommend improvements where it deems necessary];

 - [(b) Assess and review the implementation of the [obligations] [operation] of the Convention [and its protocols];]

 - [(c) Consider the information submitted in accordance with Article [VII. 1.] (Reporting) [to assess the totality of the global response] [and review the mechanisms and timetables for its transmission];]

 - [(d) Consider reports from subsidiary bodies [and take such actions as it deems necessary in accordance with the functions described in Article [VI.3.] (Secretariat), Article [VI.4.] (Advisory Committee on Science), Article [VI.5.] (Committee on Implementation), and Article [VII. 1.] (Reporting)];]

[(e) Publish regular reports on the progress in implementing the objectives of the Convention;]

[(f) Provide [policy direction and operational guidelines] [guidance] [rules] to the [administrative mechanism] for financial resources and [environmentally safe] technology transfer [, including establishing criteria and priorities and selection of projects,] provided for in Article [VI.6] (Administrative Mechanism);]

[(g) Establish criteria under which the [administrative] mechanism for financial resources and [environmentally safe] technology transfer will develop ["global accounting credit standards"] for contributions of technology;]

[Alternative to (g)]

Establish criteria for joint implementation of commitments by Parties in accordance with Article xx (Joint Implementation) and Article [VI.6.] (Administrative Mechanism);]

[Alternative to (f) and (g)]

Provide policy direction and establish criteria for the functioning of the [administrative] mechanism for financial resources and technology transfer;]

[(h) Consider and decide upon questions of interpretation and implementation of the Convention in accordance with Article [VII.2.] (Alternative A) (Resolution of Questions);]

[(i) [Seek] [[Request] and utilize] the [services and] cooperation of, and utilize the information provided by, [competent] [appropriate] [specialized] international [organizations] and intergovernmental [and non-governmental] bodies;

(j) Review [periodically] [the evolution of the Earth's climate and the effects of measures taken under this Convention (and its protocols) on the basis of] relevant scientific, [environmental], technological, technical, legal and socio-economic information relating to [climate change and climate change response strategies] [the climate system and its changes] [and draw up conclusions [synthesis reports] on the subject];

(k) [Promote] the coordination [[or [as appropriate] harmonization] of [appropriate] policies, strategies and measures] [of programmes] to address [the adverse consequences of] climate change, taking into account the [differing circumstances] [respective responsibilities and capabilities] of Parties to the Convention;

[Alternative to (k)

Ensure intensive exchange of information concerning policies, strategies and measures to address climate change in order to avoid the offsetting of the policies, strategies and measures due to their incompatibilities;]

(l) [Seek to] mobilize [new and additional] financial resources [for meeting the full incremental costs] with a view to [ensuring] [promoting] [the full implementation] of the obligations of the Convention;]

(m) Promote public awareness of the climate change issue;

(n) Consider and [where appropriate] [recommend] [adopt] programmes for research [and development] and [systematic observation [of climatic changes], exchange of information, education, training and public awareness, and scientific, technological [socio-economic] and technical cooperation] [including endogenous capacity building and technology transfer] [in accordance with Article [V.2.] (Research [and Development] and Systematic Observation), Article [V.3.] (Exchange of Information) and Article [V.4.], (Education, Training and Public Awareness)];

VI.3. SECRETARIAT

Establishment

[1. A secretariat is hereby established to service the Conference of the Parties and [its] [any] subsidiary bodies.]

Functions

2. The functions of the secretariat shall be:

- (a) To arrange for and service meetings provided for in Articles [VI.1 (Conference of the Parties)], [VI. 4. (Advisory Committee on [Science] [Climate Change] [Climate Protection and Development])], [VI. 5. ([Advisory] Committee on Implementation)] [VII. 2. (Resolution of Questions), [VII. 3 (Amendments to the Convention)], [VII. 4. (Protocols)] and [VII. 5 (Adoption and Amendment of Annexes to the Convention)];
- (b) To [prepare and] [compile and] transmit reports based upon information received in accordance with Articles [V. 3.] and [VII.1] (Exchange of Information and Reporting), as well as upon information derived from meetings of [any] subsidiary bodies [that might be established];
- (c) To prepare reports on its activities carried out in the implementation of its functions under the Convention and present them to the Conference of the Parties;]

[Alternative to (c)

To register, process and coordinate information as decided by the Conference of the Parties with a view to providing the necessary information support to the Conference of the Parties in its task of implementing the Convention;]

- [(d) To provide assistance in the compilation of national reports;]
- (e) To ensure the necessary coordination with relevant [international] [and intergovernmental] bodies;

- (f) To enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions [and as authorized by the Conference of the Parties];
- (g) To perform the functions assigned to it by any [protocol to the Convention] [other related legal instrument that might be agreed upon];
and
- (h) To perform such other functions as may be determined by the Conference of the Parties.

Designation of interim secretariat

3. The secretariat functions will be carried out on an interim basis by the ad hoc secretariat established under resolution 45/212 of 20 December 1990 of the General Assembly of the United Nations until the completion of the first ordinary meeting of the Conference of the Parties held pursuant to Article [VI. 1.] (Conference of the Parties). At its first ordinary meeting, the Conference of the Parties shall designate a secretariat. [At this meeting the Conference of the Parties shall evaluate the implementation by the interim secretariat of the functions assigned to it.]

[VI.4 ADVISORY COMMITTEE ON [SCIENCE] [CLIMATE CHANGE] [CLIMATE PROTECTION AND DEVELOPMENT]

Establishment

1. A [multi-disciplinary] Advisory Committee on [Science] [Climate Change] [Climate Protection and Development] is hereby established.

[The Conference of the Parties, at its first meeting, shall consider and decide the structure and operational matters of this Committee, including provisions on its membership, meetings and election of officers].

Functions

2. The Advisory Committee on [Science] [Climate Change] [Climate Protection and Development] [shall have an advisory [and consultative] role and] shall perform the following functions, making use, to the greatest extent possible, of competent [international and] intergovernmental [and non-governmental] bodies:

- (a) [Provide] [Ensure the provision of] regular assessments to the Conference of the Parties on the state of knowledge in the fields of natural, technological, social and economic [and development] sciences pertaining to [climate change and] [observations, predictions and {development}] responses to climate change [and development];
- (b) [Provide] [Ensure the provision of] regular assessments to the Conference of the Parties on the adequacy of, and priorities for, [international cooperation on] research [and development] and systematic observation undertaken in support of the Convention [and Annex I] and to make recommendations thereon;
- [(c) Review, from a scientific viewpoint, the cumulative effect of measures taken in implementation of the Convention;]
- (d) Respond to [scientific] questions and any other matters [within its mandate as specified in this Article] referred to it by the Conference of the Parties or any body subsidiary to the Conference of the Parties;

- (e) [Provide] [Ensure the provision of] scientific [and technical] advice to the Parties, upon request, in fulfilling their [reporting requirements] [obligations];
- (f) Seek [as appropriate] the assistance, advice and services of competent international [, intergovernmental and non-governmental] bodies and scientific committees;
- [(g) [Consult and report on] [Consider] [Review] research, assessments and other information relevant to the purposes of the Convention whether conducted by Parties, non-Parties or other national, international, governmental or non-governmental bodies or agencies [and make [such] recommendations [to such institutions] as it may deem necessary];]
- [(h) [Have] access [to] the relevant [scientific and technical] information provided by the Parties in accordance with [Article VII. 1.] (Reporting) and to [the work of the mechanism established under Article [VI. 6.] (Administrative Mechanism)] and [,upon request of the Conference of the Parties,] to furnish opinions and recommendations thereon to the Conference of the Parties [and to the other subsidiary organs involved in the review process];]
- (i) Identify on its own initiative matters within its [scientific] mandate [as specified in this Article] that need to be addressed [including the scientific aspects of the future development of the Convention] and to report and make recommendations thereon to the Conference of the Parties;
- [(j) Establish such [subsidiary] [ad hoc] bodies, subject to the approval of the Conference of the Parties, as it may deem necessary to assist in the performance of its functions;]
- [(k) Provide regular advice to the Conference of the Parties on the most reliable scientific predictions of global and regional climate;]
- [(l) Facilitate the provision of regular assessments to the Conference of the Parties of the state of the global climate system and especially of any evidence of global or regional trends;] and

- (m) Perform any other function assigned to it by the Conference of the Parties or under any [protocol to the Convention] [related legal instruments as may be agreed upon].

Possible additional text:

[For the purposes of the Convention, the Advisory Committee shall take up responsibility for all functions so far carried out by the Intergovernmental Panel on Climate Change, which, upon the entry into force of this Convention, will be invited, by the Parties, to integrate the structure of the Convention, under the Advisory Committee. The Advisory Committee shall, besides incorporating the functions until now undertaken by the Intergovernmental Panel on Climate Change, provide regular assessments on questions related to developmental concerns and implications of the new regime for cooperation on climate change, as set forth in this Convention.]

Membership

[3. The Advisory Committee shall, [be open-ended] [have [fifteen] members], who are [experts] [government representatives] [government experts] in natural, technological, social and economic [and development] sciences. They shall be elected by the Conference of the Parties, with due regard to the principle of equitable [geographic] [development level] [scientific capability] representation, [and shall serve in their individual capacities]. [Each member shall be elected for an initial term of four years and may serve [one] additional term[s] subject to the procedure set forth above].]

[Alternative for paragraph 3

The Advisory Committee shall be open to representatives of all States Parties who are experts in natural, social and economic sciences.]

[Alternative for paragraphs 3 to 8]

The Conference of the Parties shall, at its first meeting, decide on the composition, terms of membership and election of officers of the Advisory Committee.

