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## MATRIX ON TRADE-RELATED MEASURES PURSUANT TO SELECTED MULTILATERAL ENVIRONMENTAL AGREEMENTS

Note by the Secretariat<sup>1</sup>

### Revision

1. This Matrix provides background information on trade-related measures pursuant to selected Multilateral Environmental Agreements (MEAs).<sup>2</sup> This revision presents updated information (e.g. membership, decisions and other major development) on MEAs.<sup>3</sup> The Secretariat will continue to update this Matrix in the light of further developments.
2. The Matrix is divided into six Sections and an Annex.
3. **Section I** briefly describes each MEA, providing information on the following:
  - (a) Web site;
  - (b) objective of the MEA;
  - (c) date of Signature/Adoption;
  - (d) entry into force (Date/Provision);
  - (e) number of parties to the MEA;
  - (f) number of WTO Members party to the MEA;
  - (g) openness of Membership;
  - (h) decision-Making Bodies; and
  - (i) provisions relating to Amendments and Protocols.
4. **Section II** contains information on the trade-related measures of each MEA, notably on requirements or restrictions on imported or exported products. Information under this section is divided, where applicable, into two sub-sections:
  - (a) Provisions of the MEA, and
  - (b) Decisions of the Decision-Making Bodies.

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<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and without prejudice to the positions of Members and to their rights and obligations under the WTO.

<sup>2</sup> It has been prepared in consultation with the Secretariats of the respective MEAs. However, the WTO Secretariat takes full responsibility for any errors or omissions that this document may contain.

<sup>3</sup> Previous versions of this Matrix are contained in documents WT/CTE/W/160 of 19 September 2000, WT/CTE/W/160/Rev.1 of 14 June 2001, Rev.2 of 25 April 2003, Rev.3 of 16 February 2005 and Rev.4 of 14 March 2007.



5. **Section III** provides information on supportive measures, such as technology transfer, and financial or technical assistance under the provisions of the MEA.
6. **Section IV** explains the mechanism set out in the MEA for the non-compliance of a party.
7. **Section V** lists the dispute settlement mechanisms in the MEA and indicates whether there have been any disputes to date.
8. **Section VI** sets out the provisions relating to non-parties to the MEA.
9. **Annex** provides a comparative table of WTO and MEA membership.



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## GLOSSARY OF TERMS

AIA	Advanced Informed Agreement
ATS	Antarctic Treaty System
BCH	Biosafety Clearing-House
CBD	Convention on Biological Diversity
CCAMLR	Convention on the Conservation of Antarctic Marine Living Resources
CCAS	Convention for the Conservation of Antarctic Seals
CDM	Clean Development Mechanism
CFCs	Chlorofluorocarbons
CITES	Convention on the International Trade in Endangered Species of Wild Fauna and Flora
CMP	The Conference of the Parties (COP) serving as the Meeting of the Parties (MOP)
COP	Conference of the Parties
CPCs	Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities
EEZ	Exclusive Economic Zone
FAO	Food and Agriculture Organization of the United Nations
GEF	Global Environment Facility
HBFCs	Hydrobromofluorocarbons
HCFCs	Hydrochlorofluorocarbons
ICCAT	International Commission for the Conservation of Atlantic Tunas
ICJ	International Court of Justice
ICPO	International Criminal Police Organization
ICTSD	International Centre for Trade and Sustainable Development
IFC	International Finance Corporation
IPPC	International Plant Protection Convention
ITLOS	International Tribunal of the Law of the Sea
ITTA/ITTO/ITTC	International Tropical Timber Agreement/Organization/Council
IUCN	The World Conservation Union
IUU	Illegal, Unregulated and Unreported
IWC	International Whaling Commission
LDCs	Least Developed Countries
LMOs	Living Modified Organisms



MCP	Multilateral Consultative Process
MEAs	Multilateral environmental agreements
MOP	Meeting of the Parties
MP	Montreal Protocol on Substances that Deplete the Ozone Layer
NBF	National Biosafety Frameworks
NCPs	Non-Contracting Parties, Entities or Fishing Entities
ODS	Ozone-Depleting Substances
OECD	Organization for Economic Co-operation and Development
PFII	Permanent Forum on Indigenous Issues
PIC	Prior Informed Consent Procedure
POPs	Persistent organic pollutants
RFMO	Regional Fisheries Management Organizations
SPS	Sanitary and Phytosanitary Measures
TBT	Technical Barriers to Trade
TRIPS	Agreement on Trade-Related Aspects of Intellectual Property Rights
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
UNEP-ETB	UNEP Economics and Trade Branch
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNGA	General Assembly of the United Nations
WHO	World Health Organization
WIPO	World Intellectual Property Organization



## I. BRIEF DESCRIPTION OF THE MEAS

### A. INTERNATIONAL PLANT PROTECTION CONVENTION (IPPC)

1. The first version of the IPPC was adopted in November 1951 and entered into force in April 1952 (IPPC 1951). It was revised in 1979 (IPPC 1979), and the revised text came into force in April 1991. The text of the Convention was further amended in 1997 (the New Revised Text of the IPPC), and the text as amended came into force with respect to all contracting parties, regardless of the date on which they became parties, on 2 October 2005.

<b>Web site</b>	www.ippc.int
<b>Objective</b>	<p>→ The IPPC is an international treaty for plant protection. Its purpose is to "secure common and effective action to prevent the spread and introduction of pests of plants and plant products, and to promote appropriate measures for their control" (Article I).</p> <p>→ Although the IPPC has strong implications for international trade, its focus is international cooperation for plant protection. Many forms of cooperation fall within the scope of the Convention. Its application to plants is not limited to the protection of cultivated plants or direct damage from pests. The scope of the Convention extends to the protection of cultivated and natural flora, as well as plant products, and includes direct and indirect damage by pests.</p> <p>→ The Preamble recognizes that phytosanitary measures should be technically justified, transparent and should not be applied in such a way as to constitute either a means of arbitrary or unjustified discrimination or a disguised restriction, particularly on international trade; it also takes note of the Agreements concluded as a result of the Uruguay Round of Multilateral Trade Negotiations, including the SPS Agreement.</p>
<b>Date of Adoption</b>	November 1997
<b>Entry into force</b>	2 October 2005
<b>Parties</b>	177
<b>WTO Members</b>	143 Parties to IPPC are also WTO Members.
<b>Openness of Membership</b>	<p><b>Article XVII – Ratification and adherence</b></p> <p>"1. This Convention shall be open for signature by all states until 1 May 1952 and shall be ratified at the earliest possible date...</p> <p>2. As soon as this Convention has come into force in accordance with Article XXII it shall be open for adherence by non-signatory states and member organizations of FAO. Adherence shall be effected by the deposit of an instrument of adherence with the Director-General of FAO, who shall notify all contracting parties.</p> <p>3. When a member organization of FAO becomes a contracting party to this Convention, the member organization shall, in accordance with the provisions of Article II paragraph 7 of the FAO Constitution, as appropriate, notify at the time of its adherence such modifications or clarifications to its declaration of competence submitted under Article II paragraph 5 of the FAO Constitution as may be necessary in light of its acceptance of this Convention. Any contracting party to this Convention may, at any time, request a member organization of FAO that is a contracting party to this Convention to provide information as to which, as between the member organization and its member states, is responsible for the implementation of any particular matter covered by this Convention. The member organization shall provide this information within a reasonable time".</p>
<b>Decision-Making Bodies</b>	<p><b>ARTICLE X – Standards</b></p> <p>"1. The contracting parties agree to cooperate in the development of international standards in accordance with the procedures adopted by the Commission.</p> <p>2. International standards shall be adopted by the Commission.</p> <p>3. Regional standards should be consistent with the principles of this Convention; such standards may be deposited with the Commission for consideration as candidates for international standards for phytosanitary measures if more broadly applicable.</p>



	<p>4. Contracting parties should take into account, as appropriate, international standards when undertaking activities related to this Convention".</p> <p><b>Article XI – Commission on Phytosanitary Measures</b></p> <p>"1. Contracting parties agree to establish the Commission on Phytosanitary Measures within the framework of the FAO.</p> <p>2. The functions of the Commission shall be to promote the full implementation of the objectives of the Convention and, in particular, to:</p> <ul style="list-style-type: none"> <li>(a) review the state of plant protection in the world and the need for action to control the international spread of pests and their introduction into endangered areas;</li> <li>(b) establish and keep under review the necessary institutional arrangements and procedures for the development and adoption of international standards, and to adopt international standards;</li> <li>(c) establish rules and procedures for the resolution of disputes in accordance with Article XIII;</li> <li>(d) establish such subsidiary bodies of the Commission as may be necessary for the proper implementation of its functions;</li> <li>(e) adopt guidelines regarding the recognition of regional plant protection organizations;</li> <li>(f) establish cooperation with other relevant international organizations on matters covered by this Convention;</li> <li>(g) adopt such recommendations for the implementation of the Convention as necessary; and</li> <li>(h) perform such other functions as may be necessary to the fulfilment of the objectives of this Convention.</li> </ul> <p>3. Membership in the Commission shall be open to all contracting parties....</p> <p>5. The contracting parties shall make every effort to reach agreement on all matters by consensus. If all efforts to reach consensus have been exhausted and no agreement is reached, the decision shall, as a last resort, be taken by a two-thirds majority of the contracting parties present and voting.</p> <p>6. A member organization of FAO that is a contracting party and the member states of that member organization that are contracting parties shall exercise their membership rights and fulfil their membership obligations in accordance, <i>mutatis mutandis</i>, with the Constitution and General Rules of FAO ...".</p> <p>→ An Interim Commission on Phytosanitary Measures (ICPM) was established with the adoption of the 1997 Amendments. With the entry into force of the 1997 Amendments in 2005, the Commission on Phytosanitary Measures (CPM) superseded the ICPM. The first meeting of the CPM was held in Rome on 3-7 April 2006.</p> <p>→ There are two Subsidiary bodies under the CPM:</p> <ul style="list-style-type: none"> <li>- <u>Standards Committee</u>: 25 elected members representing the seven FAO regions whose primary function is to oversee the development of International Standards for Phytosanitary Measures ISPMs.</li> <li>- <u>Subsidiary Body for Dispute Settlement</u>: seven elected members (one from each FAO region) who oversee the IPPC dispute settlement system.</li> </ul>
<p><b>Amendments and Protocols</b></p>	<p><b>Article XVI – Supplementary agreements</b></p> <p>"1. The contracting parties may, for the purpose of meeting special problems of plant protection which need particular attention or action, enter into supplementary agreements. Such agreements may be applicable to specific regions, to specific pests, to specific plants and plant products, to specific methods of international transportation of plants and plant products, or otherwise supplement the provisions of this Convention.</p> <p>2. Any such supplementary agreements shall come into force for each contracting party concerned after acceptance in accordance with the provisions of the supplementary agreements concerned.</p> <p>3. Supplementary agreements shall promote the intent of this Convention and shall conform to the principles and provisions of this Convention, as well as to the principles of transparency, non-discrimination and the avoidance of disguised restrictions, particularly on international trade".</p> <p><b>Article XXI – Amendment</b></p> <p>"1. Any proposal by a contracting party for the amendment of this Convention shall be communicated to the Director-General of FAO.</p> <p>2. Any proposed amendment of this Convention received by the Director-General of FAO from a contracting party shall be presented to a regular or special session of the Commission for approval and, if the amendment involves important technical changes or imposes additional obligations on the contracting parties, it shall be considered by an advisory committee of specialists convened by FAO prior to the Commission.</p>



	<p>3. Notice of any proposed amendment of this Convention, other than amendments to the Annex, shall be transmitted to the contracting parties by the Director-General of FAO not later than the time when the agenda of the session of the Commission at which the matter is to be considered is dispatched.</p> <p>4. Any such proposed amendment of this Convention shall require the approval of the Commission and shall come into force as from the thirtieth day after acceptance by two-thirds of the contracting parties. For the purpose of this Article, an instrument deposited by a member organization of FAO shall not be counted as additional to those deposited by member states of such an organization.</p> <p>5. Amendments involving new obligations for contracting parties, however, shall come into force in respect of each contracting party only on acceptance by it and as from the thirtieth day after such acceptance. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of FAO, who shall inform all contracting parties of the receipt of acceptance and the entry into force of amendments.</p> <p>6. Proposals for amendments to the model phytosanitary certificates set out in the Annex to this Convention shall be sent to the Secretary and shall be considered for approval by the Commission. Approved amendments to the model phytosanitary certificates set out in the Annex to this Convention shall become effective ninety days after their notification to the contracting parties by the Secretary.</p> <p>7. For a period of not more than twelve months from an amendment to the model phytosanitary certificates set out in the Annex to this Convention becoming effective, the previous version of the phytosanitary certificates shall also be legally valid for the purpose of this Convention."</p>
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B. INTERNATIONAL CONVENTION FOR THE CONSERVATION OF ATLANTIC TUNAS (ICCAT)

<b>Web site</b>	www.iccat.int
<b>Objective</b>	ICCAT is responsible for the conservation of tunas and tuna-like species in the Atlantic Ocean and adjacent seas. Its mandate also includes the study of fish species caught incidentally to tuna fishing.
<b>Date of Signature</b>	Convention: 14 May 1966 Paris Protocol (on Articles XIV, XV and XVI): 10 July 1984 Madrid Protocol (to Article X:2): 5 June 1992
<b>Entry into force</b>	Convention: 21 March 1969 Paris Protocol (on Articles XIV, XV and XVI): 14 December 1997 Madrid Protocol (to Article X:2): 10 March 2005
<b>Parties</b>	48 Parties
<b>WTO Members</b>	41 Parties to ICCAT are also WTO Members
<b>Openness of Membership</b>	<p><b>Article XIV.1</b></p> <p>"This Convention shall be open for signature by any Government which is a Member of the United Nations or of any Specialized Agency of the United Nations. Any such Government which does not sign this Convention may adhere to it at any time".</p> <p>→ In addition, the <b>Paris Protocol</b> states in Article XIV, paragraph 4: "This Convention shall be open for signature or adherence by any inter-governmental economic integration organization constituted by States that have transferred to it competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters." Paragraph 6 further provides that, "When an organization referred to in paragraph 4 becomes a Contracting Party to this Convention, the member states of that organization and those which adhere to it in the future shall cease to be parties to the Convention."</p>
<b>Decision-Making Bodies</b>	<p>→ The Convention established the International Commission for the Conservation of Atlantic Tunas (hereafter the "Commission").</p> <p>→ The Commission can, on the basis of scientific evidence and other relevant information, recommend management measures and Resolutions aimed at</p>



	<p>carrying out its objective of maintaining the populations of tuna and tuna-like fishes at "levels which will permit maximum sustainable catch". The scientific advice is prepared by the organization's scientific branch, the Standing Committee on Research and Statistics (SCRS).</p> <p>→ Normally, Recommendations and Resolutions are drafted by already-established auxiliary bodies (such as the four species-group Panels, the Compliance Committee or the Permanent Working Group on ICCAT Statistics and Conservation Measures), and are presented to the Commission as the ultimate decision-making body. While Recommendations are applicable to Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities, Contracting Parties have a six-month grace period in which to present objections (Article VIII:3).</p> <p><b>Article III:1</b></p> <p>"1. The Contracting Parties hereby agree to establish and maintain a Commission to be known as the International Commission for the Conservation of Atlantic Tunas, hereinafter referred to as "the Commission," which shall carry out the objectives set forth in this Convention".</p> <p><b>Article VI</b></p> <p>"To carry out the objectives of this Convention the Commission may establish Panels on the basis of species, group of species, or of geographic areas. Each Panel in such case:</p> <ul style="list-style-type: none"> <li>(a) shall be responsible for keeping under review the species, group of species, or geographic area under its purview, and for collecting scientific and other information relating thereto;</li> <li>(b) may propose to the Commission, upon the basis of scientific investigations, recommendations for joint action by the Contracting Parties;</li> <li>(c) may recommend to the Commission studies and investigations necessary for obtaining information relating to its species, group of species, or geographic area, as well as the co-ordination of programmes of investigation by the Contracting Parties." <p><b>Article VIII</b></p> <p>"1. (a) The Commission may, on the basis of scientific evidence, make recommendations designed to maintain the populations of tuna and tuna-like fishes that may be taken in the Convention area at levels which will permit the maximum sustainable catch. These recommendations shall be applicable to the Contracting Parties under the conditions laid down in paragraphs 2 and 3 of this Article....</p> <p>2. Each recommendation made under paragraph 1 of this Article shall become effective for all Contracting Parties six months after the date of the notification from the Commission transmitting the recommendation to the Contracting Parties, except as provided in paragraph 3 of this Article....</p> <p>4. Any Contracting Party objecting to a recommendation may at any time withdraw that objection, and the recommendation shall become effective with respect to such Contracting Party immediately if the recommendation is already in effect, or at such time as it may become effective under the terms of this Article.</p> <p>5. The Commission shall notify each Contracting Party immediately upon receipt of each objection and of each withdrawal of an objection, and of the entry into force of any recommendation."</p> </li></ul>
<b>Amendments and Protocols</b>	<p><b>Article XIII:1</b></p> <p>"1. Any Contracting Party or the Commission may propose amendments to this Convention. The Director-General of the FAO shall transmit a certified copy of the text of any proposed amendment to all the Contracting Parties. Any amendment not involving new obligations shall take effect for all Contracting Parties on the thirtieth day after its acceptance by three-fourths of the Contracting Parties. Any amendment involving new obligations shall take effect for each Contracting Party accepting the amendment on the ninetieth day after its acceptance by three-fourths of the Contracting Parties and thereafter for each remaining Contracting Party upon acceptance by it. Any amendment considered by one or more Contracting Parties to involve new obligations shall be deemed to involve new obligations and shall take effect accordingly. A government which becomes a Contracting Party after an amendment to this Convention has been opened for acceptance pursuant to the provisions of this Article shall be bound by the Convention as amended when the said amendment comes into force".</p>



C. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES)

<b>Web site</b>	www.cites.org
<b>Objective</b>	<p>→ CITES is an international treaty to regulate international trade in wildlife (animals, plants and their derivatives) for conservation and sustainable use purposes. The Convention is primarily about species that are in the international markets which are not yet threatened with extinction but could become so without trade regulation (97% of the total). It also prohibits international commercial trade in wild specimens of the small number of species listed as already being threatened with extinction (3% of the total). It provides a framework for legal, sustainable and traceable wildlife trade based on best scientific information available, and analyses how different types of trade regulations can affect specific populations.</p> <p>→ CITES trade-related measures seek to ensure that trade is not detrimental to the survival of wildlife species and traded specimens are not obtained in contravention of national laws for the protection of fauna and flora. It also requires that any living specimen be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment (e.g. in accordance with the Live Animal Regulations and Perishable Cargo Regulations of the International Air Transport Association).</p>
<b>Date of Signature</b>	<p>Convention: 3 March 1973</p> <p>Bonn Amendment (on Article XI): 22 June 1979</p> <p>Gaborone Amendment (on Article XXI): 30 April 1983</p>
<b>Entry into force</b>	<p>Convention: 1 July 1975</p> <p>Bonn Amendment (on Article XI): 13 April 1987</p> <p>Gaborone Amendment (on Article XXI): has not entered into force as of 18 November 2010</p>
<b>Parties</b>	<p>Convention (1973): 175 Parties</p> <p>Bonn Amendment (1979): 141 Parties</p> <p>Gaborone Amendment (1983): 87 Parties</p>
<b>WTO Members</b>	<p>Convention (1973): 144 Parties to CITES are also WTO Members.</p> <p>Bonn Amendment (1979): 115 Parties to this Amendment are also WTO Members.</p> <p>Gaborone Amendment (1983): 78 Parties to this Amendment are also WTO Members.</p>
<b>Openness of Membership</b>	<p><b>Article XXI – Accession</b></p> <p>"The present Convention shall be open indefinitely for accession. Instruments of accession shall be deposited with the Depositary Government".</p> <p>→ The Gaborone Amendment, when it enters into force, will open the membership to regional economic integration organizations: " This Convention shall be open for accession by regional economic integration organizations constituted by sovereign States which have competence in respect of the negotiation, conclusion and implementation of international agreements in matters transferred to them by their Member States and covered by this Convention... In the fields of their competence, regional economic integration organizations shall exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the Convention. Such organizations shall not exercise their right. to vote if their Member States exercise theirs, and vice versa."</p>
<b>Decision-Making Bodies</b>	<p><b>Article XI:3 – Conference of the Parties</b></p> <p>"3. At meetings, whether regular or extraordinary, the Parties shall review the implementation of the present Convention and may:</p> <ul style="list-style-type: none"> <li>(a) make such provision as may be necessary to enable the Secretariat to carry out its duties, and adopt financial provisions;</li> <li>(b) consider and adopt amendments to Appendices I and II in accordance with Article XV;</li> <li>(c) review the progress made towards the restoration and conservation of the species included in Appendices I, II and III;</li> <li>(d) receive and consider any reports presented by the Secretariat or by any Party; and</li> </ul>



	<p>(e) where appropriate, make recommendations for improving the effectiveness of the present Convention".</p> <p><b>Resolution Conf. 11.1 (Rev. CoP15) – Establishment of Committees</b></p> <p>"[The CoP to the Convention] ... Resolves that:</p> <ul style="list-style-type: none"> <li>(a) there shall be a permanent Standing Committee of the [CoP], which shall be the senior Committee, and shall report to the [CoP];</li> <li>(b) there shall be an Animals Committee and a Plants Committee, which shall report to the [CoP] at its meetings and, if so requested, to the Standing Committee between meetings of the [CoP];</li> <li>(c) the [CoP] may appoint additional committees as the need arises;</li> <li>(d) the [CoP] or the Standing Committee may appoint working groups with specific terms of reference as required to address specific problems. These working groups shall have a defined life span which shall not exceed the period until the next meeting of the [CoP], at which time it may be renewed if necessary. They shall report to the [CoP] and, if so requested, to the Standing Committee; ..."</li> </ul>
<b>Amendments and Protocols</b>	<p><b>Article XV – Amendments to Appendices I and II</b></p> <p>"1. The following provisions shall apply in relation to amendments to Appendices I and II at meetings of the [CoP]:</p> <ul style="list-style-type: none"> <li>(a) Any Party may propose an amendment to Appendix I or II for consideration at the next meeting. The text of the proposed amendment shall be communicated to the Secretariat at least 150 days before the meeting. The Secretariat shall consult the other Parties and interested bodies on the amendment in accordance with the provisions of sub-paragraphs (b) and (c) of paragraph 2 of this Article and shall communicate the response to all Parties not later than 30 days before the meeting.</li> <li>(b) Amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.</li> <li>(c) Amendments adopted at a meeting shall enter into force 90 days after that meeting for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.</li> </ul> <p>2. The following provisions shall apply in relation to amendments to Appendices I and II between meetings of the [CoP]:</p> <ul style="list-style-type: none"> <li>(a) Any Party may propose an amendment to Appendix I or II for consideration between meetings by the postal procedures set forth in this paragraph.</li> <li>...</li> <li>(f) If no objection to the proposed amendment is received by the Secretariat within 30 days of the date the replies and recommendations were communicated under the provisions of sub-paragraph (e) of this paragraph, the amendment shall enter into force 90 days later for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.</li> <li>(g) If an objection by any Party is received by the Secretariat, the proposed amendment shall be submitted to a postal vote in accordance with the provisions of sub-paragraphs (h) , (i) and (j) of this paragraph...</li> <li>(j) Provided that votes are received from one-half of the Parties, the amendment shall be adopted by a two-thirds majority of Parties casting an affirmative or negative vote...</li> <li>(l) If the proposed amendment is adopted it shall enter into force 90 days after the date of the notification by the Secretariat of its acceptance for all Parties except those which make a reservation in accordance with paragraph 3 of this Article.</li> </ul> <p>3. During the period of 90 days provided for by sub-paragraph (c) of paragraph 1 or sub-paragraph (l) of paragraph 2 of this Article any Party may by notification in writing to the Depositary Government make a reservation with respect to the amendment. Until such reservation is withdrawn the Party shall be treated as a State not a Party to the present Convention with respect to trade in the species concerned".</p> <p><b>Article XVI – Appendix III and Amendments thereto</b></p> <p>1. Any Party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 of Article II. Appendix III shall include the names of the Parties submitting the species for inclusion therein, the scientific</p>



	<p>names of the species so submitted, and any parts or derivatives of the animals or plants concerned that are specified in relation to the species for the purposes of sub-paragraph (b) of Article I.</p> <p>2. Each list submitted under the provisions of paragraph 1 of this Article shall be communicated to the Parties by the Secretariat as soon as possible after receiving it. The list shall take effect as part of Appendix III 90 days after the date of such communication. At any time after the communication of such list, any Party may by notification in writing to the Depositary Government enter a reservation with respect to any species or any parts or derivatives, and until such reservation is withdrawn, the State shall be treated as a State not a Party to the present Convention with respect to trade in the species or part or derivative concerned.</p> <p>3. A Party which has submitted a species for inclusion in Appendix III may withdraw it at any time by notification to the Secretariat which shall communicate the withdrawal to all Parties. The withdrawal shall take effect 30 days after the date of such communication...</p> <p><b>Article XVII – Amendment of the</b></p> <p>"1. An extraordinary meeting of the [CoP] shall be convened by the Secretariat on the written request of at least one-third of the Parties to consider and adopt amendments to the present Convention. Such amendments shall be adopted by a two-thirds majority of Parties present and voting. For these purposes "Parties present and voting" means Parties present and casting an affirmative or negative vote. Parties abstaining from voting shall not be counted among the two-thirds required for adopting an amendment.</p> <p>2. The text of any proposed amendment shall be communicated by the Secretariat to all Parties at least 90 days before the meeting.</p> <p>3. An amendment shall enter into force for the Parties which have accepted it 60 days after two-thirds of the Parties have deposited an instrument of acceptance of the amendment with the Depositary Government. Thereafter, the amendment shall enter into force for any other Party 60 days after that Party deposits its instrument of acceptance of the amendment".</p> <p>→ <b>Resolution Conf. 4.27 on the Interpretation of Article XVII, paragraph 3, of the Convention</b> provides that "the meaning of Article XVII, paragraph 3, of the Convention be interpreted in its narrow sense so as to mean that the acceptance of two-thirds of the Parties at the time of the adoption of an amendment is required for the coming into force of such amendment".</p>
<b>Amendments adopted</b>	<p><b>Bonn amendment – 22 June 1979</b></p> <p>→ On 22 June 1979, the CoP to CITES adopted an amendment to Article XI, paragraph 3 a), consisting of inserting the words ", and adopt financial provisions" at the end of the provision.</p> <p>→ In accordance with Article XVII, paragraph 3, the Bonn amendment entered into force 60 days after 34 of the 50 States (two-thirds) that were parties to CITES on 22 June 1979 deposited their instruments of acceptance, i.e. on 13 April 1987. At that time it entered into force only for those States that had accepted the amendment (no matter on what date they became party to the Convention). However, the amended text of the Convention now applies automatically to any State that becomes a Party after the date of entry into force of the amendment.</p> <p><b>Gaborone amendment– 30 April 1983 (not yet in force)</b></p> <p>→ On 30 April 1983, the CoP to CITES adopted in Gaborone, Botswana, an amendment to Article XXI of the Convention to permit accession by regional economic integration organizations and especially to allow the EC to become a CITES party.</p> <p>→ In accordance with Article XVII, paragraph 3, the Gaborone amendment shall enter into force 60 days after 54 of the 80 States that were party to CITES on 30 April 1983 have deposited their instruments of acceptance. However, at that time it will enter into force only for those States that have accepted the amendment. The amended text of the Convention will apply automatically to any State that becomes a Party after the date of entry into force of the amendment. For States that became party to the Convention before that date and have not accepted the amendment, it will enter into force 60 days after they do accept it.</p>



#### D. CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES (CCAMLR)

1. The CCAMLR is part of the Antarctic Treaty System, a set of arrangements made for the purpose of coordinating relations among states with respect to Antarctica. The Antarctic Treaty came into force on 23 June 1961, and it remains in force indefinitely. The success of the treaty has been the growth in membership. Forty-eight countries, comprising 80% of the world's population, have acceded to it. Consultative (voting) status is open to all countries who have demonstrated their commitment to the Antarctic by conducting significant research. Twenty-seven nations have Consultative status. The Treaty parties meet every year. They have adopted over 200 recommendations and negotiated five separate international agreements. These, together with the original Treaty, provide the rules which govern activities in Antarctica. Collectively, they are known as the Antarctic Treaty System (ATS). The five international Agreements are:

- Agreed Measures for the Conservation of Antarctic Fauna and Flora (1964)
- Convention for the Conservation of Antarctic Seals (1972)
- ***Convention on the Conservation of Antarctic Marine Living Resources (1980)***
- Convention on the Regulation of Antarctic Mineral Resource Activities (1988)
- Protocol on Environmental Protection to the Antarctic Treaty (1991)

2. The Preamble to CCAMLR recognises "the prime responsibility of the Antarctic Treaty Consultative Parties for the protection and preservation of the Antarctic environment and, in particular, their responsibilities under Article IX, paragraph 1(f) of the Antarctic Treaty in respect of the preservation and conservation of living resources in Antarctica".

<b>Web site</b>	www.ccamlr.org
<b>Objective</b>	<p>→ The Convention is based on an ecosystem-wide approach to the conservation of marine living resources in the waters surrounding Antarctica. It incorporates standards designed to ensure the conservation of not only individual populations and species, but also the maintenance of the breadth of the Antarctic marine ecosystem as a whole. Conservation principles established by the Convention embody an "ecosystem approach" to living resources conservation and set CCAMLR's marine resources management regime apart from other international fisheries organisations.</p> <p>→ The Convention's Commission is responsible for the conservation of marine living resources in the Convention Area (waters south of about 60°S), which include all species of fish, molluscs, crustaceans and other marine organisms as well as marine birds. Rational use of resources is considered a part of their conservation. Although management of seals and whales is under the jurisdiction of the Convention for the Conservation of Antarctic Seals (CCAS) and the International Whaling Commission (IWC), CCAMLR takes into account, in elaborating its conservation strategy, the status of these animals as an integral part of the Antarctic marine ecosystem.</p>
<b>Date of Signature</b>	20 May 1980
<b>Entry into force</b>	7 April 1982
<b>Parties</b>	<p>34 Parties</p> <p>→ States that have ratified the Convention, but are not Commission members: Bulgaria, Canada, Cook Islands, Finland, Greece, Mauritius, Netherlands, Peru and Vanuatu.</p>
<b>WTO Members</b>	31 Parties to CCAMLR are also WTO Members.



<b>Openness of Membership</b>	<p><b>Article XXIX</b></p> <p>"1. This Convention shall be open for accession by any State interested in research or harvesting activities in relation to the marine living resources to which this Convention applies.</p> <p>2. This Convention shall be open for accession by regional economic integration organisations constituted by sovereign States which include among their members one or more States Members of the Commission and to which the States members of the organisation have transferred, in whole or in part, competences with regard to the matters covered by this Convention. The accession of such regional economic integration organisations shall be the subject of consultations among Members of the Commission".</p>
<b>Decision-Making Bodies</b>	<p>→ The main decision-making body is the Commission for the CCAMLR. The Commission has two standing committees: The Standing Committee on Administration and Finance (SCAF) and the Standing Committee on Implementation and Compliance (SCIC). All decisions on matters of substance are taken by consensus. The institutional features of the Convention comprise, in addition to the Commission, a Scientific Committee for the Conservation of Antarctic Marine Living Resources (SC-CAMLR) and a permanent Secretariat, based in Hobart, Australia. The Scientific Committee has two permanent working groups, the Working Group on Ecosystem Monitoring and Management (WG-EMM), the Working Group on Fish Stock Assessment (WG-FSA) and the Working Group on Assessment Methods (WG-SAM). The Ad Hoc Working Group on Incidental Mortality Associated with Fisheries (WG-IMAF) carries out its activities as part of WG-FSA.</p> <p><i>(I) Commission for the Conservation of Antarctic Marine Living Resources</i></p> <p><b>Article VII</b></p> <p>"1. The Contracting Parties hereby establish and agree to maintain the Commission for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as 'the Commission')".</p> <p><b>Article IX</b></p> <p>"1. The function of the Commission shall be to give effect to the objective and principles set out in Article II of this Convention. To this end, it shall: ...</p> <ul style="list-style-type: none"> <li>(e) identify conservation needs and analyse the effectiveness of conservation measures;</li> <li>(f) formulate, adopt and revise conservation measures on the basis of the best scientific evidence available, subject to the provisions of paragraph 5 of this Article;</li> <li>(g) implement the system of observation and inspection established under Article XXIV of this Convention;</li> <li>(h) carry out such other activities as are necessary to fulfil the objective of this Convention.</li> </ul> <p>2. The conservation measures referred to in paragraph 1(f) above include the following:</p> <ul style="list-style-type: none"> <li>(a) the designation of the quantity of any species which may be harvested in the area to which this Convention applies;</li> <li>(b) the designation of regions and sub-regions based on the distribution of populations of Antarctic marine living resources;</li> <li>(c) the designation of the quantity which may be harvested from the populations of regions and sub-regions;</li> <li>(d) the designation of protected species;</li> <li>(e) the designation of the size, age and, as appropriate, sex of species which may be harvested;</li> <li>(f) the designation of open and closed seasons for harvesting;</li> <li>(g) the designation of the opening and closing of areas, regions or sub-regions for purposes of scientific study or conservation, including special areas for protection and scientific study;</li> <li>(h) regulation of the effort employed and methods of harvesting, including fishing gear, with a view, <i>inter alia</i>, to avoiding undue concentration of harvesting in any region or sub-region;</li> </ul>



	<p>(i) the taking of such other conservation measures as the Commission considers necessary for the fulfilment of the objective of this Convention, including measures concerning the effects of harvesting and associated activities on components of the marine ecosystem other than the harvested populations.</p> <p>3. The Commission shall publish and maintain a record of all conservation measures in force.</p> <p>4. In exercising its functions under paragraph 1 above, the Commission shall take full account of the recommendations and advice of the Scientific Committee.</p> <p>5. The Commission shall take full account of any relevant measures or regulations established or recommended by the Consultative Meetings pursuant to Article IX of the Antarctic Treaty or by existing fisheries commissions responsible for species which may enter the area to which this Convention applies, in order that there shall be no inconsistency between the rights and obligations of a Contracting Party under such regulations or measures and conservation measures which may be adopted by the Commission.</p> <p>6. Conservation measures adopted by the Commission in accordance with this Convention shall be implemented by Members of the Commission in the following manner:</p> <ul style="list-style-type: none"> <li>(a) the Commission shall notify conservation measures to all Members of the Commission;</li> <li>(b) conservation measures shall become binding upon all Members of the Commission 180 days after such notification, except as provided in subparagraphs (c) and (d) below;</li> <li>(c) if a Member of the Commission, within ninety days following the notification specified in sub-paragraph (a), notifies the Commission that it is unable to accept the conservation measure, in whole or in part, the measure shall not, to the extent stated, be binding upon that Member of the Commission;</li> <li>(d) in the event that any Member of the Commission invokes the procedure set forth in sub-paragraph (c) above, the Commission shall meet at the request of any Member of the Commission to review the conservation measure. At the time of such meeting and within thirty days following the meeting, any Member of the Commission shall have the right to declare that it is no longer able to accept the conservation measure, in which case the Member shall no longer be bound by such a measure".</li> </ul> <p><b>Article XII</b></p> <p>"1. Decisions of the Commission on matters of substance shall be taken by consensus. The question of whether a matter is one of substance shall be treated as a matter of substance.</p> <p>2. Decisions on matters other than those referred to in paragraph 1 above shall be taken by a simple majority of the Members of the Commission present and voting".</p>
	<p><b><i>(2) Scientific Committee for the Conservation of Antarctic Marine Living Resources</i></b></p>
	<p><b>Article XIV</b></p> <p>"1. The Contracting Parties hereby establish the Scientific Committee for the Conservation of Antarctic Marine Living Resources (hereinafter referred to as 'the Scientific Committee') which shall be a consultative body to the Commission ...".</p> <p><b>Article XV</b></p> <p>"1. The Scientific Committee shall provide a forum for consultation and co-operation concerning the collection, study and exchange of information with respect to the marine living resources to which this Convention applies. It shall encourage and promote co-operation in the field of scientific research in order to extend knowledge of the marine living resources of the Antarctic marine ecosystem.</p> <p>2. The Scientific Committee shall conduct such activities as the Commission may direct in pursuance of the objective of this Convention ...".</p>



<b>Amendments and Protocols</b>	<b>Article XXX</b> "1. This Convention may be amended at any time. 2. If one-third of the Members of the Commission request a meeting to discuss a proposed amendment the Depositary shall call such a meeting. 3. An amendment shall enter into force when the Depositary has received instruments of ratification, acceptance or approval thereof from all the Members of the Commission. 4. Such amendment shall thereafter enter into force as to any other Contracting Party when notice of ratification, acceptance or approval by it has been received by the Depositary. Any such Contracting Party from which no such notice has been received within a period of one year from the date of entry into force of the amendment in accordance with paragraph 3 above shall be deemed to have withdrawn from this Convention".
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E. MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER

1. The Vienna Convention for the Protection of the Ozone Layer is a framework convention. It did not itself establish controls on ozone-depleting substances but rather, it established the procedural rules for future protocols to be developed under the framework of the Convention. The Montreal Protocol on Substances that Deplete the Ozone Layer was adopted in 1987 and has been amended four times: London Amendment (1990), Copenhagen Amendment (1992), Montreal Amendment (1997) and Beijing Amendment (1999). Its control provisions were strengthened through five adjustments to the Protocol adopted in London (1990), Copenhagen (1992), Vienna (1995), Montreal (1997) and Beijing (1999).

	<b>Vienna Convention for the Protection of the Ozone Layer</b>	<b>Montreal Protocol on Substances that Deplete the Ozone Layer</b>	<b>London Amendment</b>	<b>Copenhagen Amendment</b>	<b>Montreal Amendment</b>	<b>Beijing Amendment</b>
<b>Date of Signature</b>	22 March 1985	16 September 1987	29 June 1990	25 November 1992	17 September 1997	3 December 1999
<b>Entry into force</b>	22 September 1988	1 January 1989	10 August 1992	14 June 1994	10 November 1999	25 February 2002
<b>Parties</b>	196	196	195	192	182	166
<b>WTO Members</b>	150 WTO Members	150 WTO Members	148 WTO Members	147 WTO Members	139 WTO Members	127 WTO Members



	Vienna Convention for the Protection of the Ozone Layer	Montreal Protocol on Substances that Deplete the Ozone Layer, either adjusted and/or amended in <i>London-1990, Copenhagen-1992, Vienna-1995, Montreal-1997, and Beijing-1999</i>
<b>Web site</b>	<a href="http://ozone.unep.org/">http://ozone.unep.org/</a>	
<b>Objective</b>	→ Under the Vienna Convention, governments agreed to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer, and committed themselves to protect the ozone layer and to co-operate with each other in scientific research and information exchange to improve understanding of atmospheric processes and technical and economic aspects.	→ The Montreal Protocol develops a regime that limits the release of ozone-depleting substances (ODS) into the atmosphere.
<b>Entry into force (provision)</b>	<p><b>Article 17: Entry into force</b></p> <p>"1. This Convention shall enter into force on the ninetieth day after the date of deposit of the twentieth instrument of ratification, acceptance, approval or accession.</p> <p>2. Any protocol, except as otherwise provided in such protocol, shall enter into force on the ninetieth day after the date of deposit of the eleventh instrument of ratification, acceptance or approval of such protocol or accession thereto.</p> <p>3. For each Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the twentieth instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit by such Party of its instrument of ratification, acceptance, approval or accession.</p> <p>4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that party deposits its instrument of ratification, acceptance, approval or accession, or on the date which the Convention enters into force for that Party, whichever shall be the later.</p> <p>5. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization".</p>	<p><b>Article 16 – Entry into force</b></p> <p>"1. This Protocol shall enter into force on 1 January 1989, provided that at least eleven instruments of ratification, acceptance, approval of the Protocol or accession thereto have been deposited by States or regional economic integration organizations representing at least two-thirds of 1986 estimated global consumption of the controlled substances, and the provisions of paragraph 1 of Article 17 of the Convention have been fulfilled. In the event that these conditions have not been fulfilled by that date, the Protocol shall enter into force on the ninetieth day following the date on which the conditions have been fulfilled. ...</p> <p>3. After the entry into force of this Protocol, any State or regional economic integration organization shall become a Party to it on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession".</p> <p><b>Article 17 – Parties joining after entry into force</b></p> <p>"Subject to Article 5, any State or regional economic integration organization which becomes a Party to this Protocol after the date of its entry into force, shall fulfil forthwith the sum of the obligations under Article 2, as well as under Articles 2A to 2I and Article 4, that apply at that date to the States and regional economic integration organizations that became Parties on the date the Protocol entered into force".</p>



	Vienna Convention for the Protection of the Ozone Layer	Montreal Protocol on Substances that Deplete the Ozone Layer, either adjusted and/or amended in <i>London-1990, Copenhagen-1992, Vienna-1995, Montreal-1997, and Beijing-1999</i>
<b>Openness of Membership</b>	<p><b>Article 12 – Signature</b> "This Convention shall be open for signature by States and by regional economic integration organizations..."</p> <p><b>Article 13 – Ratification, acceptance or approval</b> "1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations..."</p> <p>2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention or any protocol without any of its member States being a Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member State is a Party to the Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligation under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently..."</p> <p><b>Article 14 – Accession</b> "1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature ...".</p>	<p><b>Montreal Protocol: Article 15 – Signature</b> "This Protocol shall be open for signature by States and by regional economic integration organizations ...".</p> <p><b>Copenhagen Amendment (1992):</b> <b>Article 2 – Relationship to the 1990 Amendment</b> "No State or regional economic integration organization may deposit an instrument of ratification, acceptance, approval or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Second MOP in London, 29 June 1990."</p> <p><b>Montreal Amendment (1997):</b> <b>Article 2 – Relationship to the 1992 Amendment</b> "No State or regional economic integration organization may deposit an instrument of ratification, acceptance, approval or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Fourth MOP in Copenhagen, 25 November 1992."</p> <p><b>Beijing Amendment (1999):</b> <b>Article 2 – Relationship to the 1997 Amendment</b> "No State or regional economic integration organization may deposit an instrument of ratification, acceptance or approval of or accession to this Amendment unless it has previously, or simultaneously, deposited such an instrument to the Amendment adopted at the Ninth MOP in Montreal, 17 September 1997."</p>
<b>Decision-Making Bodies</b>	<p><b>Article 6 – Conference of the Parties</b> "...4. The [COP] shall keep under continuous review the implementation of this Convention, and, in addition, shall: ...</p> <p>(c) Promote, in accordance with article 2, the harmonization of appropriate policies, strategies and measures for minimizing the release of substances causing or likely to cause modification of the ozone layer, and make recommendations on any other measures relating to this Convention;</p> <p>(d) Adopt, in accordance with articles 3 and 4, programmes for research, systematic observations, scientific and technological co-operation, the exchange of information and the transfer of technology and knowledge;</p>	<p><b>Article 11 – Meetings of the Parties</b> "...4. The functions of the meetings of the Parties shall be to:</p> <p>(a) review the implementation of this Protocol;</p> <p>(b) decide on any adjustments or reductions referred to in paragraph 9 of Article 2;</p> <p>(c) decide on any addition to, insertion in or removal from any annex of substances and on related control measures in accordance with paragraph 10 of Article 2;</p> <p>(d) establish, where necessary, guidelines or procedures for reporting of information as provided for in Article 7 and paragraph 3 of Article 9;</p> <p>(e) review requests for technical assistance submitted pursuant to paragraph 2 of Article 10;</p>