[4. Each year the Conference of the Parties shall review the membership of the Advisory Committee in the light of the required expertise and efficiency in the performance of its tasks. If deemed necessary, the Conference of the Parties may decide to reduce or extend the number of members, due account being taken of the criteria, procedures and lengths of terms of office set forth above.]

Meetings

[5. ~~Unless the Conference of the Parties decides otherwise, the Advisory Committee shall~~ be convened within six months after the first meeting of the Conference of the Parties. Thereafter, unless [it or] the Conference of the Parties decide otherwise, the Committee shall meet at least annually.]

Election of Officers

[6. The Advisory Committee shall elect from among its members a chairman, two vice-chairmen and a rapporteur each to serve [in rotation] [for a term of [one] [two] year[s]], and who may be re-elected to serve additional terms.]

Rules of procedure

[7. The Advisory Committee shall agree upon and adopt its rules of procedure, and any amendments thereto, by consensus.]

Observers

[8. The meetings of the Advisory Committee shall be open to observers designated by any Party.]

[9. The Advisory Committee may invite, as necessary, appropriate [non-governmental] [international and intergovernmental] experts to participate in or observe its meetings.]

[10. The Conference of the Parties, in drawing up the rules of procedure for the Advisory Committee, shall make appropriate provisions for the participation as observers of representatives of any body or agency, whether national or international, governmental or non-governmental, competent in matters covered by the Committee.]]

[VI.5 [ADVISORY] COMMITTEE ON IMPLEMENTATION

Establishment

1. An [Advisory] Committee on Implementation is hereby established. [Its members shall be experts in matters related to climate change and shall serve in their individual capacities.]

[The Conference of the Parties, at its first meeting, shall consider and decide upon the structure and operational matters of this Committee, including provisions on its membership, meetings and election of officers.]

Functions

2. [Without prejudice to the national sovereignty of the Parties, and upon their request] The Committee shall review [the implementation by the Parties of their obligations] [the progress by the Parties in implementing all their obligations [and actions] under the Convention. It shall provide information and advice to the Parties on the development [and implementation of national strategies] to meet these obligations and on the fulfilment of the reporting requirements under the Convention. [The socio-economic circumstances of the Parties shall be taken into consideration when the Committee prepares its reports.] To this end,] the Committee shall:

- (a) Advise individual Parties, at their request, on the ways and means of meeting the reporting requirements set forth in Article [VII. 1. (Reporting)] [and Annex III], [including the development of national climate change strategies,] [devising and implementing new or additional response measures] [and identifying national programmes that require [financial and technological resources] [transfer of new and additional financial resources and state of the art technology on preferential and non-commercial terms]];
- (b) Review and consult with individual Parties on the reports submitted by those Parties in accordance with Article [VII. 1.] (Reporting) [and request, as necessary, additional information or clarification thereon];
- [(c) Report and make recommendations, as appropriate, to the Conference of the Parties on the [implementation by individual parties of their obligations under the Convention and on] [review of individual reports and the] [overall] implementation of the obligations and to the extent to which the cumulative effect of the actions to implement the Convention's obligations meets the objective of the Convention;]

[Possible additional paragraphs

On the basis of Article [VII. 1.] (Reporting) and the review, consultation, information or clarification under paragraphs (b) and (e), report and make recommendations as appropriate to the Conference of the Parties on the action of a Party or Parties to implement the Convention's obligations;]

[Review the reports submitted by the Parties in accordance with Article [VII. 1.] (Reporting) to determine, from a technical point of view:

- (i) Whether a report is complete, in accordance with Article [VII. 1.] (Reporting);
 - (ii) Whether the estimated net greenhouse gas reductions of the specific actions identified by a Party in its report could in fact be realized;
 - (iii) Whether the methodologies used to make the estimates were technically valid; and
 - (iv) If proposed projects have been identified, whether they would be likely to achieve the net greenhouse gas reductions anticipated and whether the estimated costs are consistent with the scope of the proposed projects;]
- (d) Confirm to the Conference of the Parties those Parties which have submitted reports in accordance with the provisions of Article [VII. 1.] (Reporting) [and that their strategies meet their general and specific commitments under the Convention];
- (e) [[Seek], [receive and]] consider [relevant] information from competent international and intergovernmental bodies and [[accredited] non-governmental organizations] [other sources];
- [(f) Consult with, and seek the advice of, the Advisory Committee on [Science] [Climate Change] [Climate Protection and Development], as necessary:] and

- [(g) Assist the Conference of the Parties and individual members in the development and coordination of implementation plans.]

Membership

[3. The Committee shall [have [fifteen] members, who are] [be open-ended and composed of] [government representatives] [experts on matters related to climate change] [government experts on matters relating to climate change] [and shall serve in their individual capacities]. Members shall be elected by the Conference of the Parties with due regard to the principle of equitable representation. Each member shall be elected for a term of four years and may be re-elected to serve additional terms subject to the procedure set forth in this paragraph.]

Meetings

[4. The first meeting of the Committee shall be convened not more than six months after the first meeting of the Conference of the Parties. Unless the Conference of the Parties decides otherwise, subsequent meetings shall be convened at least twice a year.]

Election of Officers

[5. The Committee shall elect from among its members, a chairman and two vice-chairmen and a rapporteur, each to serve for a term of two years, and who may, subject to re-election, serve additional terms.]

Rules of procedure

[6. The Committee shall agree upon and adopt its rules of procedure and any amendments thereto, by consensus.]]

[Possible Alternative to VI.5.]

COMMITTEE ON IMPLEMENTATION

Establishment

1. A Committee on Implementation is hereby established.

Functions

- [2. Same text as paragraph 2 of Article [VI. 5.] (Implementation).]

2 bis

The Committee shall also report to the Conference of the Parties on questions regarding the interpretation and implementation of the Convention. To this end, the Committee shall:

- (a) Receive and consider written submissions by Parties concerning the interpretation and implementation of the Convention;
- (b) If the question relates to a specific Party, notify in writing the Party concerned that a question regarding its interpretation and implementation of the terms of the Convention has arisen;
- (c) If the question relates to a specific Party, request the Party concerned to respond and take part in consultations with the Committee;
- (d) Consult, as it deems necessary, representatives of any Party and any other subsidiary body established by or under the Convention;
- (e) Request that the Party concerned advise the Committee of its capacity to implement fully the provisions that were the subject of the question, the provisions of the Convention as a whole, and of its needs relevant to the implementation of the Convention;

- (f) Promote, using the means, institutions, and funds available under the Convention, the capacity of the Party concerned to comply with and implement its commitments under the Convention concerning the issue under consideration; and
- (g) Report the results of the consultations to the Conference of the Parties including, where appropriate, recommendations for the resolution of the question.

3. The Committee shall have fifteen members, who are experts on matters related to climate change. Members shall be elected by the Conference of the Parties with due regard to the principle of equitable representation. Each member shall be elected for a term of four years and may be re-elected to serve one additional term subject to the procedure set forth in this paragraph.

Meetings

4. The first meeting of the Committee shall be convened not more than six months after the first meeting of the Conference of the Parties. Thereafter the Committee shall meet as necessary to perform its functions, but at least biennially.

Election of Officers

[5. Same text as paragraph 5 of Article [VI. 5.] (Implementation)]

Rules of procedure

[6. Same text as paragraph 6 of Article [VI. 5.] (Implementation)]

**VI.6. [[ADMINISTRATIVE] [INDEPENDENT FUNDING] MECHANISM FOR
FINANCIAL RESOURCES AND TECHNOLOGY TRANSFER]
[INTERNATIONAL CLIMATE FUND]**

OPTION 1

Establishment

[1. An [administrative] [independent funding] mechanism for [the administration] of the financial resources and the transfer of [safe and sound] technology, with a democratic and transparent system of governance, [and equitable participation by developed and developing countries] is hereby [established] [designated under the auspices of . . .].]

[Possible Alternative Text

A financial mechanism is hereby established. The financial mechanism shall operate under the authority of the Conference of the Parties who shall decide on its overall policies. The Executive Committee of the Parties shall, with the consent of the Conference of the Parties, develop and monitor the implementation of the specific operational policies for the purpose of achieving the objectives of the financial mechanism.]

[Possible Additional Text

The financial mechanism shall include a Climate Fund which shall be administered as a Trust Fund by the Global Environment Facility of World Bank/UNDP/UNEP. The Climate Fund shall meet on a grant or concessional basis the agreed incremental costs of developing countries referred to in Article . . .]

Functions

[2. The [administrative] mechanism for financial resources and [safe] technology transfer shall:

- (a) Pursuant to the operational guidelines and policy direction of the Conference of the Parties, be responsible for the administration of funds, including those funds related to the promotion of [preferential and non-commercial] transfer of [safe] technology, provided by the Parties for the fulfilment of the obligations of the Convention;]
- (b) Be accountable to the Conference of the Parties for its allocation of the funds and for ensuring that the funding priorities and criteria established by the Conference of the Parties are adhered to in its financial activities;
- (c) Receive and collect assessed [funds] [contributions] from the Parties to the Convention;
- (d) Be responsible for receiving voluntary contributions, either financial or in kind (technology) provided by Parties, in accordance with criteria set out by the Conference of the Parties:

[Possible Alternative to (c) and (d)]

Receive and collect assessed and voluntary contributions, both financial and material, including technology, from Parties and other donors, in accordance with criteria set out by the Conference of the Parties;]

- (e) Establish appropriate accounting procedures to ensure that all [assessments and] [assessed and voluntary] contributions made to fulfil the obligations of the Convention are properly recorded and credited;
- (f) Be responsible for facilitating the identification and selection of projects for assisting Parties to [meet] [implement] their obligations [jointly] under this Convention, based on criteria and priorities established by the Conference of the Parties;
- [(g) Coordinate funding for such projects, including proposals involving transfer of [safe] technology [on preferential and non-commercial terms to developing countries] and endogenous capacity building, and, where possible, seek to match projects with available funds and [safe] technology to ensure [as defined by this Convention] maximum efficiency and cost effectiveness [at the national level];]

- (h) Finance its operations from a fund, separate from its programme resources, established specifically to cover its administrative expenses;
- (i) Establish internal procedures to evaluate and assess the effectiveness of its programmes drawing on outside expertise as required and reporting on such evaluations and assessments in a timely fashion to the Conference of the Parties;
- (j) Provide annual reports to the Conference of the Parties on its operations and, as required, information to the subsidiary bodies of the Convention of the Parties, in order that they can fulfil their mandates; and
- [(k) Administer the [joint implementation] [cooperative system of exchange] of [emissions commitments] [commitments on emissions [of greenhouse gases] and enhancement of all sinks] according to the terms of the Convention;]]

[Possible Additional Sub-Paragraphs

- (...) Administer operations required of it by protocols to this Convention, and any other matters agreed on by the Conference of the Parties;]
- (...) [Explore ways and means to employ financial resources to promote the flexibility of intellectual property rights with a view to promoting the transfer of sound technology to developing countries.]