	Vienna Convention for the Protection of the Ozone Layer	Montreal Protocol on Substances that Deplete the Ozone Layer, either adjusted and/or amended in <i>London-1990, Copenhagen-1992, Vienna-1995, Montreal-1997, and Beijing-1999</i>
	<p>(e) Consider and adopt, as required, in accordance with articles 9 and 10, amendments to this Convention and its annexes;</p> <p>(f) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;</p> <p>(g) Consider and adopt, as required, in accordance with article 10, additional annexes to this Convention;</p> <p>(h) Consider and adopt, as required, protocols in accordance with article 8; ..."</p>	<p>(f) review reports prepared by the secretariat pursuant to subparagraph (c) of Article 12;</p> <p>(g) assess, in accordance with Article 6, the control measures;</p> <p>(h) consider and adopt, as required, proposals for amendment of this Protocol or any annex and for any new annex;</p> <p>(i) consider and adopt the budget for implementing this Protocol; and</p> <p>(j) consider and undertake any additional action that may be required for the achievement of the purposes of this Protocol"....</p>
Amendments and Protocols	<p><b>Article 8 – Adoption of protocols</b></p> <p>"1. The [COP] may at a meeting adopt protocols pursuant to Article 2.</p> <p>2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a meeting".</p> <p><b>Article 9 – Amendment of the Convention or protocols</b></p> <p>"1. Any Party may propose amendments to this Convention or to any protocol. Such amendments shall take due account, <i>inter alia</i>, of relevant scientific and technical considerations.</p> <p>2. Amendments to this Convention shall be adopted at a meeting of the [COP]. Amendments to any protocol shall be adopted at a [MOP] to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.</p> <p>3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval or acceptance.</p> <p>4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the parties to that protocol present and voting at the meeting shall suffice for their adoption.</p> <p>5. Ratification, approval or acceptance of amendments shall be notified to</p>	<p><b>Article 14 – Relationship of this Protocol to the Convention</b></p> <p>"Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol".</p> <p>→ A party to the Protocol that has not ratified a subsequent amendment is treated as a non-Party for the purposes of trade in the relevant substances controlled by that particular amendment (Article 4(9) of the Protocol).</p>



	Vienna Convention for the Protection of the Ozone Layer	Montreal Protocol on Substances that Deplete the Ozone Layer, either adjusted and/or amended in <i>London-1990, Copenhagen-1992, Vienna-1995, Montreal-1997, and Beijing-1999</i>
	<p>the Depositary in writing. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between parties having accepted them on the ninetieth day after the receipt by the Depositary of notification of their ratification, approval or acceptance by at least three-fourths of the Parties to this Convention or by at least two-thirds of the parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval or acceptance of the amendments.</p> <p>6. For the purposes of this article, "Parties present and voting" means Parties present and casting an affirmative or negative vote".</p> <p><b>Article 16 – Relationship between the Convention and its protocols</b></p> <p>"1. A State or a regional economic integration organization may not become a party to a protocol unless it is, or becomes at the same time, a Party to the Convention.</p> <p>2. Decisions concerning any protocol shall be taken only by the parties to the protocol concerned".</p> <p>→Procedures for amending annexes to the Convention are laid out in Article 10.</p>	



F. BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

	<b>Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal</b>	<b>Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal</b>
<b>Web site</b>	<a href="http://www.basel.int/">http://www.basel.int/</a>	
<b>Objective</b>	<p>→ The objective of the Basel Convention is to protect human health and the environment against the adverse effects which may result from the generation and management of hazardous and other wastes.</p> <p>→ The specific objectives of the Basel Convention are:</p> <ul style="list-style-type: none"> <li>– to minimize the generation of hazardous and other wastes;</li> <li>– to promote the environmentally sound management of hazardous and other wastes; and</li> <li>– to reduce transboundary movements of hazardous and other wastes.</li> </ul> <p>→ The Convention provides for the attainment of these objectives through control of the transboundary movements of hazardous and other wastes, monitoring and prevention of illegal traffic, requirements with regards to the environmentally sound management of hazardous and other wastes, promotion of cooperation between Parties, and development of technical guidelines for the management of hazardous and other wastes.</p>	<p>→ The objective of the Protocol is to provide for a comprehensive regime for liability as well as adequate and prompt compensation for damage resulting from the transboundary movement of hazardous wastes and other wastes and their disposal, including incidents occurring because of illegal traffic in those wastes.</p> <p>→ Under the Protocol, actors involved in the transboundary movement and disposal of hazardous waste are strictly liable for damage caused regardless of the presence of fault and up to the financial limits established by the Protocol. Fault-based liability is also regulated by the Protocol.</p>
<b>Date of Adoption</b>	22 March 1989	10 December 1999
<b>Entry into force</b>	5 May 1992	Not in force. The Protocol will enter into force 90 days after the date of the 20 <sup>th</sup> instrument of ratification, acceptance, formal confirmation, approval or accession.
<b>Parties</b>	175	10
<b>WTO Members</b>	139 Parties to the Basel Convention are also WTO Members. Lao People's Democratic Republic acceded on 21.09.2010 and will formally be a Party 90 days after (21.12.2010)	6 Parties to the Basel Protocol are also WTO Members.
<b>Openness of Membership</b>	<p><b>Article 21 – Signature</b> "This Convention shall be open for signature by States ... and by political and/or economic integration organizations...".</p> <p><b>Article 22 – Ratification, Acceptance, Formal Confirmation or Approval</b> "1. This Convention shall be subject to ratification, acceptance or approval by States ... and to formal confirmation or approval by political and/or economic integration organizations. Instruments of ratification, acceptance,</p>	<p><b>Article 26 – Signature</b> "The Protocol shall be open for signature by States and by regional economic integration organizations Parties to the Basel Convention ...".</p> <p><b>Article 27 – Ratification, Acceptance, Formal Confirmation or Approval</b> "1. The Protocol shall be subject to ratification, acceptance or approval by States and to formal confirmation or approval by regional economic integration organizations. Instruments of ratification, acceptance, formal</p>



	<b>Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal</b>	<b>Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal</b>
	<p>formal confirmation, or approval shall be deposited with the Depositary.</p> <p>2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently...".</p> <p><b>Article 23 – Accession</b></p> <p>"1. This Convention shall be open for accession by States, and by political and/or economic integration organizations from the day after the date on which the Convention is closed for signature ...".</p>	<p>confirmation, or approval shall be deposited with the Depositary.</p> <p>2. Any organization referred to in paragraph 1 of this Article which becomes a Contracting Party without any of its member States being a Contracting Party shall be bound by all the obligations under the Protocol. In the case of such organizations, one or more of whose member States is a Contracting Party, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Protocol. In such cases, the organization and the member States shall not be entitled to exercise rights under the Protocol concurrently...".</p> <p><b>Article 28 – Accession</b></p> <p>1. The Protocol shall be open for accession by any States and by any regional economic integration organization Party to the Basel Convention which has not signed the Protocol. The instruments of accession shall be deposited with the Depositary...".</p>
<b>Decision-Making Bodies</b>	<p><b>Article 15 – Conference of the Parties</b></p> <p>"...5. The COP shall keep under continuous review and evaluation the effective implementation of this Convention, and, in addition, shall:</p> <ul style="list-style-type: none"> <li>(a) Promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes and other wastes;</li> <li>(b) Consider and adopt, as required, amendments to this Convention and its annexes, taking into consideration, <i>inter alia</i>, available scientific, technical, economic and environmental information;</li> <li>(c) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation and in the operation of the agreements and arrangements envisaged in Article 11;</li> <li>(d) Consider and adopt protocols as required; and</li> <li>(e) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention. ...</li> </ul> <p>7. The COP shall undertake three years after the entry into force of this Convention, and at least every six years thereafter, an evaluation of its effectiveness and, if deemed necessary, to consider the adoption of a complete or partial ban of transboundary movements of hazardous wastes and other wastes in light of the latest scientific, environmental, technical and</p>	<p><b>Article 24 – Meeting of the Parties</b></p> <p>"4. The functions of the MOP shall be:</p> <ul style="list-style-type: none"> <li>(a) To review the implementation of and compliance with the Protocol;</li> <li>(b) To provide for reporting and establish guidelines and procedures for such reporting where necessary;</li> <li>(c) To consider and adopt, where necessary, proposals for amendment of the Protocol or any annexes and for any new annexes; and</li> <li>(d) To consider and undertake any additional action that may be required for the purposes of the Protocol".</li> </ul>



	Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal	Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal
	<p>economic information".</p> <p>→ The COP, the main decision-making organ, is composed of the representatives of the Parties.</p> <p>→ The Expanded Bureau is a subsidiary body of the COP composed of 13 representatives of all the regions. It meets between the meetings of the COP to orientate the work of the secretariat; provide advice for the preparation of meeting agendas and any other matters raised by the secretariat.</p> <p>→ The Open-ended Working Group is a subsidiary body of the COP and its mandate is to assist the COP in the implementation of the Convention and consider and advise the COP on issues relating to policy, technical, scientific, legal, institutional, administrative, financial, budgetary and other aspects of the implementation of the Convention.</p> <p>→ The Committee for Administrating the Mechanism for Promoting Implementation and Compliance (also referred to as "the Compliance Committee") is a subsidiary body of the COP and its mandate is to administer the said mechanism established to assist Parties to comply with their obligations under the Convention and to facilitate, promote, monitor and aim to secure the implementation of, and compliance with, the obligations under the Convention.</p>	
<b>Amendments and Protocols</b>	<p><b>Article 12 – Consultations on Liability</b></p> <p>"The Parties shall co-operate with a view to adopting, as soon as practicable, a protocol setting out appropriate rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes".</p> <p><b>Article 17 – Amendment of the Convention</b></p> <p>"1. Any Party may propose amendments to this Convention and any Party to a protocol may propose amendments to that protocol. Such amendments shall take due account, <i>inter alia</i>, of relevant scientific and technical considerations.</p> <p>2. Amendments to this Convention shall be adopted at a meeting of the COP. Amendments to any protocol shall be adopted at a MOP to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The</p>	<p><b>Article 22 – Relationship of the Protocol with the Basel Convention</b></p> <p>"Except as otherwise provided in the Protocol, the provisions of the Convention relating to its Protocols shall apply to the Protocol".</p>



	<b>Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal</b>	<b>Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal</b>
	<p>Secretariat shall also communicate proposed amendments to the Signatories to this Convention for information.</p> <p>3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval, formal confirmation or acceptance.</p> <p>4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that protocol present and voting at the meeting shall suffice for their adoption.</p> <p>5. ... Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between Parties having accepted them on the ninetieth day after the receipt by the Depositary of their instrument of ratification, approval, formal confirmation or acceptance by at least three-fourths of the Parties who accepted them or by at least two-thirds of the Parties to the protocol concerned who accepted them, except as may otherwise be provided in such protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval, formal confirmation or acceptance of the amendments.</p> <p>6. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote".</p> <p>→ <b>The Ban Amendment</b> was adopted on 22 September 1995. 69 Parties (68 States and one regional economic integration organisation) have ratified the Amendment. Entry into force of the amendment will take place in accordance with Article 17.5 of the Convention.</p> <p>→ The objective of this Amendment is to prohibit immediately exports from countries listed in Annex VII ("Parties and other States, which are members of the OECD, EC, Liechtenstein") to all other countries, of hazardous wastes intended for final disposal, and to prohibit transboundary movements from Annex VII to non-Annex VII countries of hazardous wastes intended for recycling or reuse as of end 1997. Annex VII is not yet in force, pending the entry into force of the Amendment.</p> <p>→ The following amendments to technical annexes have been adopted by</p>	



	<b>Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal</b>	<b>Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal</b>
	<p>the COP:</p> <ul style="list-style-type: none"> <li>– Amendment to Annex I (adopted through Decision IV/9): in order to make reference to Annexes VIII and IX and establish the relationship between these new annexes and Annex III</li> <li>– Introduction of Annex VIII and IX: Annex VIII includes wastes characterized as hazardous under Article 1, paragraph 1(a) of the Basel Convention and Annex IX includes wastes that are not covered by Article 1, paragraph 1(a), unless they contain Annex I material to an extent causing them to exhibit an Annex III characteristic.</li> <li>– Amendment to Annex VIII and IX: at its sixth meeting, the COP adopted an amendment to Annex VIII and IX in order to harmonize the annexes with other international lists and incorporate changes in accordance with scientific and technical advances.</li> <li>– COP-7 adopted further amendments to Annex VIII and IX of the Basel Convention (Decision VII/19 added new wastes to be included in Annexes VIII and IX) .</li> </ul>	



G. CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

<b>Web site</b>	<a href="http://www.cbd.int">http://www.cbd.int</a>
<b>Objective</b>	→ The objective of the CBD is the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.
<b>Date of Signature</b>	5 June 1992
<b>Entry into force</b>	29 December 1993
<b>Parties</b>	193
<b>WTO Members</b>	151 Parties to the CBD are also WTO Members.
<b>Openness of Membership</b>	<p><b>Article 33 – Signature</b>          "This Convention shall be open for signature ... by all States and any regional economic integration organization...".</p> <p><b>Article 34 – Ratification, Acceptance or Approval</b>          "1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations...          2. Any organization referred to in paragraph 1 above which becomes a Contracting Party to this Convention or any protocol without any of its member States being a Contracting Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Contracting Party to this Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise right under the Convention or relevant protocol concurrently...".</p> <p><b>Article 35 – Accession</b>          "1. This Convention and any protocol shall be open for accession by States and by regional economic integration organization...".</p>
<b>Decision-Making Bodies</b>	<p><b>Article 23 – Conference of the Parties</b>          "...4. The COP shall keep under review the implementation of this Convention, and, for this purpose, shall:</p> <ul style="list-style-type: none"> <li>(a) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 26 and consider such information as well as reports submitted by any subsidiary body;</li> <li>(b) Review scientific, technical and technological advice on biological diversity provided in accordance with Article 25;</li> <li>(c) Consider and adopt, as required, protocols in accordance with Article 28;</li> <li>(d) Consider and adopt, as required, in accordance with Articles 29 and 30, amendments to this Convention and its annexes;</li> <li>(e) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;</li> <li>(f) Consider and adopt, as required, in accordance with Article 30, additional annexes to this Convention;</li> <li>(g) Establish such subsidiary bodies, particularly to provide scientific and technical advice, as are deemed necessary for the implementation of this Convention;</li> <li>(h) Contact, through the Secretariat, the executive bodies of conventions dealing with matters covered by this Convention with a view to establishing appropriate forms of cooperation with them; and</li> <li>(i) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation."....</li> </ul>



	<p>→ The COP has established a number of working groups to address specific issues, such as the Working Group on Article 8(j) and Related Provisions of the Convention and the Working Group on Access to Genetic Resources and Benefit-Sharing.</p> <p><b>Article 25 – Subsidiary Body on Scientific, Technical and Technological Advice</b></p> <p>"1. A subsidiary body for the provision of scientific, technical and technological advice is hereby established to provide the [COP] and, as appropriate, its other subsidiary bodies with timely advice relating to the implementation of this Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the [COP] on all aspects of its work.</p> <p>2. Under the authority of and in accordance with guidelines laid down by the [COP], and upon its request, this body shall:</p> <ul style="list-style-type: none"> <li>(a) Provide scientific and technical assessments of the status of biological diversity;</li> <li>(b) Prepare scientific and technical assessments of the effects of types of measures taken in accordance with the provisions of this Convention;</li> <li>(c) Identify innovative, efficient and state-of-the-art technologies and know-how relating to the conservation and sustainable use of biological diversity and advise on the ways and means of promoting development and/or transferring such technologies;</li> <li>(d) Provide advice on scientific programmes and international cooperation in research and development related to conservation and sustainable use of biological diversity; and</li> <li>(e) Respond to scientific, technical, technological and methodological questions that the [COP] and its subsidiary bodies may put to the body" ....</li> </ul>
<b>Amendments and Protocols</b>	<p><b>(1) Amendments</b></p> <p><b>Article 29 – Amendment of the Convention or Protocols</b></p> <p>"1. Amendments to this Convention may be proposed by any Contracting Party. Amendments to any protocol may be proposed by any Party to that protocol.</p> <p>2. Amendments to this Convention shall be adopted at a meeting of the [COP]. Amendments to any protocol shall be adopted at a [MOP] to the Protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties to the instrument in question by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.</p> <p>3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention or to any protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-third majority vote of the Parties to the instrument in question present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, acceptance or approval.</p> <p>4. Ratification, acceptance or approval of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 above shall enter into force among Parties having accepted them on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by at least two-thirds of the Contracting Parties to this Convention or of the Parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.</p> <p>5. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote".</p> <p>→ See also Article 23:4(d) on the COP in the Section on Decision-Making Bodies above.</p>



	<p><b>(2) Protocols</b></p> <p><b>Article 28 – Adoption of Protocols</b></p> <p>"1. The Contracting Parties shall cooperate in the formulation and adoption of protocols to this Convention.</p> <p>2. Protocols shall be adopted at a meeting of the [COP].</p> <p>3. The text of any proposed protocol shall be communicated to the Contracting Parties by the Secretariat at least six months before such a meeting."</p> <p>→ The COP adopted the Cartagena Protocol on Biosafety on 29 January 2000. The Protocol entered into force on 11 September 2003.</p> <p><b>Article 32 – Relationship between this Convention and Its Protocols</b></p> <p>"1. A State or a regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.</p> <p>2. Decisions under any protocol shall be taken only by the Parties to the protocol concerned. Any Contracting Party that has not ratified, accepted or approved a protocol may participate as an observer in any MOP to that protocol".</p> <p>→ See Cartagena Protocol on Biosafety and Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (below).</p>
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#### H. CARTAGENA PROTOCOL ON BIOSAFETY TO THE CONVENTION ON BIOLOGICAL DIVERSITY

<b>Web site</b>	<a href="http://bch.cbd.int/protocol/">http://bch.cbd.int/protocol/</a>
<b>Objective</b>	→ The objective of the Biosafety Protocol is to ensure an adequate level of protection in the field of safe transfer, handling and use of Living Modified Organisms (LMOs) that may have adverse effects on the conservation and sustainable use of biological diversity, also taking into account risks to human health.
<b>Date of Adoption</b>	29 January 2000
<b>Entry into force</b>	11 September 2003
<b>Parties</b>	160
<b>WTO Members</b>	130 Parties to the Biosafety Protocol are also WTO Members.
<b>Openness of Membership</b>	<p><b>Article 36 – Signature</b></p> <p>"This Protocol shall be open for signature ... by States and regional economic integration organizations ...".</p> <p><b>Article 32:1 of the Convention on Biological Diversity – Relationship between this Convention and Its Protocols</b></p> <p>"1. A State or a regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention".</p>
<b>Decision-Making Bodies</b>	<p><b>Article 29 – Conference of the Parties Serving as the Meeting of the Parties to this Protocol</b></p> <p>"1. The [COP] shall serve as the [MOP] to this Protocol.</p> <p>2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of the [COP] serving as the [MOP] to this Protocol. When the [COP] serves as the [MOP] to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to it.</p> <p>3. When the [COP] serves as the [MOP] to this Protocol, any member of the bureau of the [COP] representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be substituted by a member to be elected by and from among the Parties to this Protocol.</p> <p>4. The [COP] serving as the [MOP] to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall:</p>



	<p>(a) Make recommendations on any matters necessary for the implementation of this Protocol;</p> <p>(b) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;</p> <p>(c) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies;</p> <p>(d) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 33 of this Protocol and consider such information as well as reports submitted by any subsidiary body;</p> <p>(e) Consider and adopt, as required, amendments to this Protocol and its annexes, as well as any additional annexes to this Protocol, that are deemed necessary for the implementation of this Protocol; and</p> <p>(f) Exercise such other functions as may be required for the implementation of this Protocol.</p> <p>5. The rules of procedure of the Conference of the Parties and financial rules of the Convention shall be applied, <i>mutatis mutandis</i>, under this Protocol, except as may be otherwise decided by consensus by the [COP] serving as the [MOP] to this Protocol."</p> <p><b>Article 30 – Subsidiary Bodies</b></p> <p>"1. Any subsidiary body established by or under the Convention may, upon a decision by the [COP] serving as the [MOP] to this Protocol, serve the Protocol, in which case the [MOP] shall specify which functions that body shall exercise.</p> <p>2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of any such subsidiary bodies. When a subsidiary body of the Convention serves as a subsidiary body to this Protocol, decisions under the Protocol shall be taken only by the Parties to the Protocol.</p> <p>3. When a subsidiary body of the Convention exercises its functions with regard to matters concerning this Protocol, any member of the bureau of that subsidiary body representing a Party to the Convention but, at that time, not a Party to the Protocol, shall be substituted by a member to be elected by and from among the Parties to the Protocol".</p> <p>→ COP-MOP 3 considered the issue of subsidiary bodies and adopted Decision BS-III/13, by which COP-MOP decided to consider, at its fourth meeting, potential mechanisms to provide scientific and technical advice to the [COP-MOP], including, <i>inter alia</i>, the potential designation or establishment of a permanent subsidiary body, or use of subsidiary bodies or mechanisms that may be created on an <i>ad hoc</i> basis, and requested the Executive Secretary to prepare a pre-sessional paper for that meeting which includes:</p> <p>(a) A review of the findings of the Ad Hoc Open-Ended Working Group on Review of Implementation of the Convention, and any associated decisions by the 8<sup>th</sup> COP, concerning the review of the impacts and effectiveness of existing processes under the Convention; and</p> <p>(b) Cost estimates for various potential mechanisms for the provision of scientific and technical advice.</p>
<b>Amendments and Protocols</b>	<p><b>Article 32 – Relationship with the Convention</b></p> <p>"Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol".</p> <p>→ See also Article 29:4(e) on [COP-MOP] to this Protocol in the Section on Decision-making Bodies above.</p> <p>→ Article 29 of the CBD (Amendment of the Convention or Protocols) will also apply to the Protocol.</p>



I. NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION TO THE CONVENTION ON BIOLOGICAL DIVERSITY<sup>4</sup>

<b>Objective</b>	The objective of this Protocol is the fair and equitable sharing of the benefits arising from the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding, thereby contributing to the conservation of biological diversity and the sustainable use of its components (Article 1).
<b>Date of Signature</b>	Open for signature by Parties to the Convention at the United Nations Headquarters in New York from 2 February 2011 to 1 February 2012 (Article 26)
<b>Entry into force</b>	The Protocol will enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession by States or regional economic integration organizations that are Parties to the Convention (Article 27(1)).
<b>Parties</b>	---
<b>WTO Members</b>	---
<b>Openness of Membership</b>	Parties to the Convention on Biological Diversity may become a Party to the Protocol (Article 26)
<b>Decision-Making Bodies</b>	<p><b>Article 20 - Conference of the Parties serving as the Meeting of the Parties to this Protocol</b></p> <ol style="list-style-type: none"> <li>1. The Conference of the Parties shall serve as the meeting of the Parties to this Protocol.</li> <li>2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to it.</li> <li>3. When the Conference of the Parties serves as the meeting of the Parties to this Protocol, any member of the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be substituted by a member to be elected by and from among the Parties to this Protocol.</li> <li>4. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall: <ol style="list-style-type: none"> <li>(a) Make recommendations on any matters necessary for the implementation of this Protocol;</li> <li>(b) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;</li> <li>(c) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies;</li> <li>(d) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 23 of this Protocol and consider such information as well as reports submitted by any subsidiary body;</li> <li>(e) Consider and adopt, as required, amendments to this Protocol and its annex, as well as any additional annexes to this Protocol, that are deemed necessary for the implementation of this Protocol; and</li> <li>(f) Exercise such other functions as may be required for the implementation of this Protocol.</li> </ol> </li> </ol>

<sup>4</sup> The Matrix below is based on the advance unedited text of decision X/1 of the Conference of the Parties to the Convention on Biological Diversity (<http://www.cbd.int/nagoya/outcomes/>, accessed 1 December 2010).



	<p>5. The rules of procedure of the Conference of the Parties and financial rules of the Convention shall be applied, <i>mutatis mutandis</i>, under this Protocol, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Protocol.</p> <p>6. The first meeting of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be convened by the Secretariat and held concurrently with the first meeting of the Conference of the Parties that is scheduled after the date of the entry into force of this Protocol. Subsequent ordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held concurrently with ordinary meetings of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Protocol.</p> <p>7. Extraordinary meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to this Protocol, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the Secretariat, it is supported by at least one third of the Parties.</p> <p>8. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented as observers at meetings of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Any body or agency, whether national or international, governmental or non-governmental, that is qualified in matters covered by this Protocol and that has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties serving as a meeting of the Parties to this Protocol as an observer, may be so admitted, unless at least one third of the Parties present object. Except as otherwise provided in this Article, the admission and participation of observers shall be subject to the rules of procedure, as referred to in paragraph 5 above.</p> <p><b>Article 21—Subsidiary Bodies</b></p> <p>1. Any subsidiary body established by or under the Convention may serve this Protocol, including upon a decision of the Conference of the Parties serving as the meeting of the Parties to this Protocol. Any such decision shall specify the tasks to be undertaken.</p> <p>2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any meeting of any such subsidiary bodies. When a subsidiary body of the Convention serves as a subsidiary body to this Protocol, decisions under this Protocol shall be taken only by Parties to this Protocol.</p> <p>3. When a subsidiary body of the Convention exercises its functions with regard to matters concerning this Protocol, any member of the bureau of that subsidiary body representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be substituted by a member to be elected by and from among the Parties to this Protocol.</p>
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#### J. UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (UNFCCC)

<b>Web site</b>	<a href="http://unfccc.int/">http://unfccc.int/</a>
<b>Objective</b>	<p>→ The objective of the UNFCCC is the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.</p> <p>→ At <b>COP 16</b> (Cancun, December 2010), the COP affirmed that "climate change is one of the greatest challenges of our time and that all Parties share a vision for long-term cooperative action in order to achieve the objective of the Convention under its Article 2...; this vision is to guide the policies and actions of all Parties, while taking into full consideration the different circumstances of Parties in accordance with the principles and provisions of the Convention; the vision addresses mitigation, adaptation, finance, technology development and transfer, and capacity-building in a balanced, integrated and comprehensive manner to enhance and achieve the full, effective and sustained implementation of the Convention, now, up to and beyond 2012." It also affirmed that, "in the context of the provision of adequate and predictable support to developing country Parties, Parties should collectively aim to slow, halt and reverse forest cover and carbon loss, according to national circumstances, consistent with the ultimate objective of the Convention, as stated in Article 2." (Decision 1/CP.16)</p>



<b>Date of Signature</b>	9 May 1992
<b>Entry into force</b>	21 March 1994
<b>Parties</b>	194
<b>WTO Members</b>	150 Parties to UNFCCC are also WTO Members.
<b>Openness of Membership</b>	<p><b>Article 20 – Signature</b></p> <p>"This Convention shall be open for signature by States Members of the United Nations or of any of its specialized agencies or that are Parties to the Statute of the [ICJ] and by regional economic integration organizations...".</p>
<b>Decision-Making Bodies</b>	<p><b>Article 7 – Conference of the Parties</b></p> <p>"2. The [COP], as the supreme body of this Convention, shall keep under regular review the implementation of the Convention and any related legal instruments that the [COP] may adopt, and shall make, within its mandate, the decisions necessary to promote the effective implementation of the Convention. To this end, it shall:</p> <ul style="list-style-type: none"> <li>(a) Periodically examine the obligations of the Parties and the institutional arrangements under the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge;</li> <li>(b) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;</li> <li>(c) Facilitate, at the request of two or more Parties, the coordination of measures adopted by them to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;</li> <li>(d) Promote and guide, in accordance with the objective and provisions of the Convention, the development and periodic refinement of comparable methodologies, to be agreed on by the [COP], <i>inter alia</i>, for preparing inventories of greenhouse gas emissions by sources and removals by sinks, and for evaluating the effectiveness of measures to limit the emissions and enhance the removals of these gases;</li> <li>(e) Assess, on the basis of all information made available to it in accordance with the provisions of the Convention, the implementation of the Convention by the Parties, the overall effects of the measures taken pursuant to the Convention, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved;</li> <li>(f) Consider and adopt regular reports on the implementation of the Convention and ensure their publication;</li> <li>(g) Make recommendations on any matters necessary for the implementation of the Convention;</li> <li>(h) Seek to mobilize financial resources in accordance with Article 4, paragraphs 3, 4 and 5, and Article 11;</li> <li>(i) Establish such subsidiary bodies as are deemed necessary for the implementation of the Convention;</li> <li>(j) Review reports submitted by its subsidiary bodies and provide guidance to them;</li> <li>(k) Agree upon and adopt, by consensus, rules of procedure and financial rules for itself and for any subsidiary bodies;</li> <li>(l) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; and</li> <li>(m) Exercise such other functions as are required for the achievement of the objective of the Convention as well as all other functions assigned to it under the Convention".</li> </ul> <p><b>Article 9 – Subsidiary Body for Scientific and Technological Advice</b></p> <p>"1. A subsidiary body for scientific and technological advice is hereby established to provide the [COP] and, as appropriate, its other subsidiary bodies with timely information and advice on scientific and technological matters relating to the Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to</p>



	<p>the [COP] on all aspects of its work"....</p> <p><b>Article 10 – Subsidiary Body for Implementation</b></p> <p>"1. A subsidiary body for implementation is hereby established to assist the [COP] in the assessment and review of the effective implementation of the Convention. This body shall be open to participation by all Parties and comprise government representatives who are experts on matters related to climate change. It shall report regularly to the [COP] on all aspects of its work.</p> <p>2. Under the guidance of the [COP], this body shall:</p> <p>(a) Consider the information communicated in accordance with Article 12, paragraph 1, to assess the overall aggregated effect of the steps taken by the Parties in the light of the latest scientific assessments concerning climate change;</p> <p>(b) Consider the information communicated in accordance with Article 12, paragraph 2, in order to assist the [COP] in carrying out the reviews required by Article 4, paragraph 2(d); and</p> <p>(c) Assist the [COP], as appropriate, in the preparation and implementation of its decisions".</p> <p>→ At COP 13 (Bali, December 2007), the COP adopted the <b>Bali Action Plan</b> (decision 1/CP.13) and established the <b>Ad Hoc Working Group on Long-Term Cooperative Action under the Convention</b> (AWG-LCA) in order to "launch a comprehensive process to enable the full, effective and sustained implementation of the Convention through long-term cooperative action, now, up to and beyond 2012, in order to reach an agreed outcome and adopt a decision at its fifteenth session". The mandate of the AWG-LCA was extended at COP 15 and COP 16. It is due to present the results of its work to COP 17.</p>
Amendments and Protocols	<b>(1) Amendments</b>
	<p><b>Article 15 – Amendments to the Convention</b></p> <p>"1. Any Party may propose amendments to the Convention.</p> <p>2. Amendments to the Convention shall be adopted at an ordinary session of the [COP]. The text of any proposed amendment to the Convention shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to the Convention and, for information, to the Depositary.</p> <p>3. The Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.</p> <p>4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to the Convention.</p> <p>5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment ...".</p>
	<b>(2) Protocols</b>
	<p><b>Article 17 – Protocols</b></p> <p>"1. The [COP] may, at any ordinary session, adopt protocols to the Convention.</p> <p>2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a session.</p> <p>3. The requirements for the entry into force of any protocol shall be established by that instrument.</p> <p>4. Only Parties to the Convention may be Parties to a protocol.</p>
	<p>5. Decisions under any protocol shall be taken only by the Parties to the protocol concerned".</p> <p>→ See Kyoto Protocol below.</p>



K. KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

<b>Web site</b>	<a href="http://unfccc.int/">http://unfccc.int/</a>
<b>Objective</b>	→ The Kyoto Protocol supplements and strengthens the UNFCCC. The Kyoto Protocol is based on the general framework established by the UNFCCC, and shares its ultimate objective and principles, as well as its grouping of countries into Annex I, Annex II (the OECD members of Annex I), and non-Annex I Parties. This is a step towards achieving the objective of the Convention by reducing emissions from Annex I Parties.
<b>Date of Signature</b>	11 December 1997
<b>Entry into force</b>	16 February 2005
<b>Parties</b>	193 (The total percentage of Annex I Parties emissions is 63.7% of emissions)
<b>WTO Members</b>	149 Parties to the Kyoto Protocol are also WTO Members.
<b>Openness of Membership</b>	<b>Article 24</b> "1. This Protocol shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations which are Parties to the Convention...".
<b>Decision-Making Bodies</b>	→ The Kyoto Protocol will share the Convention's institutions, including its two subsidiary bodies and secretariat, while the Convention's COP will serve as the meeting of the Parties ("MOP") to the Protocol, forming a body known as the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP). <b>Article 13</b> "1. The [COP], the supreme body of the Convention, shall serve as the [MOP] to this Protocol. 2. Parties to the Convention that are not Parties to this Protocol may participate as observers in the proceedings of any session of the [CMP] to this Protocol. When the [COP] serves as the [MOP] to this Protocol, decisions under this Protocol shall be taken only by those that are Parties to this Protocol. 3. When the [COP] serves as the [MOP] to this Protocol, any member of the Bureau of the COP representing a Party to the Convention but, at that time, not a Party to this Protocol, shall be replaced by an additional member to be elected by and from amongst the Parties to this Protocol. 4. The [CMP] to this Protocol shall keep under regular review the implementation of this Protocol and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Protocol and shall: (a) Assess, on the basis of all information made available to it in accordance with the provisions of this Protocol, the implementation of this Protocol by the Parties, the overall effects of the measures taken pursuant to this Protocol, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved; (b) Periodically examine the obligations of the Parties under this Protocol, giving due consideration to any reviews required by Article 4, paragraph 2(d), and Article 7, paragraph 2, of the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge, and in this respect consider and adopt regular reports on the implementation of this Protocol; (c) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under this Protocol; (d) Facilitate, at the request of two or more Parties, the coordination of measures adopted by them to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under this Protocol; (e) Promote and guide, in accordance with the objective of the Convention and the provisions of this Protocol, and taking fully into account the relevant decisions by the [COP], the development and periodic refinement of comparable methodologies for the effective implementation of this Protocol, to be agreed on by the [CMP] to this Protocol; (f) Make recommendations on any matters necessary for the implementation of this Protocol;



	<p>(g) Seek to mobilize additional financial resources in accordance with Article 11, paragraph 2;</p> <p>(h) Establish such subsidiary bodies as are deemed necessary for the implementation of this Protocol;</p> <p>(i) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; and</p> <p>(j) Exercise such other functions as may be required for the implementation of this Protocol, and consider any assignment resulting from a decision by the [COP]".</p>
<b>Amendments and Protocols</b>	<p><b>Article 20</b></p> <p>"1. Any Party may propose amendments to this Protocol.</p> <p>2. Amendments to this Protocol shall be adopted at an ordinary session of the [CMP] to this Protocol. The text of any proposed amendment to this Protocol shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendments to the Parties and signatories to the Convention and, for information, to the Depositary.</p> <p>3. The Parties shall make every effort to reach agreement on any proposed amendment to this Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.</p> <p>4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to this Protocol.</p> <p>5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment".</p> <p><b>Article 21</b></p> <p>"1. Annexes to this Protocol shall form an integral part thereof and, unless otherwise expressly provided, a reference to this Protocol constitutes at the same time a reference to any annexes thereto. Any annexes adopted after the entry into force of this Protocol shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.</p> <p>2. Any Party may make proposals for an annex to this Protocol and may propose amendments to annexes to this Protocol.</p> <p>3. Annexes to this Protocol and amendments to annexes to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed annex or amendment to an annex shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed annex or amendment to an annex to the Parties and signatories to the Convention and, for information, to the Depositary.</p> <p>4. The Parties shall make every effort to reach agreement on any proposed annex or amendment to an annex by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the annex or amendment to an annex shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted annex or amendment to an annex shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.</p> <p>5. An annex, or amendment to an annex other than Annex A or B, that has been adopted in accordance with paragraphs 3 and 4 above shall enter into force for all Parties to this Protocol six months after the date of the communication by the Depositary to such Parties of the adoption of the annex or adoption of the amendment to the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex or amendment to the annex. The annex or amendment to an annex shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.</p> <p>6. If the adoption of an annex or an amendment to an annex involves an amendment to this Protocol, that annex or amendment to an annex shall not</p>



	<p>enter into force until such time as the amendment to this Protocol enters into force.</p> <p>7. Amendments to Annexes A and B to this Protocol shall be adopted and enter into force in accordance with the procedure set out in Article 20, provided that any amendment to Annex B shall be adopted only with the written consent of the Party concerned".</p> <p><b>Decision 1/CMP.6</b></p> <p>Decision 1/CMP.1 initiated a process to consider the further commitments for Annex I Parties for the period beyond 2012 (i.e. an amendment to the Kyoto Protocol to provide for a 2nd commitment period) in accordance with Article 3(9) of the Protocol. It established the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) to conduct this process. In accordance with Article 3(9)) and in the context of decision 1/CMP.1, [CMP 6] recognized that Annex I Parties should continue to take the lead in combating climate change. It urged Annex I Parties to raise the level of ambition of the emission reductions to be achieved by them individually or jointly, with a view to reducing their aggregate level of emissions of greenhouse gases. The [CMP] agreed that the AWG-KP "shall aim to complete its work pursuant to decision 1/CMP.1 and have its results adopted by the [CMP] as early as possible and in time to ensure that there is no gap between the first and second commitment periods." It also agreed that "in the second commitment period the base year shall be 1990." Emissions trading and the project-based mechanisms under the Kyoto Protocol as well as Measures to reduce GHG emissions and to enhance removals resulting from anthropogenic land use, land-use change and forestry activities, shall continue to be available to Annex I Parties as means to meet their quantified emission limitation and reduction objectives in accordance with relevant decisions</p>
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L. INTERNATIONAL TROPICAL TIMBER AGREEMENT (ITTA)<sup>5</sup>

<b>Web site</b>	www.itto.or.jp
<b>Objective</b>	→ ITTA, 1994 seeks to promote international trade in tropical timber, the sustainable management of tropical forests, and the development of tropical forest industries through international cooperation, policy work and project activities, as provided for in objectives (a) to (i) of Article 1.
<b>Date of Signature</b>	1 April 1994
<b>Entry into force</b>	<p>1 January 1997</p> <p><b>Article 46 – Duration, extension and termination</b></p> <p>"1. This Agreement shall remain in force for a period of four years after its entry into force unless the Council, by special vote, decides to extend, renegotiate or terminate it in accordance with the provisions of this article.</p> <p>2. The Council may, by special vote, decide to extend this Agreement for two periods of three years each.</p> <p>3. If, before the expiry of the four-year period referred to in paragraph 1 of this article, or before the expiry of an extension period referred to in paragraph 2 of this article, as the case may be, a new agreement to replace this Agreement has been negotiated but has not yet entered into force either definitively or provisionally, the Council may, by special vote, extend this Agreement until the provisional or definitive entry into force of the new agreement.</p> <p>4. If a new agreement is negotiated and enters into force during any period of extension of this Agreement under paragraph 2 or paragraph 3 of this article, this Agreement, as extended, shall terminate upon the entry into force of the new agreement.</p> <p>5. The Council may at any time, by special vote, decide to terminate this Agreement with effect from such date as it may determine ...".</p> <p>→ In 2000, the ITTA, 1994 was extended for a period of three years [Decision 4(XXVIII)] until 31 December 2003. On 4 November 2002, the ITTA, 1994 was extended for a further period of three years with effect from 1 January 2004 to 31 December 2006 [Decision 9(XXXIII)].</p> <p>→ Negotiations for a successor to ITTA, 1994 were concluded in 2006. The ITTA, 2006 is expected to come into force in a near future. On</p>

<sup>5</sup> The International Tropical Timber Agreement (ITTA), 1994 is the Successor Agreement to the International Tropical Timber Agreement, 1983.