OPTION 2 (Alternative A)

1. The Parties hereby designate the Global Environment Facility (GEF) as the mechanism for the provision of financial resources, including financial resources for technology cooperation, related to the implementation of this Convention.
2. The Parties, acting through the Conference of the Parties, may suggest to the GEF general guidelines and specific proposals for funding.
3. Further, interested Parties may meet, on an ad hoc basis, to consider whether any Party is interested in assisting another Party in the implementation of a proposed project it has identified in its national report. Parties may, as appropriate, invite representatives of multilateral financial institutions to such meetings for the purposes of providing them with an opportunity to consider projects for inclusion in their development assistance portfolios.]

OPTION 2 (Alternative B)

[1. The Parties hereby designate the Global Environment Facility (GEF) as the mechanism for the provision of financial resources to assist developing countries to meet the agreed incremental costs of implementing their obligations under the Convention.

2. The Conference of the Parties shall establish appropriate arrangements with the GEF under which the latter will fulfil this role. These arrangements shall include:

- (a) Modalities by which the GEF shall take account of the general guidelines and priorities for funding established by the Conference of the Parties;
- (b) The receipt, management and disbursement by the GEF of contributions provided under Article [. . .];
- (c) The receipt by the GEF of requests from developing country parties for funding for projects, including proposals involving transfer of technology and indigenous capacity building; and
- (d) The provision by the GEF of regular reports to the Conference of the Parties on its operations (including how they relate to other assistance provided to developing countries in the energy, forest and other sectors relevant to climate change) and, as required, information to the subsidiary bodies of the Conference of the Parties to assist them to fulfil their mandate.

3. The Conference of the Parties shall ensure that the GEF is kept fully and regularly informed of the policy framework and priorities it adopts, and particularly those that are relevant to the activities of the GEF in the field of climate change.]

OPTION 3

Establishment

[1. An International Climate Fund is hereby established under the authority of the Conference of the Parties which shall decide on its overall policies and operations, in particular determining priorities, criteria and selection of projects and activities to be funded. It shall be distinct and independent from other funds and international financial institutions:

2. The mechanism for financial resources and transfer of technology set up under the International Climate Fund, shall be administered as follows:

Functions relating to financial resources

- (a) Meet on a grant basis the full incremental costs of measures taken by developing country Parties to address climate change, in accordance with criteria to be developed by the Conference of the Parties;
- (b) Cover the costs to developing country Parties of adaptation and mitigation measures that may be needed as a result of the adverse consequences of climate change and the direct and indirect social and economic costs to developing countries that may result from the implementation of the Convention;
- (c) Be responsible for receiving assessed and other contributions, either financial or as otherwise provided by Parties and other bodies, in accordance with criteria set out by the Conference of the Parties;
- (d) Establish appropriate accounting procedures to ensure that all assessments and contributions made to fulfil the obligations of the Convention are properly recorded, credited and accounted for;
- (e) Be responsible for facilitating the identification and selection of projects and activities for supporting the efforts of the Parties to meet their obligations under this Convention;
- (f) Finance the secretariat services of the Fund and related support costs;
- (g) Provide an annual report to the Conference of the Parties on its operations and, as required, information to the subsidiary bodies of the Conference of the Parties, in order that they can fulfil their mandates; and
- (h) Provide, in general, funding for projects and activities organized under this Article and in accordance with the provisions set out by this Convention.

Functions related to transfer of technology

- (i) Pursuant to the operational guidelines and policy direction of the Conference of the Parties, coordinate the appropriate procedures and take the necessary steps to promote, facilitate and enable the transfer of technology;
- (j) Provide funding to purchase requisite technologies for the implementation of projects undertaken by developing country Parties under the mechanism set up by the International Climate Fund;
- (k) Promote, and finance when necessary, the exchange of and access to technological information required by the Parties. The technological information should include inter alia, the environmentally sound and safe technologies including those that have been neglected or displaced, the technological options, trading conditions, implementation costs and technological security;
- (l) Coordinate ways and means to develop long-term technological partnerships between the holders of environmentally sound technologies and potential users in Parties, particularly developing countries, taking into account their national objectives and policies;
- (m) Organize, when requested by a recipient Party, or group of recipient Parties and on terms and conditions set out by such recipient countries, international competitive bidding to purchase requisite technologies for transfer to the requesting parties;
- n) Provide requested support to a recipient Party or group of recipient Parties to assess the offers presented in international competitive bidding, to enable the requesting parties to obtain the most favourable terms and conditions, including inter alia, in terms of price, transfer of know-how, high safety and environmental requirements, training, supply of spare parts, and maintenance; and
- (o) Ensure the development of endogenous capacity building in developing country Parties, including technologies in the public domain, in accordance with their development plans, objectives and priorities of these countries, through, inter alia, the supply of necessary equipment, expertise and facilities for research and development, and the training of scientific, technical, and managerial personnel.]

[Possible Additional Text Related to Objectives under Article 22 (Based on Misc. 12)]⁷

1. The funding mechanism shall have the following functions:
 - (a) Implement commitments under the Convention;
 - (b) Adapt to and mitigate the adverse effects of climate change in accordance with their national development plans, priorities and objectives.
 - (c) Provide access to appropriate environmentally [safe and] sound "state-of-the-art" technologies;
 - (d) Strengthen operative institutional capacities for dealing with climate change, including human resources development;
 - (e) Promote research on emission control of the GHGs from existing activities especially in the energy, transport, agriculture and industrial sectors;
 - (f) Conduct research and pilot projects on the ecologically sustainable enhancement of natural GHG sinks.]

⁷ The current text corresponding to that draft Article is Section IV.2.2., Alternative B.

[VI.7. INSURANCE

The Parties shall establish separate supplementary financial mechanisms to assist developing countries, particularly least developed countries, vulnerable small island and low lying coastal developing countries [and developing countries with vulnerable mountain areas] [and countries suffering from desertification or drought] to prevent or mitigate the adverse consequences of sea-level rise resulting from climate change, as specified in [Annex V] (Insurance Mechanism).]

VII. PROCEDURES

VII.1. REPORTING

Submission of Reports

1. [In accordance with its particular circumstances and capabilities] Each Party [shall] [may] submit to the secretariat a report on [its national strategy and on the policies and] the measures it [has undertaken] [is undertaking] to implement its obligations [as well as the opportunity costs of foregoing a national development option and [on] projects for transfer of financial resources and technologies] under the Convention, as well as on any other actions it deems relevant [with respect to the objectives to the Convention], [including the extent to which those measures will contribute to meeting such obligations], [[drawn up] [in accordance with] [and may include] the provisions set forth in [Annex III] to this Convention] [consistent with national laws and regulations]. [For developing country Parties, the fulfilment of this obligation will be conditional on the availability of corresponding new and additional financial resources.]

First Report

2. For developed country Parties, the first report [shall] [may] be submitted within [one] [two] year[s] of the entry into force of the Convention [for it] or within [one] [two] year[s] of ratification, acceptance or approval of, or accession to, the Convention. For developing country Parties, the first report [shall] [may] be submitted within [two] [four] [five] years of the entry into force of the Convention [for it] or within [two] [four] [five] years of ratification, acceptance or approval of, or accession to, the Convention.

[3. The developing country Parties to this Convention shall be assisted in the preparation of the report. Such assistance will include both technical and financial assistance as well as the identification of the technical and financial needs associated with the implementation and review of such reports.]

Frequency of Subsequent Reports

(See also Annex III)

[4. The frequency according to which reports and their updating will be submitted will vary from one year to five years, depending on the different levels of energy-related CO₂ emissions per capita, as defined by the Conference of the Parties, based on internationally accepted data.]

Regional/Group reporting

[5. Any group of Parties may, subject to the prior notification to the [Advisory Committee on Implementation] [body in charge of implementation], [and with the approval of the Conference of the Parties], submit a single report in fulfilment of their obligation under paragraph 1 above [provided that such a report includes details of each Party's contribution to fulfilment of its individual obligations].]

Transmission to the Conference of the Parties

6. The secretariat [shall] [may] transmit the reports submitted by the Parties to the Conference of the Parties, [within four months of receiving such reports] except as provided for in paragraph 8 below.

Transmission to the Advisory Committee on Implementation

[7. The secretariat [shall] [may] transmit the reports submitted by the [Parties to the [Advisory Committee on Implementation] [body in charge of implementation]].]

Confidential Information

8. The secretariat shall ensure that information [designated as confidential by the supplying Party] [and] [meeting the criteria for confidentiality established in Annex III] is not disclosed [[to other Parties and is aggregated] [and shall aggregate it] to protect its confidentiality [before it is made available to all Parties].]

[VII. 2. (Alternative A)]

**RESOLUTION OF QUESTIONS REGARDING
INTERPRETATION AND IMPLEMENTATION OF THE CONVENTION**

Process

[1. [Subject to paragraph 5] The Conference of the Parties shall, in a timely fashion, consider and resolve questions regarding the interpretation and implementation of the Convention [including those questions] that are brought to its attention in writing by Parties or by its subsidiary bodies. To this end, it may establish [one or more ad hoc] [a] Panel(s) of its members, designated [with specific and limited terms of office] in accordance with Annex ... (Annex to be drafted). [If questions relate to a specific Party, the ad hoc panel(s) shall invite a representative of the Party that is the subject of the question (hereinafter referred to as the "Party concerned") to attend the meetings of the Panel.] [In considering the question before the next ordinary meeting of the Conference of the Parties and following the meeting at which the ad hoc Panel was established, the ad hoc Panel shall:

- (a) If the question relates to a specific Party, [(hereinafter referred to as the "Party concerned")] notify in writing the Party concerned that a question regarding [its] interpretation and implementation of the terms of the Convention has arisen;
- (b) [If the question relates to a specific Party,] request the Party concerned to respond [and] take part in consultations with the Panel [and attend meetings of the Panel];
- [(c) Request any Party which brought the question to the attention of the Conference of the Parties to take part in consultations with the Panel and attend meetings of the Panel;]
- (d) Consult, as it deems necessary, representatives of any Party and other expert bodies;
- (e) Request that the Party concerned advise the ad hoc Panel(s) of its capacity to implement fully the provisions that were the subject of the question, the provisions of the Convention as a whole, and of its needs relevant to the implementation of the Convention;

- (f) Promote, using the means, institutions, and funds available under the Convention, the capacity of the Party concerned to comply with and implement its commitments under the Convention; and
- (g) Report the results of the consultations to the Conference of the Parties, including, if necessary, a recommendation for resolution of the question.]

[Possible addition to paragraph 1

The Conference of the Parties may, pending final resolution of the question, take any interim action it deems necessary to advance the objectives of the Convention.]

[Alternative to paragraph 1

1. The Conference of the Parties shall, in a timely fashion, consider and resolve questions regarding the interpretation and implementation of the Convention that are brought to its attention in writing by Parties or by its subsidiary bodies. To this end the Committee on Implementation established under Article [VI. 5.] (Implementation Committee) shall consider such questions and submit a report to the Conference of the Parties.]

Consideration of Report

[2. At its next [ordinary] meeting, the Conference of the Parties shall consider the report of [an ad hoc Panel] [Committee on Implementation] and [take any course of action] [adopt any recommendation] [issue recommendations on actions] [it deems] necessary to further the objectives of the Convention. In doing so, the Conference of the Parties [or an ad hoc Panel] may, at any time, seek an advisory opinion from [an ad hoc Panel of Legal Experts.] [a subsidiary body established by or under the Convention.] [The Conference of the Parties may also, if appropriate, request an advisory opinion from the International Court of Justice.]]

Decisions by the Conference of the Parties

[3. If the Party concerned does not comply with the course of action set out by the Conference of the Parties, the Conference of the Parties may, again, take any further action it deems necessary to advance the objectives of the Convention [including:...].]

Voting

4. The Parties shall make every effort to take [action] [decisions] under this Article by consensus. If [all] efforts at consensus have [been exhausted] [failed], [action] [recommendations] shall [, as a last resort,] be [taken] [adopted] by a [two-thirds] [three-quarters] majority vote of the Parties present and voting.

[Possible additional paragraph]

5. The Conference of the Parties may resolve not to use the procedure set out in this Article, if the particular question of interpretation or implementation is being considered by the Arbitral Tribunal pursuant to Article [VII. 2.] (Alternative 2) (Settlement of Disputes) or the International Court of Justice.]]

[POSSIBLE ALTERNATIVE TO VII. 2. (Alternative A)]

Process

1. Questions relating to the implementation of the Convention may be drawn to the attention of the Conference of Parties by Parties [and by any subsidiary body established by or under the Convention]. Any Party concerned about another Party's implementation of its obligations under the Convention or about its own capacity to implement fully those obligations may notify its concern, through the secretariat, to the Conference of Parties. The Conference of Parties shall, in timely fashion, consider any such question and promote its resolution. To that end it may, as necessary, establish an ad hoc Panel of of its members.

2. In considering the question before the next ordinary meeting of the Conference of the Parties, the ad hoc Panel shall:

- (a) Invite the Party which has brought the question to the attention of the Conference of the Parties and any other Party whose implementation of the Convention is in question to attend meetings of the Panel and take part in consultations with it;
- (b) Provide the Party whose implementation of the Convention is in question a full opportunity to inform the Panel of its capacity to implement its obligations under the Convention and of its needs relevant to that issue;
- (c) Consult, as it deems necessary, any subsidiary body established by or under the Convention and other expert bodies;
- (d) Promote, as necessary, the enhancement of the capacity of the Party whose implementation of the Convention is in question to implement fully its obligations under the Convention; and
- (e) Report the results of its consultations, together with any recommendations, to the next ordinary meeting of the Conference of the Parties.

Consideration of Report

3. After considering the report of the ad hoc Panel, the Conference of the Parties may decide to adopt a recommendation or recommendations to promote the full implementation of the Convention and to further its objectives.

Voting

4. The Conference of the Parties shall make every effort to take decisions under this Article by consensus. If all efforts at consensus have been exhausted decisions shall, as a last resort, be taken by a two-thirds majority vote of the Parties present and voting.

Additional rules

5. The Conference of the Parties may in elaboration of the provisions of paragraph 2 of this Article, lay down additional rules relating to membership of ad hoc Panels, their meetings and procedures.

Relationship to Dispute Settlement (VII. 2.) (Alternative B)

Option 1

6. If, after the expiry of . . . months following the initial submission of any question to the secretariat pursuant to paragraph 1 of this Article, any Party continues to have a concern relating to the implementation by another Party of its obligations under the Convention, it shall be entitled to invoke the dispute settlement procedures, established by Article [VII. 2.] (Alternative B) (Settlement of Disputes) of the Convention.

Option 2

6. The provisions of this Article are without prejudice to the operation of Article [VII. 2.] (Alternative B) (Settlement of Disputes) of the Convention.]

[VII. 2. (Alternative B)

SETTLEMENT OF DISPUTES

Negotiation and other peaceful means

[1. In the event of a dispute between Parties concerning the interpretation or application of this Convention or any Protocol thereto, the Parties concerned shall seek solution by negotiation [or in the manner set forth in Annex . . . (Resolution of Questions Regarding Interpretation and Implementation of the Convention).]

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

Recourse to other third-party procedures

[3. If the Parties concerned cannot settle their dispute in the manner set forth in paragraphs 1 and 2 of this Article, and if they so agree, the dispute shall be submitted to the International Court of Justice or to arbitration in accordance with [Annex IV].]

4. Failure to reach common agreement on submission of the dispute to the International Court of Justice or to arbitration does not absolve the Parties from the responsibility of pursuing the means of settlement pursuant to paragraphs 1 and 2 of this Article.

5. At the time of ratification, acceptance, approval, or accession to the Convention, or at any time thereafter, a State or regional economic integration organization may declare in a written instrument submitted to the Depositary that, for a dispute not resolved in accordance with paragraphs 1 and 2 above, it accepts in relation to any Party accepting the same obligation, one or both of the following means of dispute settlement:

(a) Arbitration in accordance with [Annex IV];

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

6. A declaration made under paragraph 5 above shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

7. A declaration made under paragraph 5 above shall not affect the operation of paragraphs 1 and 2 of this Article.
8. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the Arbitral Tribunal, unless the Parties to the dispute otherwise agree.
9. Declarations and notices referred to in this Article shall be deposited with the Depository who shall transmit copies thereof to the secretariat and to all Parties.
10. If, after the expiry of twelve months from the date of a request made pursuant to paragraph 1 of this Article, the Parties concerned have not been able to settle their dispute or have not agreed on the competence of the International Court of Justice or the Arbitral Tribunal, the dispute

OPTION 1: Conciliation Commission

shall be submitted to a Conciliation Commission. The Commission shall be composed of an equal number of members appointed by each Party concerned, and of a chairman chosen jointly by the members appointed by the Parties. The Commission shall render a final, non-binding decision, which the Parties shall consider in good faith.

OPTION 2: Judicial settlement

may be submitted, at the request of any one of the Parties, to the Arbitral Tribunal.]]

VII. 3. AMENDMENTS TO THE CONVENTION

Proposals

1. Any Party may propose amendments to this Convention.

Adoption of Amendments

2. Amendments to this Convention shall be adopted at a [regular] meeting of the Conference of the Parties. The text of any proposed amendment to this Convention shall be communicated to the Parties by the secretariat at least [three] [six] months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the Signatories to the Convention for information.
3. The Parties to the Convention shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. [If all efforts at consensus have been exhausted, and no agreement reached.] [If the efforts do not seem likely to attain this objective.] the amendment shall be adopted by a [two-thirds] [three-quarters] majority vote of such Parties present and voting at the meeting [whose [net] emissions of [greenhouse gases] [CO₂ represent at least [xx%] [75%] [80%] of estimated global [net] [CO₂] [greenhouse gases] [emissions in the preceding [five] year[s].] the amendment shall be submitted by the Depositary to all Parties for their ratification, acceptance or approval.