	11 November 2006, the ITTA, 1994 was further extended until the provisional or definitive entry into force of the ITTA, 2006 [Decision 3(XLI)]. On 16 November 2009, through its Decision 3(XLV), the Council decided to maintain the extension of the ITTA,1994 beyond 2010 and to review in December 2010 what further steps to be taken towards the entry into force of the ITTA, 2006.
<b>Parties</b>	60 Members, including 33 producing and 27 consuming countries, including the European Community, bearing in mind that Belgium/Luxembourg are considered as one Party to the ITTA.
<b>WTO Members</b>	58 Parties to ITTA are also WTO Members, bearing in mind that Belgium/Luxembourg are considered as one Party to the ITTA.
<b>Openness of Membership</b>	<p><b>Article 38 – Signature, ratification, acceptance and approval</b> "1. This Agreement shall be open for signature...by Governments invited to the UN Conference for the Negotiation of a Successor Agreement to the International Tropical Timber Agreement, 1983..."</p> <p><b>Article 39 – Accession</b> "1. This Agreement shall be open for accession by the Governments of all states upon conditions established by the Council, which shall include a time-limit for the deposit of instruments of accession. The Council may, however, grant extensions of time to Governments which are unable to accede by the time-limit set in the conditions of accession..."</p>
<b>Decision-Making Bodies</b>	<p><b>(1) <i>The International Tropical Timber Council (ITTC)</i></b></p> <p><b>Article 6 – Composition of the ITTC</b> "1. The highest authority of the Organization shall be the ITTC, which shall consist of all the members of the Organization. 2. Each member shall be represented in the Council by one representative and may designate alternates and advisers to attend sessions of the Council. 3. An alternate representative shall be empowered to act and vote on behalf of the representative during the latter's absence or in special circumstances".</p> <p><b>Article 7 – Powers and functions of the Council</b> "1. The Council shall exercise all such powers and perform or arrange for the performance of all such functions as are necessary to carry out the provisions of this Agreement. 2. The Council shall, by special vote, adopt such rules and regulations as are necessary to carry out the provisions of this Agreement and as are consistent therewith, including its own rules of procedure and the financial rules and staff regulations of the Organization. Such financial rules regulations shall, <i>inter alia</i>, govern the receipt and expenditure of funds under the Administrative Account, the Special Account and the Bali Partnership Fund. The Council may, in its rules of procedure, provide for a procedure whereby it may, without meeting, decide specific questions. 3. The Council shall keep such records as are required for the performance of its functions under this Agreement".</p> <p><b>Article 12 – Decisions and recommendations of the Council</b> "1. The Council shall endeavour to take all decisions and to make all recommendations by consensus. If consensus cannot be reached, the Council shall take all decisions and make all recommendations by a simple distributed majority vote, unless this Agreement provides for a special vote. 2. Where a member avails itself of the provisions of article 11, paragraph 2, and its votes are cast at a meeting of the Council, such member shall, for the purposes of paragraph 1 of this article, be considered as present and voting".</p> <p><b>Article 32 – General obligations of members</b> "1. Members shall, for the duration of this Agreement, use their best endeavours and cooperate to promote the attainment of its objectives and to avoid any action contrary thereto. 2. Members undertake to accept and carry out the decisions of the Council under the provisions of this Agreement and shall refrain from implementing measures which would have the effect of limiting or running counter to them".</p>



	<p><b>(2) Committees</b></p> <p><b>Article 26 – Establishment of Committees</b></p> <p>"1. The following are hereby established as Committees of the Organization:</p> <ul style="list-style-type: none"> <li>(a) Committee on Economic Information and Market Intelligence</li> <li>(b) Committee on Reforestation and Forest Management</li> <li>(c) Committee on Forest Industry; and</li> <li>(d) Committee on Finance and Administration</li> </ul> <p>2. The Council may, by special vote, establish such other committees and subsidiary bodies as it deems appropriate and necessary.</p> <p>3. Participation in each of the committees shall be open to all members. The rules of procedure of the committees shall be decided by the Council.</p> <p>4. The committees and subsidiary bodies referred to in paragraphs 1 and 2 of this article shall be responsible to, and work under the general direction of, the Council. Meetings of the committees and subsidiary bodies shall be convened by the Council."</p> <p><b>Article 27 – Functions of the Committees</b></p> <p>1. The Committee on Economic Information and Market Intelligence shall:</p> <ul style="list-style-type: none"> <li>(a) Keep under review the availability and quality of statistics and other information required by the Organization;</li> <li>(b) Analyse the statistical data and specific indicators as decided by the Council for the monitoring of international timber trade;</li> <li>(c) Keep under continuous review the international timber market, its current situation and short-term prospects on the basis of the data mentioned in sub-paragraph (b) above and other relevant information, including information related to undocumented trade;</li> <li>(d) Make recommendations to the Council on the need for, and nature of, appropriate studies on tropical timber, including prices, market elasticity, market substitutability, marketing of new products, and long-term prospects of the international tropical timber market, and monitor and review any studies commissioned by the Council;</li> <li>(e) Carry out any other tasks related to the economic, technical and statistical aspects of timber assigned to it by the Council;</li> <li>(f) Assist in the provision of technical cooperation to developing member countries to improve their relevant statistical services.</li> </ul> <p>2. The Committee on Reforestation and Forest Management shall:</p> <ul style="list-style-type: none"> <li>(a) Promote cooperation between members as partners in development of forest activities in member countries, <i>inter alia</i>, in the following areas: <ul style="list-style-type: none"> <li>(i) Reforestation;</li> <li>(ii) Rehabilitation;</li> <li>(iii) Forest management;</li> </ul> </li> <li>(b) Encourage the increase of technical assistance and transfer of technology in the fields of reforestation and forest management to developing countries;</li> <li>(c) Follow up on-going activities in this field, and identify and consider problems and possible solutions to them in cooperation with the competent organizations;</li> <li>(d) Review regularly the future needs of international trade in industrial tropical timber and, on this basis, identify and consider appropriate possible schemes and measures in the field of reforestation, rehabilitation and forest management;</li> <li>(e) Facilitate the transfer of knowledge in the field of reforestation and forest management with the assistance of competent organizations;</li> <li>(f) Co-ordinate and harmonize these activities for cooperation in the field of reforestation and forest management with relevant activities pursued elsewhere, such as those under the auspices of the Food and Agricultural Organization (FAO), the United Nations Environmental Programme (UNEP), the World Bank, the United Nations Development Programme (UNDP), regional development banks and other competent organizations.</li> </ul>
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	<p>3. The Committee on Forest Industry shall:</p> <p>(a) Promote cooperation between member countries as partners in the development of processing activities in producing member countries, <i>inter alia</i>, in the following areas:</p> <ul style="list-style-type: none"> <li>(i) Product development through transfer of technology;</li> <li>(ii) Human resources development and training;</li> <li>(iii) Standardization of nomenclature of tropical timber;</li> <li>(iv) Harmonization of specifications of processed products;</li> <li>(v) Encouragement of investment and joint ventures; and</li> <li>(vi) Marketing including the promotion of lesser known and lesser used species;</li> </ul> <p>(b) Promote the exchange of information in order to facilitate structural changes involved in increased and further processing in the interests of all member countries, in particular developing member countries;</p> <p>(c) Follow up on-going activities in this field, and identify and consider problems and possible solutions to them in cooperation with the competent organizations;</p> <p>(d) Encourage the increase of technical cooperation for the processing of tropical timber for the benefit of producing member countries.</p> <p>4. In order to promote the policy and project work of the Organization in a balanced manner the Committee on Economic Information and Market Intelligence, the Committee on Reforestation and Forest Management and the Committee on Forest Industry shall each:</p> <ul style="list-style-type: none"> <li>(a) Be responsible for ensuring the effective appraisal, monitoring and evaluation of pre-projects and projects;</li> <li>(b) Make recommendations to the Council relating to pre-projects and projects;</li> <li>(c) Follow up the implementation of pre-projects and projects and provide for the collection and dissemination of their results as widely as possible for the benefit of all members;</li> <li>(d) Develop and advance policy ideas to the Council;</li> <li>(e) Review regularly the results of project and policy work and make recommendations to the Council on the future of the Organization's programme;</li> <li>(f) Review regularly the strategies, criteria and priority areas for programme development and project work contained in the Organization's Action Plan and recommend revisions to the Council;</li> <li>(g) Take account of the need to strengthen capacity building and human resource development in member countries;</li> <li>(h) Carry out any other task related to the objectives of this Agreement assigned to them by the Council.</li> </ul> <p>5. Research and development shall be a common function of the Committees referred to in paragraphs 1, 2, and 3 of this article..."</p>
<p><b>Amendments and Protocols</b></p>	<p><b>Article 42 – Amendments</b></p> <p>"1. The Council may, by special vote, recommend an amendment of this Agreement to members.</p> <p>2. The Council shall fix a date by which members shall notify the depositary of their acceptance of the amendment.</p> <p>3. An amendment shall enter into force 90 days after the depositary has received notifications of acceptance from members constituting at least two thirds of the producing members and accounting for at least 75 per cent of the votes of the producing members, and from members constituting at least two thirds of the consuming members and accounting for at least 75 per cent of the votes of the consuming members.</p> <p>4. After the depositary informs the Council that the requirements for entry into force of the amendment have been met, and notwithstanding the provisions of paragraph 2 of this article relating to the date fixed by the Council, a member may still notify the depositary of its acceptance of the amendment, provided that such notification is made before the entry into force of the amendment.</p> <p>5. Any member which has not notified its acceptance of an amendment by the date on which such amendment enters into force shall cease to be a party to this Agreement as from that date, unless such member has satisfied the Council that its acceptance could not be obtained in time owing to difficulties in</p>



	<p>completing its constitutional or institutional procedures, and the Council decides to extend for that member the period for acceptance of the amendment. Such member shall not be bound by the amendment before it has notified its acceptance thereof.</p> <p>6. If the requirements for the entry into force of the amendment have not been met by the date fixed by the Council in accordance with paragraph 2 of this article, the amendment shall be considered withdrawn".</p>
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#### M. THE UN FISH STOCKS AGREEMENT

1. The UN Fish Stocks Agreement is the Agreement for the Implementation of the Provisions of the UN Convention on the Law of the Sea (UNCLOS) of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement). Article 4 of the UN Fish Stocks Agreements on the relationship between the Agreement and UNCLOS provides that "[n]othing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention".

<b>Web site</b>	→ <a href="http://www.un.org/Depts/los/convention_agreements/convention_overview_fish_stocks.htm">http://www.un.org/Depts/los/convention_agreements/convention_overview_fish_stocks.htm</a>
<b>Objective</b>	→ The UN Fish Stocks Agreement seeks to ensure the long-term conservation and sustainable use of straddling and highly migratory fish stocks by requiring coastal States and States fishing on the high seas to cooperate for these purposes, either directly or through appropriate subregional or regional fisheries management organizations or arrangements (RFMO/As).
<b>Date of Signature</b>	5 August 1995
<b>Entry into force</b>	11 December 2001
<b>Parties</b>	77, including the European Union
<b>WTO Members</b>	62 Parties to the UN Fish Stocks Agreement are also WTO Members.
<b>Openness of Membership</b>	<p><b>Article 37 – Signature</b> "This Agreement shall be open for signature by all States and the other entities referred to in article 1, paragraph 2(b)..."</p> <p><b>Article 38 – Ratification</b> "This Agreement is subject to ratification by States and the other entities referred to in article 1, paragraph 2(b)..."</p> <p><b>Article 39 – Accession</b> "This Agreement shall remain open for accession by States and the other entities referred to in article 1, paragraph 2(b)..."</p> <p><b>Article 1:2(b) – Use of terms and scope</b></p> <p>2. (b) This Agreement applies <i>mutatis mutandis</i>:</p> <p>(i) to any entity referred to in article 305, paragraph 1 (c), (d) and (e), of the Convention and</p> <p>(ii) subject to article 47, to any entity referred to as an "international organization" in Annex IX, article 1, of the Convention which becomes a Party to this Agreement, and to that extent "States Parties" refers to those entities".</p> <p>3. This Agreement applies <i>mutatis mutandis</i> to other fishing entities whose vessels fish on the high seas.</p> <p><b>Article 305:1 of the UN Convention on the Law of the Sea – Signature</b> "1. This Convention shall be open for signature by:</p> <p>(a) all States;</p>



	<p>(b) Namibia, represented by the UN Council for Namibia;</p> <p>(c) all self-governing associated States which have chosen that status in an act of self-determination supervised and approved by the UN in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;</p> <p>(d) all self-governing associated States which, in accordance with their respective instruments of association, have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;</p> <p>(e) all territories which enjoy full internal self-government, recognized as such by the UN, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters;</p> <p>(f) international organizations, in accordance with Annex IX".</p>
<b>Governing Bodies</b>	<p><b>Informal Consultations of States Parties</b></p> <p>→ The General Assembly of the United Nations (UNGA) in its Resolution 56/13 of 28 November 2001 requested the Secretary-General of the UN, once the Agreement entered into force, to consult with the States Parties, for the purposes and objectives of, <i>inter alia</i>, considering the regional, subregional and global implementation of the Agreement; making any appropriate recommendation to the UNGA on the scope and content of the annual report of the Secretary-General relating to the Agreement; and preparing for the review conference to be convened by the Secretary-General pursuant to Article 36 of the Agreement. Such Informal Consultations of States Parties have been held annually in New York since 2002.</p> <p><b>Review Conference</b></p> <p>→ The Agreement provides for the convening of a Review Conference four years after the date of the entry into force of the Agreement (Article 36).</p> <p><b>Article 36</b></p> <p>"1. Four years after the date of entry into force of this Agreement, the Secretary-General of the UN shall convene a conference with a view to assessing the effectiveness of this Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become parties to this Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers.</p> <p>2. The conference shall review and assess the adequacy of the provisions of this Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory fish stocks".</p> <p>→ Pursuant to Article 36, the General Assembly (resolution 59/25, para.16) requested the Secretary-General to convene a review conference on the Agreement in the first part of 2006. The Conference was held in New York, from 22 to 26 May 2006. The Conference addressed ways to give full effect to the Agreement, both through a substantive review and assessment of the Agreement and by agreeing on recommendations for strengthening the implementation of its provisions. Recommendations were made regarding: 1) conservation and management of straddling fish stocks and highly migratory fish stocks; 2) mechanisms for international cooperation, including cooperation with non-members of regional fisheries management organizations or arrangements; 3) monitoring, control and surveillance and compliance and enforcement; and 4) developing States and non-parties. The Conference also recommended promoting further ratification and accession to the Agreement through a continuing dialogue to address concerns raised by some non-parties regarding some provisions of the Agreement. The Review Conference also agreed to continue the Informal Consultations of States Parties and keep the Agreement under review through the resumption of the Review Conference at a date not later than 2011, to be agreed at a future round of Informal Consultations of States Parties to the Agreement.</p> <p>The resumed Review Conference was held in New York from 24 to 28 May 2010, pursuant to General Assembly resolutions 63/112 and 64/72. The Conference conducted a review of the implementation of the recommendations adopted at the Review Conference in 2006 and adopted additional recommendations that built on the outcome in 2006 in order to strengthen the substance and methods of implementing the provisions of the Agreement.</p>



	The resumed Review Conference decided to continue the Informal Consultations of States Parties to the Agreement and keep the Agreement under review through the resumption of the Review Conference at a date not earlier than 2015.
<b>Amendments and Protocols</b>	<p><b>Article 45 – Amendment</b></p> <p>"1. A State Party may, by written communication addressed to the Secretary-General of the UN, propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.</p> <p>2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.</p> <p>3. Once adopted, amendments to this Agreement shall be open for signature at United Nations Headquarters by States Parties for twelve months from the date of adoption, unless otherwise provided in the amendment itself.</p> <p>4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.</p> <p>5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.</p> <p>6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.</p> <p>7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:</p> <p>(a) be considered as a Party to this Agreement as so amended; and</p> <p>(b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment".</p>

N. **ROTTERDAM CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE**

<b>Website</b>	<a href="http://www.pic.int/">http://www.pic.int/</a>
<b>Objective</b>	<p><b>Article 1 – Objective</b></p> <p>"The objective of the Rotterdam Convention is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties".</p>
<b>Date of Signature</b>	10 September 1998
<b>Entry into Force</b>	24 February 2004
<b>Parties</b>	140
<b>WTO Members</b>	121 Parties to the Rotterdam Convention are also WTO Members.



<p><b>Openness of Membership</b></p>	<p><b>Article 24 – Signature</b> "This Convention shall be open for signature (...) by all States and regional economic integration organizations [from 11-12 September 1998 until 10 September 1999]".</p> <p><b>Article 25 – Ratification, acceptance, approval or accession</b> "1. This Convention shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. It shall be open for accession by States and by regional economic integration organizations from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary. 2. Any regional economic integration organization that becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently (...)."</p>
<p><b>Decision-Making Bodies</b></p>	<p><b>Article 18 – Conference of the Parties</b> "(...) 5. The Conference of the Parties [COP] shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall: (a) Establish, further to the requirements of paragraph 6 below, such subsidiary bodies, as it considers necessary for the implementation of the Convention; (b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and (c) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention. 6. The [COP] shall, at its first meeting, establish a subsidiary body, to be called <b>the Chemical Review Committee</b>, for the purposes of performing the functions assigned to that Committee by this Convention. In this regard: (a) The members of the Chemical Review Committee shall be appointed by the [COP]. Membership of the Committee shall consist of a limited number of government-designated experts in chemicals management. The members of the Committee shall be appointed on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties; (b) The [COP] shall decide on the terms of reference, organization and operation of the Committee; (c) The Committee shall make every effort to make its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting". → By decisions RC-1/6 and RC-1/7, the COP, at its first meeting, respectively established the Chemical Review Committee (CRC) and adopted the "rules and procedures for preventing and dealing with conflicts of interest relating to the activities of the Chemical Review Committee".</p>
<p><b>Amendments and Protocols</b></p>	<p><b>Article 21 – Amendments to the Convention</b> "1. Amendments to this Convention may be proposed by any Party. 2. Amendments to this Convention shall be adopted at a meeting of the [COP]. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate the proposed amendment to the signatories to this Convention and, for information, to the Depositary. 3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. 4. The amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.</p>



	5. Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment".
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O. STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS

<b>Web site</b>	<a href="http://www.pops.int/">http://www.pops.int/</a>
<b>Objective</b>	→ "Mindful of the precautionary approach as set forth in Principle 15 of the Rio Declaration on Environment and Development, the objective of this Convention is to protect human health and the environment from persistent organic pollutants" (Article 1). → The aim of the Convention is to reduce or eliminate the release of Persistent Organic Pollutants (POPs) into the environment.
<b>Date of Signature</b>	22 May 2001
<b>Entry into force</b>	17 May 2004
<b>Parties</b>	172
<b>WTO Members</b>	139 Parties to the Stockholm Convention are also WTO Members.
<b>Openness of Membership</b>	<b>Article 24 – Signature</b> "This Convention shall be open for signature (...) by all States and regional economic integration organizations [from 23-24 May 2001 until 22 May 2002]". <b>Article 25 – Ratification, acceptance, approval or accession</b> "1. This Convention shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. It shall be open for accession by States and by regional economic integration organizations from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary 2. Any regional economic integration organization that becomes a Party to this Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to this Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently (...)".
<b>Decision-Making Bodies</b>	<b>Article 19 – Conference of the Parties</b> "(...) 5. The Conference of the Parties [COP] shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall: (a) Establish, further to the requirements of paragraph 6, such subsidiary bodies as it considers necessary for the implementation of the Convention; (b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and (c) Regularly review all information made available to the Parties pursuant to Article 15, including consideration of the effectiveness of paragraph 2 (b) (iii) of Article 3; (d) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention. 6. The [COP] shall, at its first meeting, establish a subsidiary body to be called <b>the Persistent Organic Pollutants Review Committee</b> for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:



	<p>(a) The members of the Persistent Organic Pollutants Review Committee shall be appointed by the [COP]. Membership of the Committee shall consist of government-designated experts in chemical assessment or management. The members of the Committee shall be appointed on the basis of equitable geographical distribution;</p> <p>(b) The [COP] shall decide on the terms of reference, organization and operation of the Committee; and</p> <p>(c) The Committee shall make every effort to adopt its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.</p> <p>7. The [COP] shall, at its third meeting, evaluate the continued need for the procedure contained in paragraph 2 (b) of Article 3, including consideration of its effectiveness. (...)"</p> <p>→ By decisions SC-1/7 and SC-1/8, the COP, at its first meeting, respectively established the Persistent Organic Pollutants Review Committee (POPRC) and adopted the "rules and procedures for preventing and dealing with conflicts of interest relating to the activities of the Persistent Organic Pollutants Review Committee".</p>
<b>Amendments and Protocols</b>	<p><b>Article 21 – Amendments to the Convention</b></p> <p>"1. Amendments to this Convention may be proposed by any Party.</p> <p>2. Amendments to this Convention shall be adopted at a meeting of the [COP]. The text of any proposed amendment shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories to this Convention and, for information, to the depositary.</p> <p>3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting.</p> <p>4. The amendment shall be communicated by the depositary to all Parties for ratification, acceptance or approval.</p> <p>5. Ratification, acceptance or approval of an amendment shall be notified to the depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three-fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment".</p>