Voting

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

Entry into Force of Amendments

5. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraph 3 above, [for those States having accepted the amendment] shall [unless otherwise provided in the amending instrument itself] enter into force on the ninetieth day after the date of receipt by the Depositary of notification of their ratification, acceptance or approval, by at least [two-thirds] [three-quarters] of the Parties to this Convention [and whose [net] emissions of greenhouse gases represent at least 80% of [net] global emissions in the preceding year].
6. The amendments shall enter into force for any other Party on the ninetieth day after

the date on which that Party deposits with the Depositary its instrument of ratification, acceptance or approval of the amendments.

[VII. 4. PROTOCOLS

Adoption

1. [This Convention and its protocols shall jointly constitute an international legal regime regarding climate change.] The Conference of the Parties may at any [regular] meeting adopt protocols [that are aimed at implementing the [comprehensive] purposes and principles established in the Convention, specifying [comprehensive] measures or obligations relating to [certain] [all] aspects of climate change]. [The protocols shall be in conformity with the provisions of the Convention.]

Notification to the Parties

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

Entry into Force

[3. The requirements for the entry into force of any protocol shall be established by that instrument [and may include provisions regarding [accelerated] [differentiated] procedures for entry into force].]

Parties to a Protocol

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

Only Parties to Protocol to take Decisions relating to a Protocol

5. [Subject to the provisions of paragraph 4 above,] Decisions under any protocol shall be taken only by the Parties to the protocol concerned.]

VII. 5. ADOPTION AND AMENDMENT OF ANNEXES TO THE CONVENTION

Annexes as Integral to the Convention

1. The Annexes to this Convention shall form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any Annexes thereto. [Such Annexes shall be restricted to [procedural, scientific, technical and administrative matters] [technical lists or forms of a scientific or technical character] [lists, forms and any other material of a descriptive nature only].]

Adoption of Additional Annexes to the Convention

2. [Additional] Annexes to the Convention shall be proposed and adopted according to the procedure set forth in Article [VII. 3.] (Amendments to the Convention).

Procedure for Entry into Force of Additional Annexes to the Convention

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

Procedure for Amendments to Annexes

4. The proposal, adoption and entry into force of amendments to Annexes to the Convention shall be subject to the same procedure as that for the proposal, adoption and entry into force of Annexes to the Convention.

5. If an additional Annex or an amendment to an Annex involves an amendment to the Convention, the additional Annex or amended Annex shall not enter into force until such time as the amendment to this Convention enters into force.

VII. 6. RIGHT TO VOTE

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

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States ~~that are Parties to the Convention [and which are present at the time the vote is taken]~~. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

VIII. FINAL CLAUSES

VIII.1. DEPOSITARY

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

VIII.2. SIGNATURE

This Convention shall be open for signature by States [Members of the United Nations or members of the Specialized Agencies of the United Nations] and by regional economic integration organizations at [] from [] to [], and at the United Nations Headquarters in New York from [] to [].

VIII.3. RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

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

Regional Economic Integration Organizations

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

Declarations of Competence

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

VIII.4. ENTRY INTO FORCE

Entry into Force of the Convention:

1. This Convention shall enter into force on:

(Four options)

Option 1:

The ninetieth day after the date of deposit of the [twentieth] [twenty-fifth] [fortieth] [fiftieth] [sixtieth] [eightieth] instrument of ratification, acceptance, approval or accession.

Option 2:

The ninetieth day after the date of deposit of the instrument of ratification, acceptance, approval or accession from States or regional economic integration organizations whose [net] emissions of greenhouse gases [CO₂] represent [two-thirds] [three-quarters] of estimated total global net emissions in [year].

Option 3:

The ninetieth day after the date of deposit of the [twentieth] [twenty-fifth] [fortieth] [fiftieth] [sixtieth] [eightieth] instrument of ratification, acceptance, approval or accession by and of ratification, acceptance, approval or accession by States or regional economic integration organizations whose [net] emissions of greenhouse gases [CO₂] represent [two-thirds] [three-quarters] of estimated total global net emissions in [year].

Option 4:

The ninetieth day after the date of deposit of the [twentieth] [twenty-fifth] [fortieth] [fiftieth] [sixtieth] [eightieth] instrument of ratification, acceptance, approval or accession, or the ninetieth day after the date of deposit of the instrument of ratification, acceptance, approval or accession from States or regional economic integration organizations whose [net] emissions of greenhouse gases [CO₂] represent [two-thirds] [three-quarters] of estimated total global net emissions in [year], whichever is the earlier.

Entry into Force for Parties once Convention Already in Force

2. For each State or regional economic integration organization that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the [twentieth] [twenty-fifth] [fortieth] [fiftieth] [sixtieth] [eightieth] instrument of ratification, acceptance, approval or accession, [in accordance with paragraph 1] it shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

Regional Economic Integration Organizations

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 the organization.

VIII.5. RESERVATIONS AND DECLARATIONS

1. [No] reservations may be made to this Convention.

Parties Not Precluded from Making Declarations

[2. Paragraph 1 above shall not, however, preclude a State or regional economic integration organization when signing, ratifying, accepting, approving or acceding to this Convention, from making declarations or statements, provided that such declarations or statements do not purport to exclude or to modify the effects of the provisions of the Convention in their application to that State or regional economic integration organization.]

VIII.6. WITHDRAWAL

Written Notification of Withdrawal from Convention

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

Effective Date of Withdrawal

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

Withdrawal from Convention considered as Withdrawal from Protocol

3. Any Party that withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is a Party. [Withdrawal from a protocol is governed by the provisions of this protocol.]

VIII.7. AUTHENTIC TEXTS

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

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

Done atthisday of19...

[A N N E X E S]

[ANNEX I

[RESEARCH [TECHNOLOGICAL] [[AND] DEVELOPMENT] AND SYSTEMATIC OBSERVATION] [TECHNOLOGICAL AND SCIENTIFIC RESEARCH AND SYSTEMATIC OBSERVATION]

[1. The Parties recognize that [the] major [scientific] [issues] [uncertainties] [[in the] state of knowledge] related to climate change [,and its relation to development,] are:]

[Possible Alternative Chapeau

The following areas are suggested for the purposes of Article [V.2], in the promotion of and cooperation in research, technological development and systematic observation relevant to climate change:]

- (a) Understanding the interactions between changes in the climate system and the physical, chemical, biological, hydrological and geological processes and solar cycles in the atmosphere, oceans and land;
- [(b) Documentation of the contemporary and historic changes in the Earth's climate through long-term systematic observations of the Earth's atmosphere, oceans, terrestrial and socio-economic systems;]
- [(c) Developing models of the Earth's climate system and prediction of the magnitude and rate of future climate change in the global, regional and national scales, due to both natural processes and human activities;]
- (d) Understanding the impacts of climate change [and the response to it] on ecosystems and social and economic systems; and
- (e) Evaluating the methodologies for assessing options for mitigating and adapting to climate change, including consideration of [socio-economic] costs and benefits of such options [including opportunity costs of foregoing options].

[[2. [The Parties recognize the need to cooperate] [Indicative list of areas where cooperation] in conducting research [and development] and systematic observation [is needed], in accordance with Article [V.2] [, in such areas as]:]

(a) Systematic Observations. Long term systematic observations of the Earth's atmosphere, oceans, seas, terrestrial and socio-economic systems on global and regional scales, including documenting the contemporary and historical changes in the Earth's environment using an integrated space, land and ocean based [global climate] observing system and relevant paleoenvironmental data. [Full use of existing weather and climate observing systems should be ensured.] Specifically there is a need for systematic observations to measure and/or estimate:

(i) atmospheric parameters, including,

- greenhouse gases, aerosols and their possible precursors;
- clouds, by type, amount, height, composition and optical properties;
- precipitation, evaporation and water vapour, temperature, wind and radiative fields.

(ii) oceanic parameters, including,

- ocean fluxes, particularly of heat and of greenhouse gases, aerosols, and their possible precursors between the ocean surface and atmosphere;
- sea level, temperature, roughness, circulation, ice cover, chemical composition, biological activity and colour.

[(iii) coastal zone parameters, including,

- sea level, temperature and other relevant meteorological and oceanographic parameters;
- parameters defining state and viability of coastal ecosystems, including coral and planktonic populations;
- parameters defining the quality and viability of human settlements.]

(iv) terrestrial parameters, including,

- fluxes of heat and of greenhouse gases, aerosols, and their possible precursors between ecosystems and the atmosphere;
- extent, state and productivity of managed and unmanaged ecosystems;

- physical surface characteristics, such as temperature, albedo, roughness, soil parameters, snow, ice, permafrost, glaciers, lake levels, and river discharge; and
- geodynamic, seismic and volcanic processes and their consequences.

(v) socio-economic parameters, including,

- [- consumption patterns;]
- population dynamics;
- urban development;
- rural population;
- type, extent and variability of land use practices;
- economic variables including reserves of natural resources, incremental costs, debt problems, [commodity prices] and terms of trade;
- geographic characteristics of countries;
- technology and practices in energy, forestry, agriculture, transport, hydrology, and industry;
- human health.

(b) Process research. Research of the coupled physical, chemical, biological, [hydrological, geological,] economic and social processes that affect the Earth's climate system. There is a need for an improved understanding of the processes [and development of methodologies] governing:

- (i) the sources and sinks of greenhouse gases, aerosols, and their possible precursors, which affect future atmospheric concentrations and the Earth's radiative balance, and how these may be influenced by climate change. Specifically:
- identification, quantification and development of an understanding of the processes that control oceanic, terrestrial, and atmospheric sources, sinks and reservoirs of anthropogenic and natural origin;
 - quantitative estimation of radiative properties and lifetimes;
 - improved indices that reflect the radiative forcing of greenhouse gases [, taking into account historical emissions];
 - development and improvement of methodologies for national inventories of sources, sinks and reservoirs.

(ii) atmospheric cycling of [radiation.] heat and water, with emphasis on cloud formation, dissipation and radiative properties, which influence the response of the atmosphere to greenhouse forcing. Specifically, research on:

- the atmospheric distribution of water vapour, precipitation, and clouds;
- evaluating the radiative properties of clouds;
- evaluating the temporal variability of solar radiative input and atmospheric transmission;
- the evaluation and mapping of surface albedo.

(iii) oceans, which influence the patterns and rate of climate change. Specifically, studies to establish the mechanisms governing:

- ocean dynamics;
- the transport of heat and chemicals;
- exchanges of energy and chemicals with the atmosphere;
- interactions between the ocean and land;
- the role of biological processes in the cycling of carbon and sulfur and their response to anthropogenic activities;
- sea level changes.

(iv) the role of terrestrial systems in hydrological and ecological processes, which affect regional climate change and water availability. Specifically, studies of the role of terrestrial geophysical and biological, hydrological processes in the cycling of energy, water and nutrients on land and exchange with the atmosphere, [the sea level rise and rivers of fresh water] and their response to environmental changes.

(v) the cryosphere, particularly in polar regions, which affects global sea level changes and regional climate change. Specifically, studies of:

- the mass balance of polar ice sheets and glaciers and their response to climate change;
- the role of sea ice in the atmosphere-ocean exchange of energy;
- the processes controlling snow accumulation, redistribution, and seasonal melting;
- the dynamics of permafrost systems.

- (vi) the biosphere and the oceans, including those of the Antarctica and the Arctic regions, as reservoirs or sinks, as well as ways and means of preserving and enhancing sinks and reservoirs and creating new ones.]
- (vii) [economic and social] [development] processes, which contribute and react to climate change. Specifically, studies of how the climate system [influences and] is influenced by:
- [natural resource endowment;]
 - economic growth, policies and practices;
 - technology and practices in a wide range of sectors including energy, agriculture, forestry, transportation and industry; and
 - social systems, policies and practices.
- (c) Modelling and prediction. Prediction of the magnitude and rate of future climate change, including an identification and assessment of uncertainties, through the development and validation of integrated climate system models with enhanced [local and] regional [and national] resolution, social and economic models, and the links and feedbacks between climate change and social and economic processes [and development paths]. At a global [, and] regional [and national] scale, there is a need for [broadened and improved efforts related to]:
- (i) [improved] representation within models of processes affecting climate;
- (ii) evaluation of the predictability of climate;
- (iii) comparison of model output with current observation, past records and transient climate parameters;
- (iv) development of fully coupled climate models, which integrate the effects of changing atmospheric radiative properties with changes in physical, chemical, [and] biological [, hydrological, geological] processes [in solar cycles] and between the atmosphere, oceans and land, linked to social and economic models, and
- (v) simulation of climate change based on different emission scenarios.

(d) Impact research. Research to [evaluate and to] develop methodologies for evaluating the local and regional [and national] impacts of climate change, and identifying the environmental, economic and social consequences. There is a need for an improved understanding of the impact of climate change on:

(i) natural terrestrial, aquatic and coastal ecosystems and resources. As a function of rate and magnitude of climate change, determining the sensitivity of:

- ecosystems (e.g., productivity, extent) to changes in temperature, hydrological system (e.g., groundwater, precipitation, soil moisture), atmospheric composition, and sea level;
- changes in stability and composition in ecosystems; and
- the biological diversity of marine life [in the oceans] including shifts in marine organisms.

(ii) agriculture, forestry and fisheries. Conducting regional studies of the impacts of climate change on:

- potential productivity of crops;
- the vulnerability of major crops and their varieties;
- the abundance and distribution of fisheries;
- socio-economics of changed transport, storage processing and marketing conditions.

(iii) water resources. Examining, on a regional basis, effects of changes in the hydrological cycle on:

- provision of drinking, irrigation and industrial water supplies;
- impact on agriculture [and]
- [- inland navigation;]
- combined effects of climate change and land use changes on water resources;
- drought and desertification.

(iv) coastal environment

- sea level and temperature[s] [changes], and their subsequent regional impacts on geological and ecological processes, including coral and planktonic populations;
- the viability and quality of human settlements; and
- frequency and magnitude of marine disasters such as severe storms and storm surges and their impact on coastal structures.

(v) social systems and economics. Investigating the effects of changes in climate, weather, [and] sea level [and temperature] on:

- disease vectors, viability of pathogens, nutrition and other factors relevant to human health;
- the viability and quality of land use, human settlements, the built environment and all other aspects contributing to the quality of life;
- the economic, social and cultural consequences for societies, especially for [vulnerable small island countries] [those particularly vulnerable].

(e) Research to develop [response measures, including development of technology for the] [methodologies on the] mitigation of, and adaptation to, climate change, including for:

(i) examining options for reducing sources and/or increasing sinks of greenhouse gases and their potential precursors

- from energy, industrial, commercial, domestic and transport sources through studies of:
 - . technology options for low emission, high efficiency and alternative technologies, including biotechnology, biomass, wind and solar energy, and technologies for greenhouse gas fixation;
 - . applicability, cost and social factors affecting use of conventional and newly developed technology options;
- from forestry and agriculture through studies of:
 - . methods for reducing emissions and/or increasing sinks;
 - . applicability, cost and social factors affecting use of lower emission or enhanced sink practices;

- from oceans through studies of methods, costs and consequences of increasing oceanic uptake;
- by utilizing economic and other policy instruments; and
- through education and public information techniques.

(ii) examining options for adapting to a changing climate of:

- natural terrestrial, aquatic and coastal ecosystems and resources;
- agriculture, forestry and fisheries;
- water resources;
- coastal environment; and
- social systems and economics.

(iii) Assessing the costs, benefits, and environmental and social consequences of mitigation and adaptation responses, including:

- as a function of the timing and magnitude of climate change;
- the direct and indirect links between responses and economic activity, [including eradication of poverty and trade]; and
- the distributional and other social implications of responses within and between countries and regions; and
- countries which are not in a position to use substitutes for fossil fuels or do not possess the flexibility to switch to non-fossil fuels.

(iv) Environmentally safe and sound technologies, practices and measures.]]

[3. The Parties recognize the need to support existing international or intergovernmental programmes or organizations aiming at defining, conducting, assessing and/or financing research, development and systematic observation as described in paragraphs 1 and 2 of this Annex. In particular, the Parties acknowledge the following programmes and their subsidiary programmes, and organizations:

- Intergovernmental Panel on Climate Change (IPCC)
- World Climate Programme (WCP)
- International Geosphere-Biosphere Programme (IGBP).]]

[POSSIBLE ALTERNATIVE TEXT FOR ANNEX I

1. The Parties recognize that the major scientific issues related to climate change are:
 - (a) Understanding the interactions between changes in the climate system and the physical, chemical, biological, and geological processes in the atmosphere, oceans and land;
 - (b) Understanding the impacts of climate change on ecosystems and social and economic systems;
 - (c) Evaluating the methodologies for mitigating and adapting to climate change, including consideration of costs and benefits of such options.

To resolve these problems, the active participation of all countries is required.

2. The Parties recognize, in accordance with Article [V. 2.] (Research [and Development] and Systematic Observation), the need to cooperate in the establishment of a global climatic observation system in using and developing existing networks of measurement, transmission, processing and data storage. In particular, it is necessary to undertake systematic observations in order to measure directly or indirectly:

- (a) Atmospheric parameters, including,
 - (i) greenhouse gases, aerosols and their possible precursors;
 - (ii) clouds, by type, amount, height, composition and optical properties;
 - (iii) precipitation, humidity, evaporation and water vapour, temperature, wind and radiative fields.
- (b) Oceanic parameters, including,
 - (i) ocean fluxes, particularly of heat and of greenhouse gases, aerosols, and their possible precursors between the ocean surface and atmosphere;
 - (ii) sea level, temperature, roughness, circulation, ice cover, chemical composition, biological activity and colour.

- (c) Terrestrial parameters,
 - (i) fluxes of heat and of greenhouse gases, aerosols, and their possible precursors between ecosystems and the atmosphere;
 - (ii) extent, state and productivity of managed and unmanaged ecosystems;
 - (iii) physical characteristics, such as temperature, albedo, roughness, soil parameters, snow, ice, permafrost, glaciers, lakes and rivers.

- (d) Socio-economic parameters, including,
 - (i) population dynamics;
 - (ii) urban development;
 - (iii) type, extent and variability of land use practices;
 - (iv) economic variables including reserves of natural resources, and geographic characteristics of countries;
 - (v) technology and practices in energy, forestry, agriculture, transport, hydrology, and industry;
 - (vi) human health.