## II. TRADE-RELATED MEASURES

### A. INTERNATIONAL PLANT PROTECTION CONVENTION

<b>Article V Phytosanitary certification</b>	<p>"1. Each contracting party shall make arrangements for phytosanitary certification, with the objective of ensuring that exported plants, plant products and other regulated articles and consignments thereof are in conformity with the certifying statement to be made pursuant to paragraph 2(b) of this Article.</p> <p>2. Each contracting party shall make arrangements for the issuance of phytosanitary certificates in conformity with the following provisions:</p> <p>(a) Inspection and other related activities leading to issuance of phytosanitary certificates shall be carried out only by or under the authority of the official national plant protection organization. The issuance of phytosanitary certificates shall be carried out by public officers who are technically qualified and duly authorized by the official national plant protection organization to act on its behalf and under its control with such knowledge and information available to those officers that the authorities of importing contracting parties may accept the phytosanitary certificates with</p>
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	<p>confidence as dependable documents.</p> <p>(b) Phytosanitary certificates, or their electronic equivalent where accepted by the importing contracting party concerned, shall be as worded in the models set out in the Annex to this Convention. These certificates should be completed and issued taking into account relevant international standards.</p> <p>(c) Uncertified alterations or erasures shall invalidate the certificates.</p> <p>3. Each contracting party undertakes not to require consignments of plants or plant products or other regulated articles imported into its territories to be accompanied by phytosanitary certificates inconsistent with the models set out in the Annex to this Convention. Any requirements for additional declarations shall be limited to those technically justified".</p>
<b>Article VII Requirements in relation to imports</b>	<p>"1. With the aim of preventing the introduction and/or spread of regulated pests into their territories, contracting parties shall have sovereign authority to regulate, in accordance with applicable international agreements, the entry of plants and plant products and other regulated articles and, to this end, may:</p> <ul style="list-style-type: none"> <li>(a) prescribe and adopt phytosanitary measures concerning the importation of plants, plant products and other regulated articles, including, for example, inspection, prohibition on importation, and treatment;</li> <li>(b) refuse entry or detain, or require treatment, destruction or removal from the territory of the contracting party, of plants, plant products and other regulated articles or consignments thereof that do not comply with the phytosanitary measures prescribed or adopted under subparagraph (a);</li> <li>(c) prohibit or restrict the movement of regulated pests into their territories;</li> <li>(d) prohibit or restrict the movement of biological control agents and other organisms of phytosanitary concern claimed to be beneficial into their territories.</li> </ul> <p>2. In order to minimize interference with international trade, each contracting party, in exercising its authority under paragraph 1 of this Article, undertakes to act in conformity with the following:</p> <ul style="list-style-type: none"> <li>(a) Contracting parties shall not, under their phytosanitary legislation, take any of the measures specified in paragraph 1 of this Article unless such measures are made necessary by phytosanitary considerations and are technically justified.</li> <li>(b) Contracting parties shall, immediately upon their adoption, publish and transmit phytosanitary requirements, restrictions and prohibitions to any contracting party or parties that they believe may be directly affected by such measures.</li> <li>(c) Contracting parties shall, on request, make available to any contracting party the rationale for phytosanitary requirements, restrictions and prohibitions.</li> <li>(d) If a contracting party requires consignments of particular plants or plant products to be imported only through specified points of entry, such points shall be so selected as not to unnecessarily impede international trade. The contracting party shall publish a list of such points of entry and communicate it to the Secretary, any regional plant protection organization of which the contracting party is a member, all contracting parties which the contracting party believes to be directly affected, and other contracting parties upon request. Such restrictions on points of entry shall not be made unless the plants, plant products or other regulated articles concerned are required to be accompanied by phytosanitary certificates or to be submitted to inspection or treatment.</li> <li>(e) Any inspection or other phytosanitary procedure required by the plant protection organization of a contracting party for a consignment of plants, plant products or other regulated articles offered for importation, shall take place as promptly as possible with due regard to their perishability.</li> <li>(f) Importing contracting parties shall, as soon as possible, inform the exporting contracting party concerned or, where appropriate, the re-exporting contracting party concerned, of significant instances of non-compliance with phytosanitary certification. The exporting contracting party or, where appropriate, the re-exporting contracting party concerned, should investigate and, on request, report the result of its investigation to the importing contracting party concerned.</li> </ul>



	<p>(g) Contracting parties shall institute only phytosanitary measures that are technically justified, consistent with the pest risk involved and represent the least restrictive measures available, and result in the minimum impediment to the international movement of people, commodities and conveyances.</p> <p>(h) Contracting parties shall, as conditions change, and as new facts become available, ensure that phytosanitary measures are promptly modified or removed if found to be unnecessary.</p> <p>(i) Contracting parties shall, to the best of their ability, establish and update lists of regulated pests, using scientific names, and make such lists available to the Secretary, to regional plant protection organizations of which they are members and, on request, to other contracting parties.</p> <p>(j) Contracting parties shall, to the best of their ability, conduct surveillance for pests and develop and maintain adequate information on pest status in order to support categorization of pests, and for the development of appropriate phytosanitary measures. This information shall be made available to contracting parties, on request.</p> <p>3. A contracting party may apply measures specified in this Article to pests which may not be capable of establishment in its territories but, if they gained entry, cause economic damage. Measures taken against these pests must be technically justified.</p> <p>4. Contracting parties may apply measures specified in this Article to consignments in transit through their territories only where such measures are technically justified and necessary to prevent the introduction and/or spread of pests.</p> <p>5. Nothing in this Article shall prevent importing contracting parties from making special provision, subject to adequate safeguards, for the importation, for the purpose of scientific research, education, or other specific use, of plants and plant products and other regulated articles, and of plant pests.</p> <p>6. Nothing in this Article shall prevent any contracting party from taking appropriate emergency action on the detection of a pest posing a potential threat to its territories or the report of such a detection. Any such action shall be evaluated as soon as possible to ensure that its continuance is justified. The action taken shall be immediately reported to contracting parties concerned, the Secretary, and any regional plant protection organization of which the contracting party is a member".</p> <p>→ Phytosanitary measures, based on International Standards For Phytosanitary Measures (ISPMs), are established and determined by national governments i.e. there are no global or regional phytosanitary measures that are obligatory.</p>
<b>Article X Standards</b>	<p>"1. The contracting parties agree to cooperate in the development of international standards in accordance with the procedures adopted by the Commission.</p> <p>2. International standards shall be adopted by the Commission.</p> <p>3. Regional standards should be consistent with the principles of this Convention; such standards may be deposited with the Commission for consideration as candidates for international standards for phytosanitary measures if more broadly applicable.</p> <p>4. Contracting parties should take into account, as appropriate, international standards when undertaking activities related to this Convention".</p> <p>→ In addition to the above, the IPPC is nominated as the Plant Health standards setting organization for the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).</p>
<b>Examples of International Standards for Phytosanitary Measures (ISPMs) adopted under IPPC relevant to trade:</b>	<p>ISPM # 01 (2006): Phytosanitary principles for the protection of plants and the application of phytosanitary measures in international trade</p> <p>ISPM # 02 (2007): Framework for pest risk analysis</p> <p>ISPM # 03 (2005): Guidelines for the export, shipment, import and release of biological control agents and other beneficial organisms</p> <p>ISPM # 04 (1995): Requirements for the establishment of Pest Free Areas</p> <p>ISPM # 05(2010): Glossary of phytosanitary terms</p> <p>ISPM # 06 (1997): Guidelines for surveillance</p> <p>ISPM # 07 (1997): Export certification system</p>



	ISPM # 08 (1998): Determination of pest status in an area
	ISPM # 09 (1998): Guidelines for pest eradication programmes
	ISPM # 10 (1999): Requirements for the establishment of pest free places of production and pest free production sites
	ISPM # 11 (2004): Pest risk analysis for quarantine pests including analysis of environmental risks and living modified organisms
	ISPM # 12 (2001): Guidelines for phytosanitary certificates
	ISPM # 14 (2002): The use of integrated measures in a systems approach for pest risk management
	ISPM # 15 (2009): Regulation of wood packaging material in international trade
	ISPM # 16 (2002): Regulated non-quarantine pests: concept and application
	ISPM # 17 (2002): Pest reporting
	ISPM # 18 (2003): Guidelines for the use of irradiation as a phytosanitary measure
	ISPM # 20 (2004): Guidelines for a phytosanitary import regulatory system
	ISPM # 21 (2004): Pest risk analysis for regulated non quarantine pests
	ISPM # 22 (2005): Requirements for the establishment of areas of low pest prevalence
	ISPM # 23 (2005): Guidelines for inspection
	ISPM # 24 (2005): Guidelines for the determination and recognition of equivalence of phytosanitary measures
	ISPM # 25 (2006): Consignments in transit
	ISPM # 26 (2006): Establishment of pest free areas for fruit flies (Tephritidae)
	ISPM # 27 (2006): Diagnostic protocols for regulated pests
	ISPM # 28 (2009): Phytosanitary treatments for regulated pests
	ISPM # 29 (2007): Recognition of pest free areas and areas of low pest prevalence
	ISPM # 30 (2008): Establishment of areas of low pest prevalence for fruit flies (Tephritidae)
	ISPM # 31 (2008): Methodologies for sampling of consignments
	ISPM # 32 (2009): Categorization of commodities according to their pest risk
	ISPM # 34 (2010): Design and Operation of post-entry quarantine stations for plants



## B. INTERNATIONAL CONVENTION FOR THE CONSERVATION OF ATLANTIC TUNAS

1. The ICCAT is not a regulatory body, however, regulatory Recommendations and Resolutions related to the conservation of tuna and tuna-like species in the Atlantic Ocean and adjacent seas, adopted by the Commission, are to be implemented domestically by Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities. Recommendations are the only binding instruments. They are subject to a six-month period during which Contracting Parties can file an objection (see Article VIII:3). The Recommendations then enter into force after the six-month objection period. Resolutions are a second instrument of the Commission, but are not subject to an objection period. The number of Resolutions and Recommendations that the Commission adopts each year has been increasing. They include the following:

### 1. Resolutions

<b>Resolution 99-11 Further Actions Against IUUs</b>	<b>Resolution Calling for Further Actions Against Illegal, Unregulated, and Unreported Fishing Activities by Large-Scale Longline Vessels in the Convention Area and Other Areas (Transmitted to Contracting Parties on 16 December 1999)</b> "... 2. The Contracting Parties, Cooperating Non-Contracting Parties, Entities or Fishing Entities shall take every possible action, consistent with the relevant laws, i. to urge their importers, transporters and other concerned business people to refrain from engaging in transaction and transshipment of tunas and tuna-like species caught by vessels carrying out illegal, unregulated and unreported fishing activities in the Convention Area and other areas. ..."
<b>Resolution 01-18 Scope of IUU Fishing</b>	<b>Resolution Further Defining the Scope of IUU Fishing (Transmitted to Contracting Parties on 22 March 2002)</b> "... Contracting Parties and Cooperating Non-Contracting Parties, Entities and Fishing Entities shall take every possible action, consistent with relevant laws, to instruct their importers, transporters, and other concerned business people to refrain from engaging in transaction and transshipment of tunas and tuna-like species caught by vessels carrying out illegal, unregulated, and unreported fishing activities, which include, <i>inter alia</i> , any fishing not in compliance with relevant ICCAT conservation and management measures, in the Convention Area or other areas."
<b>Resolution 02-25 Measures to Prevent the Laundering of Catches by IUU Large-Scale Tuna Longline Fishing Vessels</b>	<b>Resolution concerning the Measures to Prevent the Laundering of Catches by IUU Large-Scale Tuna Longline Fishing Vessels (Entered into force 3 June 2003)</b> "... 1. Contracting Parties, Cooperating Non-Contracting Parties, Entities or Fishing Entities (hereinafter referred to as the "CPCs") should ensure that their duly licensed large-scale tuna longline fishing vessels have a prior authorization of at sea or in port transshipment and obtain the validated Statistical Document, whenever possible, prior to the transshipment of their tuna and tuna-like species subject to the Statistical Document Programs. They should also ensure that transshipments are consistent with the reported catch amount of each vessel in validating the Statistical Document and require the reporting of transshipment. 2. CPCs that import tuna and tuna-like species caught by large-scale tuna longline fishing vessels and subject to the Statistical Document Programs should require transporters (which include container vessels, mother vessels, and the like) that intend to land such species in their ports, to ensure that Statistical Documents are issued, whenever possible before the transshipment. Importing CPCs should obligate the transporters to submit necessary documents, including a copy of the validated Statistical Document and other documents, as required under domestic regulation, such as the receipt of transshipment, to the importing CPCs' authorities immediately after the transshipment".



<p><b>Resolution 02-26</b>  <b>Cooperative Actions to</b>  <b>Eliminate IUU Fishing</b>  <b>Activities by Large-Scale</b>  <b>Tuna Longline Vessels</b>  <b>(LSTLVs)</b></p>	<p><b>Resolution concerning Cooperative Actions to Eliminate IUU Fishing Activities by Large-Scale Tuna Longline Vessels (Entered into force 3 June 2003)</b></p> <p>"... 1. Japan and Chinese Taipei should further work together to eliminate the remaining IUU LSTLVs owned and/or operated by Chinese Taipei's residents.</p> <p>2. Japan should work closely with the flag States of LSTLVs and if appropriate take joint action, so as to implement the Recommendation smoothly and satisfactorily and to achieve the objective of paragraph 1 above.</p> <p>3. The Commission urges Chinese Taipei to consider adopting appropriate domestic legislation to improve its ability to control its residents that invest in or otherwise support or engage in IUU fishing.</p> <p>4. Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities should urge and may instruct their residents to refrain from engaging in and/or associating with activities that may support IUU tuna longline fishing vessels and with any other activities that undermine the effectiveness of ICCAT conservation and management measures".</p>
<p><b>Resolution 03-15</b>  <b>Trade measures</b></p>	<p><b>Resolution concerning trade measures (Transmitted to Contracting Parties on 19 December 2003)</b></p> <p>"... 6. The Compliance Committee [Conservation and Management Measures Compliance Committee] or the PWG [Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures] should evaluate the response of the CPCs [Contracting Parties and Cooperating non-Contracting Parties] or NCPs [Non-Contracting Parties, Entities or Fishing Entities], together with any new information, and propose to the Commission to decide upon one of the following actions: ...</p> <p>c) the adoption of non-discriminatory trade restrictive measures.</p> <p>In the case of CPCs, actions such as the reduction of existing quotas or catch limits should be implemented to the extent possible before consideration is given to the application of trade restrictive measures. Trade measures should be considered only where such actions either have proven unsuccessful or would not be effective.</p> <p>7. If the Commission decides upon the action described in paragraph 6 c), it should recommend to the Contracting Parties pursuant to Article VIII of the Convention to take non-discriminatory trade restrictive measures, consistent with their international obligations. The Commission should notify the CPCs and NCPs concerned of the decision and the underlying reasons in accordance with the procedures specified in paragraph 5.</p> <p>8. CPCs should notify the Commission of any measures that they have taken for the implementation of the non-discriminatory trade restrictive measures adopted in accordance with paragraph 7.</p> <p>9. In order for the Commission to recommend the lifting of trade restrictive measures, the Compliance Committee or the PWG should review each year all trade restrictive measures adopted in accordance with paragraph 7. Should this review show that the situation has been rectified, the Compliance Committee or PWG should recommend to the Commission the lifting of the non-discriminatory trade restrictive measures. Such decisions should also take into consideration whether the CPCs and/or NCPs concerned have taken concrete measures capable of achieving lasting improvement of the situation.</p> <p>10. Where exceptional circumstances so warrant or where available information clearly shows that, despite the lifting of trade-restrictive measures, the CPC or NCP concerned continues to diminish the effectiveness of ICCAT conservation and management measures, the Commission may immediately decide on action including, as appropriate, the imposition of trade-restrictive measures in accordance with paragraph 7. Before making such a decision, the Commission should request the CPC or NCP concerned to discontinue its wrongful conduct and should provide the CPC or NCP with a reasonable opportunity to respond.</p> <p>11. The Commission should establish annually a list of CPCs and NCPs that have been subject to a trade restrictive measure pursuant to paragraph 7 and, with respect to NCPs, are considered as non-Cooperating non-Contracting Parties to ICCAT..."</p>



## 2. Recommendations

<b>Recommendation 96-14 Compliance in Bluefin &amp; North Atlantic Swordfish Fisheries</b>	<p><b>Recommendation Regarding Compliance in the Bluefin Tuna and North Atlantic Swordfish Fisheries (Entered into force on 4 August 1997)</b></p> <p>"... 3. ... if any Contracting Party exceeds its catch limit during any two consecutive management periods, the Commission will recommend appropriate measures, which may include, but are not limited to, reduction in the catch limit equal to a minimum of 125% of the excess harvest, and, if necessary, trade restrictive measures. Any trade measures under this paragraph will be import restrictions on the subject species and consistent with each Party's international obligations. The trade measures will be of such duration and under such conditions as the Commission may determine."</p> <p>→ This recommendation was extended to South Atlantic swordfish fishery, effective on 24 September 1998 (Recommendation 97-8 – Compliance in the South Atlantic Swordfish Fishery)</p>
<b>Recommendation 02-17 Plurinational State of Bolivia: pursuant to the 1998 IUU Resolution</b>	<p><b>Recommendation Regarding the Plurinational State of Bolivia pursuant to the 1998 Resolution Concerning the Unreported and Unregulated Catches of Tuna by Large-Scale Longline Vessels in the Convention Area (Entered into force on 3 June 2003)</b></p> <p>"1. Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities take appropriate measures, consistent with provisions of the 1998 Resolution, to the effect that the import of Atlantic bigeye tuna and its products in any form from the Plurinational State of Bolivia be prohibited, effective from the time this Recommendation enters into force".</p> <p>→ The 1998 Resolution referred to in this paragraph was replaced by the Resolution by ICCAT Concerning Trade Measures (Res. 03-15 above).</p>
<b>Recommendation 02-20 Trade Sanction against St. Vincent and the Grenadines</b>	<p><b>Recommendation concerning the Trade Sanction Against St. Vincent and the Grenadines (Entered into force on 3 June 2003)</b></p> <p>"...2. Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities shall assist St. Vincent and the Grenadines with its efforts to ensure that the owners and operators of its large-scale fishing vessels have no history of illegal, unreported and unregulated fishing activities, or the previous owners and operators have no legal, beneficial or financial interest in, or control over its large-scale fishing vessels."</p>
<b>Recommendation 02-22 Establishment of an ICCAT Record of Vessels over 24 Meters Authorized to Operate in the Convention Area</b>	<p><b>Recommendation Concerning the Establishment of an ICCAT Record of Vessels over 24 Meters Authorized to Operate in the Convention Area (Positive List) (Entered into force on 3 June 2003)</b></p> <p>"... 1. The Commission shall establish and maintain an ICCAT record of fishing vessels larger than 24 meters in length overall (hereafter referred to as "large scale fishing vessels" or "LSFVs") authorized to fish for tuna and tuna-like species in the Convention Area. For the purpose of this recommendation, LSFVs not entered into the record are deemed not to be authorized to fish for, retain on board, transship or land tuna and tuna-like species..."</p>
<b>Recommendation 02-23 Establishment of a List of Vessels Presumed to Have Carried out Illegal, Unreported and Unregulated Fishing Activities in the ICCAT Convention Area</b>	<p><b>Recommendation Concerning the Establishment of a List of Vessels Presumed to Have Carried out Illegal, Unreported and Unregulated Fishing Activities in the ICCAT Convention Area (Negative List) (Entered into force on 4 June 2003)</b></p> <p>"... 9. Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities shall take all necessary measures, under their applicable legislation:</p> <ul style="list-style-type: none"> <li>(a) So that the fishing vessels, the mother ships and the cargo vessels flying their flag do not participate in any transshipment with vessels registered on the IUU list;</li> <li>(b) So that IUU vessels that enter ports voluntarily are not authorized to land or transship therein;</li> <li>(c) To prohibit the chartering of a vessel included on the IUU list;</li> <li>(d) To refuse to grant their flag to vessels included in the IUU list, except if the vessel has changed owner; and the new owner has provided sufficient evidence demonstrating the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel, or having taken into account all relevant facts, the flag Contracting Party or Cooperating non-Contracting Party, Entity or Fishing Entity determines that granting the vessel its flag will not result in IUU fishing;</li> </ul>



	<p>(e) To prohibit the imports, or landing and/or transshipment, of tuna and tuna-like species from vessels included in the IUU list;</p> <p>(f) To encourage the importers, transporters and other sectors concerned, to refrain from transaction and transshipment of tuna and tuna-like species caught by vessels included in the IUU list;</p> <p>(g) To collect and exchange with other Contracting Parties or Cooperating non-Contracting Parties, Entities or Fishing Entities any appropriate information with the aim of searching, controlling and preventing false import/export certificates regarding tunas and tuna-like species from vessels included in the IUU list...</p> <p>12. Without prejudice to the rights of flag Contracting Parties or Cooperating non-Contracting Parties, Entities or Fishing Entities and coastal states to take proper action consistent with international law, the Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities shall not take any unilateral trade measures or other sanctions against vessels provisionally included in the draft IUU list, pursuant to paragraph 3, or which have been already removed from the list, pursuant to paragraph 6, on the grounds that such vessels are involved in IUU fishing activities."</p>
<b>Recommendation 03-16 Additional Measures Against Illegal, Unreported and Unregulated Fishing</b>	<p><b>Recommendation to Adopt Additional Measures Against Illegal, Unreported and Unregulated Fishing (Entered into force on 19 June 2004)</b></p> <p>"... Consistent with their rights and obligations under international law, Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities (hereafter referred to as CPCs) take the necessary measures to prohibit landings from fishing vessels, placing in cages for farming and/or the transshipment within their jurisdiction of tunas or tuna-like species caught by IUU fishing activities".</p>
<b>Recommendation 03-18 Trade Restrictive Measures on Bigeye Tuna against Georgia</b>	<p><b>Recommendation for Bigeye Tuna Trade Restrictive Measures on Georgia (Entered into force on 19 June 2004)</b></p> <p>"... 1. Contracting Parties, Cooperating non-Contracting Parties, Entities, or Fishing Entities take appropriate measures consistent with the provisions of the Resolution [98-18] to the effect that the import of Atlantic bigeye tuna and its products in any form from Georgia be prohibited effective from the time this Recommendation enters into force.</p> <p>2. Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities lift the import prohibitions on Georgia upon the decision of the Commission and receipt of notification from the ICCAT Executive Secretary that fishing practices of Georgia have been brought into conformity with ICCAT measures".</p>
<b>Recommendation 04-13 Lifting of Trade Sanctions against Equatorial Guinea</b>	<p><b>Recommendation Concerning the Lifting of Trade Sanctions against Equatorial Guinea (Entered into force on 13 June 2005)</b></p> <p>"... 1. Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities shall lift the import prohibitions on Atlantic bigeye tuna and Atlantic bluefin tuna and their products that were imposed on Equatorial Guinea pursuant to the 1999 and 2000 Recommendations.</p> <p>2. Notwithstanding the provisions of Article VIII, paragraph 2, of the Convention, the Contracting Parties and Cooperating Non-Contracting Parties, Entities or Fishing Entities shall implement this recommendation as soon as possible in accordance with their regulatory procedures.</p> <p>3. The ICCAT Secretariat continue providing Equatorial Guinea with the technical assistance necessary for the implementation of a statistical-fishing data system so that this country can fully adapt to the ICCAT requirements concerning the submission of statistical data."</p>
<b>Recommendation 06-07 on Bluefin Tuna Farming [Rec.04-06]</b>	<p><b>Recommendation to Amend the Recommendation on Bluefin Tuna Farming [Rec. 04-06] (Entered into force 13 June 2006)</b></p> <p>"...9. (g) Each CPCs shall take the necessary measures, under their applicable legislation, to prohibit the imports and sale of bluefin tuna from farms not registered in the ICCAT record of farming facilities authorised to operate as well as those that do not respect the sampling requirements foreseen in paragraph 2b and/or do not participate in the sampling programme referred to in paragraph 2 b)...."</p>



<b>Recommendation 00-21. Concerning the ICCAT Bigeye Tuna Statistical Document Program</b>	<p>1. By July 2002, or as soon as possible thereafter, Contracting Parties shall require that all bigeye tuna, when imported into the territory of a Contracting Party, be accompanied by an ICCAT Bigeye Tuna Statistical Document which meets the requirements described in Annex 1 or an ICCAT Bigeye Tuna Re-export Certificate which meets the requirements described in Annex 2. Bigeye tuna caught by purse seiners and pole and line (bait) vessels and destined principally for the canneries in the Convention area are not subject to this statistical document requirement. The Commission and the Contracting Parties importing bigeye tuna shall contact all the exporting countries to inform them of this program in advance of implementation of the program.</p>
<b>Recommendation 00-21. Establishing a Swordfish Statistical Document Program</b>	<p>1. Contracting Parties shall require that all swordfish, when imported into the territory of a Contracting Party, be accompanied by an ICCAT Swordfish Statistical Document (Attachment 2) that meets the requirements described in Attachment 1 or an ICCAT Swordfish Re -export Certificate (Attachment 4) that meets the requirements described in Attachment 3. The Commission and the Contracting Parties importing swordfish shall contact all the exporting countries to inform them of this program, particularly differentiation of treatment between catches of swordfish in the Convention Area and those outside of it in advance of implementation of the program.</p>
<b>Recommendation 09-11 Amending the Recommendation 08-12 on an ICCAT Bluefin Tuna Catch Documentation Program</b>	<p>3. Each consignment of bluefin tuna domestically traded - imported into or exported or re-exported from its territories - shall be accompanied by a validated BCD, except in cases where paragraph 12(c) applies and, as applicable, an ICCAT transfer declaration or a validated Bluefin Tuna Re-export Certificate (BFTRC). Any such landing, transfer, delivery, harvest, domestic trade, import, export or re-export of bluefin tuna without a completed and validated BCD or a BFTRC shall be prohibited.</p>



C. CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

1. CITES provides for trade measures at different decision-making levels:

- (a) Trade measures that are legally binding (text of the Convention);
- (b) Trade measures decided by the Conference of the Parties (CoP);
- (c) Trade measures decided by the Standing Committee (SC) on behalf of the CoP;
- (d) Trade measures recommended by the Animals Committee/Plants Committee;
- (e) Trade measures recommended by the Secretariat to the CoP and SC; and
- (f) Stricter domestic trade measures adopted by the Parties.