3. The Parties, in accordance with Article [V. 2.] (Research [and Development] and Systematic Observation), recognize the need to cooperate in conducting research and development in such areas as:

- (a) Process research. Research of the coupled physical, chemical, biological, geological, economic and social processes that affect the Earth's climate system. There is a need for an improved understanding of the processes and development of methodologies governing:
 - (i) the sources and sinks of greenhouse gases, aerosols, and their precursors, which affect atmospheric concentrations and the possible impact of a climate change;

- (ii) atmospheric cycling of radiation, heat and water, with emphasis on cloud formation, dissipation and radiative properties, which influence the response of the atmosphere to greenhouse forcing;
 - (iii) oceans, which influence geographical distributions and the rate (pace) of the climate change.
 - (iv) the role of terrestrial systems in hydrological and ecological processes which affect regional climate change and water availability;
 - (v) the cryosphere, particularly in polar regions, which affects global sea level changes and regional climate change; and
 - (vi) economic and social processes, which contribute and react to climate change.
- (b) Modelling and prediction. Prediction of the magnitude and rate of future climate change, including an assessment of uncertainties, through the development and validation of integrated climate system models with enhanced regional and national resolution, social and economic models, and the links and feedbacks between climate change and social and economic processes. At a global, regional and national scale, there is a need for:
- (i) improved representation within models of processes affecting climate.
 - (ii) evaluation of the predictability of climate;
 - (iii) comparison of model output with current observation;
 - (iv) development of fully coupled climate models.
- (c) Impacts. Evaluation of the local and regional impacts of climate change, and identifying the environmental, economic and social consequences. There is a need for an improved understanding of the impact of climate change on the following activities and fields:
- (i) natural terrestrial, aquatic and coastal ecosystems and resources;
 - (ii) agriculture, forestry and fisheries;

- (iii) water resources;
 - (iv) coastal environment;
 - (v) social systems and economics.
- (d) Development of methods for mitigation and adaptation to climate change. In particular:
- (i) examining options for reducing sources and/increasing sinks of greenhouse gases aerosols and their precursors;
 - (ii) examining options for adapting to climate changes;
 - (iii) development of technologies which are safe, rational and ecologically sound;
 - (iv) assessing the costs, benefits, and environmental and social consequences of mitigation and adaptation responses.

4. The Parties recognize the particular needs of the developing countries in the following areas:

- (a) Observation and data analysis.
 - (i) it is necessary to help them to increase their capacity to observations and data analysis;
 - (ii) undertake systematic observations mentioned in sub-paragraphs (a) to (d) of paragraph 2;
 - (iii) exchange observations with other countries, especially on a regional basis;
 - (iv) process, locally and at a regional level, data in view to using it for their economic development and studying responses to mitigate and adapt themselves to climate change.

(b) Research and technological innovations.

The aim is simultaneously to, inter alia, promote sustainable development, reduce greenhouse gases emissions, increase the sinks and improve adaptive possibilities to climate changes. This concerns, in particular, the following sectors:

- (i) agriculture (reduction of soil carbon emissions, adaptation to drought, limitation of desertification, etc.);
- (ii) energy (promotion of bioenergy and other renewable energies, energy conservation etc.);
- (iii) forestry (reduction of pressure for deforestation, promotion of forestry for food, stabilization of agriculture); and
- (iv) coastal zones and fisheries.

To meet these objectives, developing countries should be able to increase the means spent for:

- training and research;
- technological innovations and research, in cooperation with industrialized or developing countries.]

[ANNEX II

EXCHANGE OF INFORMATION

[The Parties to the Convention shall exchange information [in accordance with V. 3. (Exchange of Information)] [relevant to the objectives of the Convention]. [The Parties recognize that cooperation under this Annex has to be consistent with national laws, regulations and practices regarding patents, trade secrets and protection of confidential and proprietary information.] Such information shall include the following] [It is suggested that the exchange of information, in accordance with Article V. 3., include the following]:

1. **Scientific Information**

This includes information on:

- (a) Planned and ongoing research programmes and activities, both governmental and private [, to the extent such information is available];
- (b) Relevant scientific results published in peer-reviewed literature on the understanding of the physics and chemistry of the Earth's atmosphere, the climate system, the oceans and the biosphere and of their susceptibility to change;
- (c) Relevant unpublished data and results [, if available];
- (d) The assessment of research results and recommendations for future research;
- (e) Measures for strengthening and assisting in building national capacity of developing countries;
- (f) [[Net] emission inventories including ambient concentrations, emission and removal rates, as well as net emissions, of greenhouse gases and the techniques for systematic observation of these variables] [Techniques for systematic observation of the rates of emission and uptake of greenhouse gases and of their net emissions]; and
- (g) Methodologies for the development of [net] emission inventories.

2. **Technological, Technical and Socio-economic Information**

This includes information on:

- (a) The availability, feasibility and costs of alternative technologies, and agricultural and forestry practices to reduce emissions and increase sequestration of greenhouse gases, as well as related planned and ongoing research, including appropriate information on relevant safe technologies and related equipment and their manuals and guides;
- (b) The limitations involved in using such alternative technologies and agricultural and forestry practices;
- (c) National strategies and programmes to mitigate and adapt to climate change, including actions taken, relevant socio-economic information and available assessments of effectiveness; and
- (d) Relevant business and commercial activities [, when available].

3. **Legal Information**

This includes information on:

- (a) National laws, administrative measures and legal research relevant to the objectives of the Convention;
- (b) International agreements, including bilateral agreements, relevant to the objectives of the Convention; and
- (c) Methods and terms of licensing and availability of patents relevant to alternative technologies and agricultural and forestry practices.]

**[ANNEX III
REPORTING**

1. [The manner in which reports would be prepared and their content, should be determined by the individual Party.] Reports submitted pursuant to Article [VII. 1.] (Reporting) [shall subject to paragraph 2, below] [may] contain [inter alia] the following information:

- (a) Description of national circumstances including, inter alia population, gross domestic product, land area, CO₂ emissions, CO₂ emissions per capita, relevant national laws [, policies] and administrative measures, [including the use of economic instruments];]
- (b) National inventories of [gross and where possible] [net] emissions of [main] greenhouse gases [and sinks] [prepared in accordance with internationally accepted methodologies] [covering all [main] greenhouse gases and greenhouse gas precursors and all sink enhancement and destruction];]
- (c) [For developed country Parties.] [and developing country Parties] [measures] [national strategies] [policies] to mitigate and adapt to climate change [including a description of specific actions being taken or to be taken, with respect to each gas in each sector selected for action by the Party];]
- [(d) Current projections for annual levels of greenhouse gas emissions and sinks over a ten to twenty year planning horizon;]
- (e) Measures taken in fulfilment of the [obligations] [specific commitments] under the Convention. [with particular attention to [reductions of emissions, transfer of financial resources and technology] [energy efficiency and conservation, new [and renewable] energy sources.] [mitigating the adverse consequences of climate change] [protection and enhancement of] sinks, [land use and management,] coastal zone management, transportation and industrial processes [and agriculture];]
- [(f) Expected changes and trends in [net] emissions of [main] greenhouse gases [and sinks] [including estimates of the [net] effects of its actions on national [net] greenhouse gas emissions] [and sinks] [with particular reference to the achievement of any target established in the Convention];]

- [(g) Contributions to the financial and technology transfer mechanism;]
- [(h) For developing country Parties, projects for transfer of technology and financial resources to mitigate and adapt to climate change; [[need for and requirements of financial and technology transfer.] [and estimated gross and incremental costs of projects]]:]
- [(i) Effective measures in fulfilment of obligations and specific commitments relative to the provision of adequate, new and additional financial resources, and access to and transfer of environmentally sound technology on a preferential and non-commercial basis contributions to the financial mechanism of the Convention and description of programmes for technological cooperation;]
- [(j) Description of methodologies used in making its estimates;]
- [(k) Efforts [,as appropriate.] to coordinate and harmonize measures to avoid trade distortions;]
- [(l) Relevant national research [and development] and systematic observation programmes and participation in international programmes;
- [(m) National [programmes] [measures] and international cooperation with regard to education, training and public awareness [and technology transfer];
- [(n) Efforts to implement [obligations] [specific commitments] jointly with another Party or Parties:] and
- [(o) Such other actions as are relevant to the achievement of the objective of the Convention.

[2. Each industrialised country Party agrees to submit a national report including information on all the items listed in paragraph 1. It shall submit the report to the secretariat no later than one year after the date on which the Convention enters into force for it.

Each least developed country Party agrees to submit a national report including information on at least items (a) and (b) of paragraph 1. It shall submit the report to the secretariat no later than two years after the date on which the Convention enters into force for it.

Each other Party agrees to submit a national report including information on all items listed in paragraph 1. It shall submit the report to the secretariat no later than two years after the date on which the Convention enters into force for it.]

[Possible additional text

3. Further, reports may, on a voluntary basis, identify proposed projects in need of investment (including specific technologies, materials, equipment, techniques or practices that would be needed to implement such projects) and an estimate of the costs and net greenhouse gas emission reduction associated therewith.]

Timing

4. Unless otherwise decided by the Conference of the Parties, reports to update the information contained in the first Report shall be submitted [within [two] [five] years of the date of submission of the first Report and biennially thereafter] [in a frequency that will vary in accordance with the level of CO₂ energy-related emissions per capita, and to be decided by the Conference of the Parties]. [Due account shall be taken of the differentiated [obligations] [capabilities and capacities] [capabilities and responsibilities.]

Confidential Information

5. A Party may designate [the following] [any] type[s] of information contained in its report as confidential[.][:]

[Possible alternative chapeau

A Party and the Advisory Committee on Implementation may agree that certain information contained in the report of that Party is confidential. Categories of confidential information include:]

- [(a) Information that is directly related to the national defence [and security] of that Party;
- [(b) Information that is of a proprietary commercial nature;]
- (c) Information the release of which would result [directly] in [significant] economic or commercial dislocation for that Party; or
- [(d) Such other information as [the Party believes is confidential] [agreed upon] [thought necessary by the Party] [by the Party and the Advisory Committee on Implementation].]]]

[ANNEX IV

ARBITRATION

Article 1

Unless the Parties to a dispute otherwise agree, the arbitration referred to in Article [VII. 2.] (Alternative B) (Settlement of Disputes) of the Convention shall be conducted in accordance with the procedure set out in articles 2 to 17 below.

Article 2

The claimant Party shall notify the secretariat of the reference of a dispute to arbitration pursuant to Article [VII. 2.] (Alternative B) (Settlement of Disputes) of the Convention. The notification shall state the subject matter of the arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which is at issue. The secretariat shall forward the information thus received to all Parties to the Convention or to the protocol concerned.