1. Provisions of the Convention

<p><b>Article II</b> <b>Fundamental Principles</b></p>	<p>→ CITES subjects international trade in specimens of selected species to certain controls. These require that all import, export, re-export and introduction from the sea of species covered by the Convention be authorized through a permit and certificate system. The species covered by CITES are listed in three Appendices, according to the degree of protection they need.</p> <p>"1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.</p> <p>2. Appendix II shall include:</p> <ul style="list-style-type: none"> <li>(a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and</li> <li>(b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.</li> </ul> <p>3. Appendix III shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the co-operation of other Parties in the control of trade.</p> <p>4. The Parties shall not allow trade in specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention".</p>
<p><b>Article III</b> <b>Regulation of Trade in Specimens of Species Included in Appendix I</b></p>	<p>→ Appendix I includes species that are threatened with extinction or endangered and that require the greatest protection among CITES-listed animals and plants (see Article II, paragraph 1 of the Convention). CITES generally prohibits international commercial trade in specimens of wild origin of these species. However, trade may be allowed under exceptional circumstances, e.g. captive breeding, artificial propagation, scientific research, etc. In these cases, trade may be authorized by the granting of both an export permit (or re-export certificate) and an import permit (See Article III of the Convention).</p> <p>→ Trade in Appendix I species of wild origin must meet two criteria:</p> <p>1. Trade must not be primarily commercial in nature. Resolution Conf. 5.10 (Rev. CoP15) defines "commercial" as an activity whose "purpose is to obtain economic benefit (whether in cash or in kind) and is directed toward resale, exchange, provision of a service or other form of economic use or benefit. The Resolution further defines "primarily commercial" by providing that "all uses whose non-commercial aspects do not clearly predominate shall be considered to be primarily commercial in nature with the result that the importation of specimens of Appendix-I species should not be permitted. The burden of proof for showing that the intended use of specimens of Appendix-I species is clearly non-commercial shall rest with</p>



	<p>the person or entity seeking to import such specimens."</p> <p>2. It must not be detrimental to the survival of the species. The non-detriment finding is a scientific assessment. Document CoP11 Doc. 11.40 prepared for CITES CoP-11 (Gigiri, 2000) provides assistance to Scientific Authorities for making non-detriment findings. It makes reference to Information Document CoP11 Inf. 11.3 which contains a checklist for making non-detriment findings for Appendix II species. The checklist was published and distributed by IUCN at CoP-12 (see also new capacity building material prepared by the CITES Secretariat).</p>
<b>Article IV Regulation of Trade in Specimens of Species Included in Appendix II</b>	<p>→ Appendix II includes species that are not necessarily threatened with extinction but that may become so unless trade is closely controlled. It also includes so-called "look-alike species". International trade in specimens of Appendix-II species may be authorized by the granting of an export permit or re-export certificate; no import permit is required by the Convention (some countries adopt stricter measures under Article XIV). Permits or certificates should only be granted if the relevant authorities are satisfied that certain conditions are met, and above all, that trade is legal (i.e. trade is in accordance with the provisions of CITES and the specimen is not obtained in contravention of the laws of the State of origin) and will not be detrimental to the survival of the species in the wild.</p>
<b>Article V Regulation of Trade in Specimens of Species Included in Appendix III</b>	<p>→ Appendix III is a list of species included at the request of a Party that already prevents or restricts exploitation of the species and that needs the cooperation of other countries in the control of trade (see Article II, paragraph 3, of the Convention). International trade in specimens of species listed in this Appendix is allowed only on presentation of the appropriate permits or certificates.</p>
<b>Article VI Permits and Certificates</b>	<p>→ Provides details for permits and certificates granted under the provisions of Articles III, IV, and V of the Convention.</p> <p>→ Resolution Conf. 12.3 (Rev. CoP 15) further elaborates on the requirements of permits and certificates.</p>
<b>Article VII Exemptions and Other Special Provisions Relating to Trade</b>	<p>→ Lists the Exemptions and Other Special Provisions Relating to Trade. This Article provides all the exceptions to the regulation of trade in wild fauna and flora species listed in the three CITES Appendices.</p> <p>→ The application and implementation of Article VII, paragraphs 2 and 3, have been specified in Resolutions Conf. 13.6 and 13.7 of CoP13 (Bangkok, 2004).</p>
<b>Article VIII Measures to Be Taken by the Parties</b>	<p>"1. The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:</p> <ul style="list-style-type: none"> <li>(a) to penalize trade in, or possession of, such specimens, or both; and</li> <li>(b) to provide for the confiscation or return to the State of export of such specimens.</li> </ul> <p>2. In addition to the measures taken under paragraph 1 of this Article, a Party may, when it deems it necessary, provide for any method of internal reimbursement for expenses incurred as a result of the confiscation of a specimen traded in violation of the measures taken in the application of the provisions of the present Convention.</p> <p>3. As far as possible, the Parties shall ensure that specimens shall pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit and ports of entry at which specimens must be presented for clearance. The Parties shall ensure further that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment.</p> <p>4. Where a living specimen is confiscated as a result of measures referred to in paragraph 1 of this Article:</p> <ul style="list-style-type: none"> <li>(a) the specimen shall be entrusted to a Management Authority of the State of confiscation;</li> <li>(b) the Management Authority shall, after consultation with the State of export, return the specimen to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the present Convention; and</li> <li>(c) the Management Authority may obtain the advice of a Scientific Authority, or may, whenever it considers it desirable, consult the</li> </ul>



	<p>Secretariat in order to facilitate the decision under sub-paragraph (b) of this paragraph, including the choice of a rescue centre or other place.</p> <p>5. A rescue centre as referred to in paragraph 4 of this Article means an institution designated by a Management Authority to look after the welfare of living specimens, particularly those that have been confiscated.</p> <p>6. Each Party shall maintain records of trade in specimens of species included in Appendices I, II and III which shall cover:</p> <p>(a) the names and addresses of exporters and importers; and</p> <p>(b) the number and type of permits and certificates granted; the States with which such trade occurred; the numbers or quantities and types of specimens, names of species as included in Appendices I, II and III and, where applicable, the size and sex of the specimens in question.</p> <p>7. Each Party shall prepare periodic reports on its implementation of the present Convention and shall transmit to the Secretariat:</p> <p>(a) an annual report containing a summary of the information specified in sub-paragraph (b) of paragraph 6 of this Article; and</p> <p>(b) a biennial report on legislative, regulatory and administrative measures taken to enforce the provisions of the present Convention.</p> <p>8. The information referred to in paragraph 7 of this Article shall be available to the public where this is not inconsistent with the law of the Party concerned".</p>
<b>Article IX Management and Scientific Authorities</b>	<p>"1. Each Party shall designate for the purposes of the present Convention:</p> <p>(a) one or more Management Authorities competent to grant permits or certificates on behalf of that Party; and</p> <p>(b) one or more Scientific Authorities.</p> <p>2. A State depositing an instrument of ratification, acceptance, approval or accession shall at that time inform the Depositary Government of the name and address of the Management Authority authorized to communicate with other Parties and with the Secretariat..."</p>
<b>Article XIV Effect on Domestic Legislation and International Conventions</b>	<p>"1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:</p> <p>(a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or</p> <p>(b) domestic measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III.</p> <p>2. The provisions of the present Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields.</p> <p>3. The provisions of the present Convention shall in no way affect the provisions of, or the obligations deriving from, any treaty, convention or international agreement concluded or which may be concluded between States creating a union or regional trade agreement establishing or maintaining a common external Customs control and removing Customs control between the parties thereto insofar as they relate to trade among the States members of that union or agreement.</p> <p>4. A State party to the present Convention, which is also a party to any other treaty, convention or international agreement which is in force at the time of the coming into force of the present Convention and under the provisions of which protection is afforded to marine species included in Appendix II, shall be relieved of the obligations imposed on it under the provisions of the present Convention with respect to trade in specimens of species included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement.</p> <p>5. Notwithstanding the provisions of Articles III, IV and V, any export of a specimen taken in accordance with paragraph 4 of this Article shall only require a certificate from a Management Authority of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement in question.</p> <p>6. Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to Resolution 2750 C (XXV) of the General Assembly of the United Nations nor the present or future claims</p>



	and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction". → Allows for Parties to take stricter domestic measures. Appendix II does not require an import permit, but major importing countries have instituted a system of import permits for trade in certain species issued on the basis of extra conditions and non-CITES related criteria such as tariffs, health, veterinary, phytosanitary and animal welfare provisions. In some instances, they also apply those conditions to species listed in Appendix III.
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## 2. Resolutions and Decisions of the Conference of the Parties

### 1. Examples of Resolutions and Decisions of the CoP include:

<b>Resolution Conf. 6.7 Interpretation of Article XIV, paragraph 1 of the Convention</b>	"...a) each Party intending to take stricter domestic measures pursuant to Article XIV, paragraph 1, of the Convention regarding trade in specimens of non-indigenous species included in the Appendices make every reasonable effort to notify the range States of the species concerned at as early a stage as possible prior to the adoption of such measures, and consult with those range States that express a wish to confer on the matter; and b) each Party that has taken such stricter domestic measures for non-indigenous species prior to the adoption of this Resolution consult, if requested, on the appropriateness of such measures with range States of the species concerned". → There is also Resolution Conf.8.4 (Rev.CoP.15) on National laws for the implementation of the Convention.
<b>Resolution Conf. 9.9 Confiscation of Specimens Exported or Re-exported in violation of the Convention</b>	"...a) when specimens are exported or re-exported in violation of the Convention, importing Parties: i) consider that the seizure and confiscation of such specimens are generally preferable to the definitive refusal of the import of the specimens; and ii) notify as soon as possible the Management Authority of the State from which the specimens were consigned of the violation and of any enforcement actions taken concerning the specimens; and b) when the import of specimens that have been exported or re-exported in violation of the Convention is refused by the country to which the specimens are consigned, the exporting or re-exporting Party take the measures necessary to ensure that such specimens are not re-entered into illegal trade, including monitoring their return to the country and providing for their confiscation."
<b>Resolution Conf. 9.21 (Rev. CoP 13) Interpretation and Application of Quotas for Species included in Appendix I</b>	"... a) a Party wishing the Conference of the Parties to establish a quota for a species included in Appendix I, or to amend an existing quota, should submit to the Secretariat its proposal, with supporting information including details of the scientific basis for the proposed quota, at least 150 days before a meeting of the Conference of the Parties; and b) whenever the Conference of the Parties has set an export quota for a particular species included in Appendix I, this action by the Parties satisfies the requirements of Article III regarding the findings by the appropriate Scientific Authorities that the export will not be detrimental to the survival of the species and that the purposes of the import will not be detrimental to the survival of the species, provided that: i) the quota is not exceeded; and ii) no new scientific or management data have emerged to indicate that the species population in the range State concerned can no longer sustain the agreed quota."
<b>Resolution Conf. 10.14 (Rev. CoP14) Quotas for Leopard Hunting Trophies and Skins for Personal Use</b>	"...a) in reviewing applications for permits to import whole skins or nearly whole skins of leopard (including hunting trophies), in accordance with paragraph 3 (a) of Article III, the Scientific Authority of the State of import approve permits if it is satisfied that the skins being considered are from one of the following States, which may not export more of the said skins taken from any one calendar year (1 January to 31 December) than the number shown under 'Quota' opposite the name of the State:..." → There is also Resolution Conf. 10.15 (Rev. CoP14) on the Establishing Quotas for Markhor Hunting Trophies.



<b>Resolution Conf. 11.6 (Rev. CoP13) Trade in Vicuña Cloth</b>	"...a) Management Authorities authorize the import of vicuña cloth only if the reverse bears the logotype corresponding to the country of origin and the trade mark VICUÑA - COUNTRY OF ORIGIN or if it is cloth containing pre-Convention wool of vicuña; ..."
<b>Resolution Conf. 11.7 Conservation of and Trade in Musk Deer</b>	<p>"...Urges all Parties, particularly musk deer range and consuming countries and those through which musk deer specimens pass in transit, to take immediate action in order to reduce demonstrably the illegal trade in musk deriving from wild musk deer by:</p> <ul style="list-style-type: none"> <li>(a) introducing innovative enforcement methods in range and consumer States and, as a matter of priority, strengthening enforcement efforts in key border regions;</li> <li>(b) pursuing the development of a clear labelling system for products containing musk, and the development and dissemination of forensic methods to detect natural musk in medicinal and other products;</li> <li>(c) encouraging all range States and consumer States that are not party to CITES to accede to it at the earliest possible date in order to improve international trade control of raw musk and products containing musk;</li> <li>(d) working with musk consumers to develop alternatives for raw musk in order to reduce demand for natural musk, while encouraging the development of safe and effective techniques for collecting musk from live musk deer; and</li> <li>(e) developing bilateral and regional agreements for improving musk deer conservation and management, strengthening legislation and strengthening enforcement efforts;..."</li> </ul>
<b>Resolution Conf. 11.18 Trade in Appendix-II and –III Species</b>	<p>CoP recommends that if any Party deems that an Appendix-II or –III species is being traded in a manner detrimental to the survival of that species, it:</p> <ul style="list-style-type: none"> <li>"(a) consult directly with the appropriate Management Authorities of the countries involved or, if this procedure is not feasible or successful, make use of the provisions of Article XIII to call upon the assistance of the Secretariat;</li> <li>(b) make use of the options provided by Article XIV to apply stricter domestic measures particularly when re-export or transshipment, or trade with a State not party to the Convention is involved; or</li> <li>(c) make use of the options provided by Article X when trade with a State not party to the Convention is involved... "</li> </ul>
<b>Resolution Conf. 12.7 (Rev. CoP14) Conservation of and Trade in Sturgeons and Paddlefish</b>	<p>"...Urges the range States of species in the Order Acipenseriformes to: ...</p> <ul style="list-style-type: none"> <li>(b) curtail the illegal fishing of and trade in sturgeon and paddlefish specimens by improving the provisions in and enforcement of existing laws regulating fisheries and export, in close collaboration with the CITES Secretariat, ICPO-Interpol and the World Customs Organization; ...</li> </ul> <p>Recommends with regard to regulating trade in sturgeon products, that:</p> <ul style="list-style-type: none"> <li>(a) range States license legal exporters of specimens of sturgeon and paddlefish species and maintain a register of such persons or companies and provide a copy of this register to the Secretariat. The register should be updated when changes occur and communicated to the Secretariat without delay. The Secretariat should distribute this information via a Notification to the Parties and include it in its register on the CITES website;</li> <li>(b) each importing, exporting and re-exporting Party should establish, where consistent with national law, a registration system for caviar processing plants, including aquaculture operations, and repackaging plants in its territory and provide to the Secretariat the list of these facilities and their official registration codes. The list should be updated when changes occur and communicated to the CITES Secretariat without delay. A copy of the list should be provided to the Secretariat by 30 November each year. The Secretariat should distribute this information via a Notification to the Parties and include it in its register on the CITES website;</li> <li>(c) importing countries be particularly vigilant in controlling all aspects of the trade in specimens of sturgeon and paddlefish species, including the unloading of sturgeon specimens, transit, re-packaging, re-labelling and re-exports;</li> <li>(d) Parties monitor the storage, processing and re-packaging of specimens of sturgeon and paddlefish species in Customs free zones and free ports, and for airline and cruise line catering;</li> </ul>



	<p>(e) Parties ensure that all their relevant agencies cooperate in establishing the necessary administrative, management, scientific and control mechanisms needed to implement the provisions of the Convention with respect to sturgeon and paddlefish species;</p> <p>(f) Parties consider the harmonization of their national legislation related to personal exemptions for caviar, to allow for the personal effects exemption under Article VII, paragraph 3, of the Convention and consider limiting this exemption to no more than 250 grams of caviar per person;</p> <p>(g) ...all caviar from shared stocks subject to export quotas should be exported before the end of the quota year (1 March – last day of February) in which it was harvested and processed. For this purpose, the export permits for such caviar should be valid until the last day of the quota year at the latest. Parties should not import caviar harvested and processed in the preceding quota year.;</p> <p>(h) no re-export of caviar take place more than 18 months after the date of issuance of the relevant original export permit. For that purpose, re-export certificates should not be valid beyond the 18-month period;</p> <p>(j) Parties consult the UNEP-WCMC caviar trade database prior to the issuance of re-export certificates;</p> <p>(k) the Secretariat shall submit a written progress report at each meeting of the Standing Committee on the operation of the UNEP-WCMC caviar trade database;</p> <p>(l) where available, Parties use the full eight-digit Customs code for caviar, instead of the less precise six-digit code which also includes roe from other fish species; and</p> <p>(m) Parties implement the universal labelling system for caviar outlined in Annexes 1 and 2 and importing Parties not accept shipments of caviar unless they comply with these provisions.</p>
<p><b>Resolution Conf. 12.8 (Rev. CoP13) Review of Significant Trade in Specimens of Appendix-II species</b></p>	<p>"... Directs the Animals and Plants Committees, in cooperation with the Secretariat and experts, and in consultation with range States, to review the biological, trade and other relevant information on Appendix-II species subject to significant levels of trade, to identify problems and solutions concerning the implementation of Article IV, paragraphs 2 (a), 3 and 6 (a) of the Convention in accordance with the following procedure: ...</p> <p>When the Animals and Plants Committees are not satisfied that Article IV, paragraphs 2 a), 3 or 6 are being correctly implemented:</p> <p>(m) the Animals Committee or Plants Committee shall, in consultation with the Secretariat, formulate recommendations for the remaining species. These recommendations shall be directed to the range States concerned;</p> <p>(n) for species of urgent concern, these recommendations should propose specific actions to address problems related to the implementation of Article IV, paragraph 2 (a), 3 or 6 (a). Such recommendations should differentiate between short-term and long-term actions, and may include, for example:</p> <p>i) the establishment of administrative procedures, cautious export quotas or temporary restrictions on exports of the species concerned; ...</p> <p>(o) for species of possible concern, these recommendations should specify the information required to enable the Animals or Plants Committee to determine whether the species should be categorized as either of urgent concern or of least concern. They should also specify interim measures where appropriate for the regulation of trade. Such recommendations should differentiate between short-term and long-term actions, and may include, for example: ...</p> <p>ii) the establishment of cautious export quotas for the species concerned as an interim measure; ...</p> <p>(s) when the Secretariat, having consulted with the Chairman of the Animals or Plants Committee, is not satisfied that a range State has implemented the recommendations made by the Animals or Plants Committee in accordance with paragraphs n) or o), it should recommend to the Standing Committee appropriate action, which may include, as a last resort, a suspension of trade in the affected species with that State. On the basis of the report of the Secretariat, the Standing Committee shall decide on appropriate action and make recommendations to the State concerned, or to all Parties ...".</p>