Article 3

1. In disputes between two Parties, the Arbitral Tribunal shall consist of three members. Each of the Parties to the dispute shall appoint an arbitrator within two months of the notification referred to in Article 2 of this Annex and the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the Tribunal. The latter shall not be a national of one of the Parties to the dispute, nor have his or her usual place of residence in the territory of one of these Parties, nor be employed by any of them, nor have dealt with the case in any other capacity.
2. In disputes between more than two Parties, Parties in the same interest shall appoint one member of the Tribunal jointly by agreement.
3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

Article 4

1. If the chairman of the Arbitral Tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary General of the United Nations shall, at the request of either Party, designate the chair within a further two months' period.

2. If one of the Parties to the dispute does not appoint an arbitrator within two months of receipt of the notification referred to in article 2 of this Annex the other Party may inform the Secretary-General of the United Nations, who shall designate the other arbitrator within a further two months' period.

Article 5

The Arbitral Tribunal shall render its decision in accordance with international law, as well as the provisions of this Convention and any protocols concerned.

Article 6

Unless the Parties to the dispute otherwise agree, the Arbitral Tribunal shall determine its own procedure, ensuring that each Party has a full opportunity to be heard and to present its case.

Article 7

The Parties to the dispute shall facilitate the work of the Arbitral Tribunal and, in particular, using all means at their disposal, shall:

- a) provide it with all relevant documents, facilities and information; and
- b) enable it when necessary to call witnesses or experts and receive their evidence.

Article 8

The Parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the Arbitral Tribunal.

Article 9

Unless the Arbitral Tribunal determines otherwise because of the particular circumstances of the case, the costs of the Tribunal shall be borne by the Parties to the dispute in equal shares. The Tribunal shall keep a record of all the costs, and shall furnish a final statement thereof to the Parties.

Article 10

Any Party to the Convention or, as the case may be, to a protocol thereto, that has an interest of a legal nature in the subject matter of the dispute that may be affected by the decision in the case, may intervene in the proceedings with the consent of the Tribunal.

Article 11

The Tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.

Article 12

Decisions both on procedure and substance of the Arbitral Tribunal shall be taken by a majority vote of its members.

Article 13

If one of the Parties to the dispute does not appear before the Arbitral Tribunal or fails to defend its case, the other Party may request the Tribunal to continue the proceedings and to 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.

Article 14

The Tribunal shall render its final decision within five months of the date on which it is fully constituted unless it finds it necessary to extend the time limit for a period which shall not exceed a further five months.

Article 15

The final decision of the Arbitral Tribunal shall be confined to the subject matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any members of the Tribunal may attach a separate or dissenting opinion to the final decision.

Article 16

The final decision shall be binding on the Parties to the dispute and without appeal unless the Parties to the dispute have agreed in advance to an appellate procedure. It shall be complied with by the Parties to the dispute.

Article 17

Any controversy that may arise between the Parties to the dispute as regards the interpretation or manner of implementation of the final decision may be submitted by either Party for decision to the Arbitral Tribunal which rendered it.]

[ANNEX V
INSURANCE MECHANISM

1. The Parties recognize that:
 - (a) There should be established, as an integral part of the Convention, an International Climate Fund to finance measures to counter the adverse consequences of climate change, and a separate International Insurance Pool (hereinafter referred to as "the Pool") to provide financial insurance against the consequences of sea level rise;
 - (b) Revenue for the Pool should be drawn from mandatory sources, in particular developed country assessments;
 - (c) The financial resources of the Pool should be new, additional and adequate;
 - (d) The Pool should be under the control and direction of the Conference of the Parties; and
 - (e) The resources of the Pool should be used to compensate the most vulnerable small island and low-lying coastal developing countries for loss and damage resulting from sea level rise.

2. The Parties further recognize that the formulation of a scheme for a Pool involves consideration of the following main questions:
 - Methods of funding a Pool;
 - Classification of the types of loss to be covered by the Pool;
 - Criteria for establishing entitlement to claim against the Pool;
 - Methods of evaluating loss resulting from sea level rise; and
 - Limitations on the amount of compensation payable by the Pool.

3. The Parties accordingly agree as follows:

- (a) The financial burden of loss and damage suffered by the most vulnerable small island and low-lying developing countries (hereinafter referred to as "Group 1 countries") as a result of sea level rise shall be distributed in an equitable manner amongst the industrialized developed countries (hereinafter referred to as "Group 2 countries") by means of a Pool;
- (b) The Pool shall be funded by contributions levied on Group 2 countries;
- (c) ~~The administrating authority for the scheme (hereinafter referred to as "the Authority") shall be a body controlled on an equitable basis by the Group 1 and Group 2 countries within the framework of the Conference of the Parties;~~
- (d) The contributions referred to in paragraph (b) shall be calculated according to a formula modelled on the 1963 Brussels Supplementary Convention on Third Party Liability in the Field of Nuclear Energy, as follows:
 - (i) as to 50%, on the basis of the ratio between the gross national product at current prices of each Group 2 country and the total of the gross national products of all Group 2 countries in the year prior to the year in which the contribution was levied (hereinafter referred to as "the contribution year");
 - (ii) as to 50%, on the basis of the ratio between the total emissions of CO₂ of each Group 2 country and the total CO₂ emissions of all Group 2 countries in the year prior to the contribution year;
- (e) Ten years from the date on which the Convention enters into force the Group 2 countries shall contribute to the Pool an agreed percentage of the total of the gross national products of all Group 2 countries in the year prior to the contribution year, apportioned as in paragraph (d), provided that over the ten year period the rate of global mean sea level rise will have reached an agreed figure. If the rate of global mean sea level rise has not reached the agreed figure by the end of the ten year period, a review shall thereafter be carried out at five-yearly intervals and the obligation of the Group 2 countries to contribute to the Pool will not arise until the year following the review in which it is established to the satisfaction of the Authority that the rate of global mean sea level rise has reached the agreed figure or that absolute global mean sea level rise has reached an agreed figure;

- (f) The insurance fund so constituted shall be invested by the Authority in interest bearing securities as determined by the Conference of the Parties;
- (g) No right to claim against the Pool in respect of loss or damage in any area of a Group 1 country shall arise until:
 - (i) it shall have been established to the satisfaction of the Authority that the rate of global mean sea level rise and the absolute level of global mean sea level rise has reached agreed figures;
 - (ii) it shall have been established to the satisfaction of the Authority that the relative mean sea level rise for any insured area in a Group 1 country has reached an agreed level above base levels determined for each area insured (such relative mean sea level figures having been determined within ten years of the Convention coming into force); and
 - (iii) one year shall have elapsed from the date upon which the figures referred to in sub-paragraph (i) shall have been established as having been reached (that date plus one year being (hereinafter referred to as "the inception date").
- (h) In the first instance those areas of Group 1 countries which would be directly affected by sea level rise to a level of an agreed number of centimetres above the base levels referred to in paragraph (g) (ii) shall be valued for insurance. Marketed assets shall be valued on the basis of gross domestic product for the insured area in question. Non-marketed interests shall be valued on the basis of formulae to be agreed;
- (i) The insured values covered shall be negotiated between the Authority and the Government of each Group 1 country in accordance with valuation principles to be agreed. The same policy conditions shall be applicable to all Group 1 countries;
- (j) All assets and interests intended to be insured under the scheme shall be listed by Group 1 countries for registration with the Authority. Records of assets and interests registered shall be kept up to date. Valuations of assets and interests registered for insurance shall be carried out in accordance with the agreed formulae and shall be assessed as soon as possible after the setting up of the Authority and in any event within ten years of the Convention coming into force. Revaluations shall be carried out periodically as appropriate;

- (k) The first period of insurance shall commence on the inception date as defined in paragraph (g) (iii) and shall cover an agreed period following the inception date. Loss or damage occurring within the first and each following period of insurance, if accepted as a valid claim by the Authority, shall be paid out of the Pool as accumulated at the closing date of the period of insurance;
- (l) If the funds in the Pool are insufficient to meet all valid claims, the claims shall be paid out on an equitable basis. If, after payment out of all valid claims in full, any surplus shall remain in the Pool, the surplus shall be carried over to the credit of the following insurance period;
- (m) Prior to the closing date of the first period of insurance and of each subsequent period, the Conference of the Parties shall, after consultation with the Authority:
- (i) Fix the length of the next period of insurance;
 - (ii) Estimate the probable extent of claims on the Pool during the next insurance period;
 - (iii) Determine the level of contributions to be levied on Group 2 countries sufficient to meet the estimated claims, after taking account of any surplus carried forward from the preceding period.
- (n) Claims against the Pool in respect of insured assets and interests shall be dealt with by the Authority. The Authority shall investigate the cause of any claimed loss, prepare estimates, determine whether the claim comes within the terms of the insurance, evaluate the extent of loss and assess the amount of the claim recoverable by reference to the insured value of the asset or interest and any applicable limits;
- (o) All assets in insured areas of Group 1 countries, whether commercially insured or not, shall in the first instance be valued for insurance, but no claims shall be accepted by the Pool in respect of property which at the time loss or damage occurs is insured commercially, whether by a private insurance company or otherwise;

- (p) In assessing claims against the Pool, the Authority shall determine whether the loss or damage claimed could have been avoided or mitigated by measures which might reasonably have been taken at an earlier stage. In determining whether measures could or could not reasonably have been taken at an earlier stage, account shall be taken, amongst other things, of the availability of funds, both domestic and international, which would have enabled mitigating or preventative measures to have been taken, and the availability of commercial insurance on reasonable terms; and
- (q) If differences of opinion arise between the Authority and the participating countries, every effort shall be made to negotiate a resolution, but if this is not achievable disputes shall be submitted to [an] [the] arbitration tribunal under [a special arbitration scheme] [the Convention].]