<b>Resolution Conf. 13.2 (Rev.CoP 14) Sustainable Use of Biodiversity: Addis Ababa Principles and Guidelines</b>	<p>"... Urges the Parties to:</p> <ul style="list-style-type: none"> <li>(a) make use of the Principles and Guidelines for the Sustainable Use of Biodiversity, also taking into account scientific, trade and enforcement considerations determined by national circumstances, as well as the recommendations of the Animals and Plants Committees, when adopting non-detriment-making processes and making CITES non-detriment findings; ... Annex: Sustainable use of biodiversity: Addis Ababa Principles and Guidelines: ...</li> </ul> <p>Practical Principle 3: International, national policies, laws and regulations that distort markets which contribute to habitat degradation or otherwise generate perverse incentives that undermine conservation and sustainable use of biodiversity, should be identified and removed or mitigated. ..."</p>
<b>Resolution Conf. 13.4 (Rev.CoP14) Conservation of and trade in great apes</b>	<p>"... Urges all Parties to:</p> <ul style="list-style-type: none"> <li>(a) adopt and implement comprehensive legislation to protect great apes, which includes: <ul style="list-style-type: none"> <li>i) a prohibition of all international trade for primarily commercial purposes, including sale, display, purchase, offer to purchase and acquisition for commercial purposes of wild-caught specimens of great apes; and</li> <li>ii) deterrent penalties aimed at eliminating illegal trade in great apes and parts and derivatives thereof; ...</li> </ul> </li> </ul> <p>Directs the Secretariat to:</p> <ul style="list-style-type: none"> <li>(a) work closely with Parties, and as a member of the GRASP partnership, to develop and implement measures, including legislative and enforcement measures and regional and sub-regional initiatives, to halt or reduce and ultimately eliminate illegal trade in great apes; ...</li> </ul> <p>Urges the Secretariat, the Standing Committee and the Animals Committee to work closely with GRASP, and to explore and implement other measures through which the Convention can contribute to the conservation of great apes and to the promotion of public awareness of the threat posed to great ape populations by illegal trade; ..."</p>
<b>Resolution Conf. 13.5 (Rev. CoP14) Establishment of export quotas for black rhinoceros hunting trophies</b>	<p>"...The [CoP] to the Convention recommends that the parties:</p> <p>Approves the establishment of an annual export quota of five hunting trophies of adult male black rhinoceros from South Africa and five from Namibia;</p> <p>Recommends that:</p> <ul style="list-style-type: none"> <li>(a) in reviewing applications for permits to import black rhinoceros hunting trophies, in accordance with Article III, paragraph 3 (a), of the Convention, and Resolution Conf. 9.21 (Rev. CoP13), paragraph b), the Scientific Authority of the State of import approve permits if it is satisfied that the trophies being considered are from a range State to which an export quota has been granted as part of a national black rhinoceros conservation and management plan or programme and will be traded in accordance with the provisions of the present Resolution;</li> <li>(b) in reviewing applications for permits to import black rhinoceros hunting trophies, in accordance with Article III, paragraph 3 (c), of the Convention, the Management Authority of the State of import be satisfied that such trophies are not to be used for primarily commercial purposes if: <ul style="list-style-type: none"> <li>i) the trophies were acquired by the owners in the country of export and are being imported as personal items that will not be sold in the country of import; and</li> <li>ii) each owner imports no more than one trophy in any calendar year (1 January to 31 December); and</li> </ul> </li> <li>(c) amendments to export quotas or the establishment of additional export quotas for this species be done in accordance with Resolution Conf. 9.21 (Rev. CoP13)".</li> </ul>



<b>Resolution Conf. 13.10 (Rev. CoP14) Trade in Alien Invasive Species</b>	<p>"...The [CoP] to the Convention recommends that the parties:</p> <ul style="list-style-type: none"> <li>(a) consider the problems of invasive species when developing national legislation and regulations that deal with the trade in live animals or plants;</li> <li>(b) consult with the Management Authority of a proposed country of import, when possible and when applicable, when considering exports of potentially invasive species, to determine whether there are domestic measures regulating such imports..."; and</li> <li>(c) consider the opportunities for synergy between CITES and the Convention on Biological Diversity (CBD) and explore appropriate cooperation and collaboration between the two Conventions on the issue of introductions of alien species that are potentially invasive." </li></ul>
<b>Resolution Conf. 14.2 CITES (Rev. CoP14) Strategic Vision: 2008- 2013</b>	<p>"The [CoP] to the Convention: Convinced that CITES should consider the broader international community relating to the environment and trade"; Calls the Parties to: "Conserve biodiversity and contribute to its sustainable use by ensuring that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation through international trade, thereby contributing to the significant reduction of the rate of biodiversity loss" (CITES vision statement). → There are also Resolution Conf. 14.3 (Rev.CoP14) on CITES Compliance Procedures, Resolution Conf. 14.4 (Rev.CoP 14) on Cooperation between CITES and ITTO regarding trade in tropical timber, Resolution Conf. 14.6 (Rev.CoP15) on Introduction from the sea and Resolution Conf. 14.7 (Rev.CoP15) on Management of nationally established export quotas.</p>
<b>Resolution Conf. 15.2 (Rev. CoP15)  Wildlife Trade Policy Reviews</b>	<p>"...The [CoP] to the Convention recommends that the parties: "... (a) Invites exporting and importing countries to carry out, on a voluntary basis, reviews of wildlife policy on the use of and trade in specimens of CITES-listed species, taking into account environmental, social and economic issues and relevant policy instruments, in order to facilitate a better understanding of the effects of wildlife trade policies on the international wildlife trade; (d) Requests Parties that undertake wildlife trade policy reviews on a voluntary basis to share relevant details of their reviews and lessons learned with other Parties; (e) Instructs the Secretariat to facilitate the review of wildlife trade policies, through raising the necessary funds and providing necessary technical cooperation, compile information provided voluntarily by the Parties regarding their wildlife trade policy reviews and make this information available to other Parties..."</p>

### 3. Quota systems within CITES

1. Export quotas in the context of CITES are simply the maximum number of specimens that may be exported from the country concerned within a 12-month period [cf. Resolution Conf. 14.7 (Rev. CoP15)]. Export quotas are derived from four sources (see Notification No. 2008/053 of 22 August 2008): (a) voluntary national export quotas, (b) export quotas recommended by the CoP, Standing Committee, the Animals Committee or the Plants Committee, (c) export quotas for raw elephant ivory in compliance with Resolution Conf. 10.10 (Rev. CoP15) and d) catch and export quotas for Acipenseriformes established in accordance with Resolution Conf. 12.7 (Rev. CoP14). Quotas, and to a lesser extent other forms of instruments on management of harvests and exports, have been used in CITES to regulate the quantity of specimens of CITES-listed species entering international trade. These quotas have been established through a range of different procedures. CITES export quotas should be, and in many instances are, the result of:

- Effective national conservation management programmes designed to prevent unsustainable harvesting of wild populations; and



- a determination by CITES Scientific Authorities in compliance with Article III, paragraph 2 a), [for Appendix-I species] and Article IV, paragraph 2 a), [for Appendix-II species] of the Convention, that the number of specimens that may be exported as part of a quota will not be detrimental to the survival of that species.

2. CITES quotas have served as a significant conservation measure to curtail unsustainable trade in Appendix-II species (and therefore the likely transfer of such species to Appendix I), but also to help countries regulate trade and maintain market access in situations where international trade provides positive incentives for conservation.

### ***Voluntary national export quotas***

3. Many Parties routinely establish annual export quotas on a voluntary basis for one or more Appendix-II and/or –III species as a means of regulating exports in those species (see the CITES website). The main purposes of such export quotas appear to be:

- To establish a limit on yearly exports at levels that are sustainable, or within the annual production capacity of ranching or captive breeding operations;
- to announce the intended level of exports to both producers at national level and importers for the purpose of facilitating trade;
- to establish a basis for allocating amounts to be exported per year to individual exporters.

In June 2007, the CoP adopted Resolution Conf.14.7 on the Guidelines for Management of Nationally Established Export Quotas, specifying a number of general principles regarding the establishment and management of such annual export quotas. This Resolution was later revised by the CoP in March 2010 [Resolution Conf. 14.7 (Rev.CoP15)].

### ***Quotas established by the CoP or the Standing Committee***

4. At previous meetings, the CoP to CITES has established quotas for hunting trophies and other specimens of several species, including Appendix-I species, either through the adoption of resolutions (e.g. Resolution Conf. 10.14 (Rev. CoP14) concerning leopard, Resolution Conf.10.15 (Rev. CoP14) concerning markhor, and Resolution Conf. 13.5 concerning black rhinoceros) or through the amendment of the Appendices to include annotations to the listing of species that refer to quotas for those species or some populations of those species (e.g. the annotation for *Crocodylus niloticus* that establishes a quota for the crocodile population of the United Republic of Tanzania or the annotation that establishes a zero quota for some specimens of *Geochelone sulcata*). Such quotas can only be amended if the CoP adopts by a two-thirds majority a proposal to amend a listing or a resolution (unless the CoP had decided that a quota will only apply for a specific period). Proposals to amend quotas specified in the Appendices need to be submitted in accordance with Resolution Conf. 9.24 (Rev. CoP15) and according to the provisions of Article XV.

5. Export quotas have in many instances been recommended through or as a result of the Review of Significant Trade pursuant to Resolution Conf. 12.8 (Rev. CoP13) or its predecessors. In such cases, the Animals and Plants Committees, through their review of trade in species selected because of concern over the sustainability of exports, made recommendations to Parties to conduct status assessments, apply management procedures or establish cautions export quotas.



In cases of non-implementation, the Standing Committee shall decide on appropriate action and make recommendations to the State concerned or to all Parties. Such recommendations can include the establishment of quotas or the suspension of imports with regard to specimens of listed species (e.g. Notification No. 2010/012 of 15 June 2010).

***Quotas submitted or established in accordance with Resolution Conf. 10.10 (Rev. CoP14) and Resolution Conf. 12.7 (Rev. CoP14).***

6. Export quotas are also established with regard to trade in specific species, i.e. elephant specimens (Resolution Conf. 10.10 Rev. CoP14) and sturgeons and paddlefish (Resolution Conf. 12.7 Rev. CoP14). These quotas are established by the members states in accordance with the said Resolutions.

**D. CONVENTION ON THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES**

1. The Convention does not contain trade measures, but trade-related measures have been adopted, for instance, in the following Conservation Measures that are binding for the Contracting Parties:

<p><b>10-02 (2008)</b> <b>Licensing and Inspection</b> <b>Obligations of</b> <b>Contracting Parties with</b> <b>regard to their Flag</b> <b>Vessels Operating in the</b> <b>Convention Area</b></p>	<p>"1. Each Contracting Party shall prohibit fishing by its flag vessels in the Convention Area except pursuant to a licence that the Contracting Party has issued setting forth the specific areas, species and time periods for which such fishing is authorised and all other specific conditions to which the fishing is subject to give effect to CCAMLR conservation measures and requirements under the Convention...". → Requires a Contracting Party to prohibit its flag vessels from fishing in the Convention Area unless licensed or permitted to do so. The licence should be carried on board and must include conditions of timely notification of port entry and exit and movement between sub-areas or divisions, reporting of catch data and operation of an automated satellite-linked vessel monitoring system (VMS). Any infringement of these conditions discovered upon port arrival, departure or upon inspection in the Convention Area on high seas (see below IV. Non-Compliance Mechanism) or, where appropriate, in an EEZ, are to be investigated and dealt with in accordance with national legislation.</p>
<p><b>10-05 (2009)</b> <b>Catch Documentation</b> <b>Scheme for <i>Dissostichus</i></b> <b>spp. Species toothfish</b></p>	<p>"...2. Each Contracting Party shall take steps to identify the origin of <i>Dissostichus</i> spp. imported into or exported from its territories and to determine whether <i>Dissostichus</i> spp. harvested in the Convention Area that is imported into or exported from its territories was caught in a manner consistent with CCAMLR conservation measures. 3. Each Contracting Party shall require that each master or authorised representative of its flag vessels authorised to engage in harvesting of <i>Dissostichus eleginoides</i> and/or <i>Dissostichus mawsoni</i> complete a <i>Dissostichus</i> catch document (DCD) for the catch landed or transhipped on each occasion that it lands or tranships <i>Dissostichus</i> spp. 4. Each Contracting Party shall require that each landing of <i>Dissostichus</i> spp. at its ports and each transhipment of <i>Dissostichus</i> spp. to its vessels be accompanied by a completed DCD.... 5. Each Contracting Party shall, in accordance with their laws and regulations, require that their flag vessels which intend to harvest <i>Dissostichus</i> spp., including on the high seas outside the Convention Area, are provided with specific authorisation to do so. Each Contracting Party shall provide <i>Dissostichus</i> catch document forms to each of its flag vessels authorised to harvest <i>Dissostichus</i> spp. and only to those vessels. 6. A non-Contracting Party seeking to cooperate with CCAMLR by participating in this scheme may issue DCD forms, in accordance with the procedures specified in paragraph 7 and Annex 10-05/C, to any of its flag vessels that intend to harvest <i>Dissostichus</i> spp. ... 10. Each Contracting Party shall require that each shipment of <i>Dissostichus</i> spp. imported into or exported from its territory be accompanied by the export-validated DCD(s) and, where appropriate, validated re-export document(s) that account for all the <i>Dissostichus</i> spp. contained in the shipment. ...".</p>



	<p>→ This Conservation Measure was adopted in November 1999 and came into force on 7 May 2000. This measure establishes a Catch Documentation Scheme which tracks the landings and trade flows of toothfish (<i>Dissostichus</i> spp.) caught in the Convention Area and where possible, adjacent waters.</p> <p>→ Further trade-related measures are contained in Conservation Measures 10-06 (2006) and 10-07 (2006) (see below: IV. Non-Compliance Mechanisms and VI. Provisions for Non-Parties).</p>
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## E. MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER

### 1. Provisions of the Protocol

<p><b>Article 2</b> <b>Control Measures</b></p>	<p>"...5. Any Party may, for one or more control periods, transfer to another Party any portion of its calculated level of production set out in Articles 2A to 2F, and Article 2H, provided that the total combined calculated levels of production of the Parties concerned for any group of controlled substances do not exceed the production limits set out in those Articles for that group. Such transfer of production shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.</p> <p>5 bis. Any Party not operating under paragraph 1 of Article 5 may, for one or more control periods, transfer to another such Party any portion of its calculated level of consumption set out in Article 2F, provided that the calculated level of consumption of controlled substances in Group I of Annex A of the Party transferring the portion of its calculated level of consumption did not exceed 0.25 kilograms per capita in 1989 and that the total combined calculated levels of consumption of the Parties concerned do not exceed the consumption limits set out in Article 2F. Such transfer of consumption shall be notified to the Secretariat by each of the Parties concerned, stating the terms of such transfer and the period for which it is to apply.</p> <p>6. Any Party not operating under Article 5, that has facilities for the production of Annex A or Annex B controlled substances under construction, or contracted for, prior to 16 September 1987, and provided for in national legislation prior to 1 January 1987, may add the production from such facilities to its 1986 production of such substances for the purposes of determining its calculated level of production for 1986, provided that such facilities are completed by 31 December 1990 and that such production does not raise that Party's annual calculated level of consumption of the controlled substances above 0.5 kilograms per capita.</p> <p>7. Any transfer of production pursuant to paragraph 5 or any addition of production pursuant to paragraph 6 shall be notified to the Secretariat, no later than the time of the transfer or addition.</p> <p>8. (a) Any Parties which are Member States of a regional economic integration organization as defined in Article 1(6) of the Convention may agree that they shall jointly fulfil their obligations respecting consumption under this Article and Articles 2A to 2I provided that their total combined calculated level of consumption does not exceed the levels required by this Article and Articles 2A to 2I.</p> <p>(b) The Parties to any such agreement shall inform the Secretariat of the terms of the agreement before the date of the reduction in consumption with which the agreement is concerned.</p> <p>(c) Such agreement will become operative only if all Member States of the regional economic integration organization and the organization concerned are Parties to the Protocol and have notified the Secretariat of their manner of implementation.</p> <p>9. (a) Based on the assessments made pursuant to Article 6, the Parties may decide whether:</p> <p>(i) Adjustments to the ozone depleting potentials specified in Annex A, Annex B, Annex C and/or Annex E should be made and, if so, what the adjustments should be; and</p> <p>(ii) Further adjustments and reductions of production or consumption of the controlled substances should be undertaken and, if so, what</p>
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	<p>the scope, amount and timing of any such adjustments and reductions should be;</p> <p>(b) Proposals for such adjustments shall be communicated to the Parties by the Secretariat at least six months before the MOP at which they are proposed for adoption;</p> <p>(c) In taking such decisions, the Parties shall make every effort to reach agreement by consensus. If all efforts at consensus have been exhausted, and no agreement reached, such decisions shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting representing a majority of the Parties operating under Paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting;</p> <p>(d) The decisions, which shall be binding on all Parties, shall forthwith be communicated to the Parties by the Depositary. Unless otherwise provided in the decisions, they shall enter into force on the expiry of six months from the date of the circulation of the communication by the Depositary.</p> <p>10. Based on the assessments made pursuant to Article 6 of this Protocol and in accordance with the procedure set out in Article 9 of the Convention, the Parties may decide:</p> <p>(a) whether any substances, and if so which, should be added to or removed from any annex to this Protocol, and</p> <p>(b) the mechanism, scope and timing of the control measures that should apply to those substances;</p> <p>11. Notwithstanding the provisions contained in this Article and Articles 2A to 2I Parties may take more stringent measures than those required by this Article and Articles 2A to 2I".</p>
<b>Articles 2A-2I</b>	<p>→ Articles 2A to 2I provide specific guidance on control measures for CFCs, Halons, other fully halogenated CFCs, Carbon tetrachloride, Methyl chloroform, hydrochlorofluorocarbons, hydrobromofluorocarbons, methyl bromide, and bromochloromethane.</p>
<b>Article 4 Control of trade with non-Parties</b>	<p>"1. As of 1 January 1990, each party shall ban the import of the controlled substances in Annex A from any State not party to this Protocol. ...</p> <p>2. As of 1 January 1993, each Party shall ban the export of any controlled substances in Annex A to any State not party to this Protocol. ...</p> <p>3. By 1 January 1992, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of products containing controlled substances in Annex A. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol. ...</p> <p>4. By 1 January 1994, the Parties shall determine the feasibility of banning or restricting, from States not party to this Protocol, the import of products produced with, but not containing, controlled substances in Annex A. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, elaborate in an annex a list of such products. Parties that have not objected to the annex in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to this Protocol. ...</p> <p>5. Each Party undertakes to the fullest practicable extent to discourage the export to any State not party to this Protocol of technology for producing and for utilizing controlled substances in Annexes A, B, C and E.</p> <p>6. Each Party shall refrain from providing new subsidies, aid, credits, guarantees or insurance programmes for the export to States not party to this Protocol of products, equipment, plants or technology that would facilitate the production of controlled substances in Annexes A, B, C and E.</p> <p>7. Paragraphs 5 and 6 shall not apply to products, equipment, plants or technology that improve the containment, recovery, recycling or destruction of controlled substances, promote the development of alternative substances, or otherwise contribute to the reduction of emissions of controlled substances in Annexes A, B, C and E.</p> <p>8. Notwithstanding the provisions of this Article, imports and exports referred to in paragraphs 1 to 4 ter of this Article may be permitted from, or to, any State not party to this Protocol, if that State is determined, by a [MOP], to be in full compliance with Article 2, Articles 2A to 2I and this Article, and have submitted data to that effect as specified in Article 7.</p> <p>9. For the purposes of this Article, the term "State not party to this Protocol" shall include, with respect to a particular controlled substance, a State or regional economic integration organization that has not agreed to be bound by the control measures in effect for that substance.</p>



	<p>10. By 1 January 1996, the Parties shall consider whether to amend this Protocol in order to extend the measures in this Article to trade in controlled substances in Group I of Annex C and in Annex E with States not party to the Protocol".</p> <p>→ <b>Article 4</b> provides for measures that are directed against non-parties. Trade measures under Article 4 are as follows:</p> <p>(a) Control of trade in ODS with non-parties:</p> <p>(i) Annex A substances (mainly CFCs and halons): import from non-parties banned from January 1990, export banned from January 1993;</p> <p>(ii) Annex B substances (carbon tetrachloride, methyl chloroform and other CFCs): import and export banned from August 1993 for non-parties to the London Amendment;</p> <p>(iii) Annex C – Group II (HBFCs): import and export banned from June 1995 for non-parties to the Copenhagen Amendment (1992).</p> <p>(iv) Annex C – Group I (HCFCs): import and export banned for non-parties to the Beijing Amendment (1999) from 1 January 2004. Trade also banned in HCFCs with countries that have not yet ratified the Copenhagen Amendment (1992), which introduced the HCFC phase out. Trade ban does not apply to all developing countries that are operating under Article 5, paragraph 1 when trading in HCFCs among themselves until 1 January 2013.</p> <p>(v) Annex C – Group III (Bromochloromethane): Import and export banned for non-parties to the Beijing Amendment (1999) after February 2003.</p> <p>(vi) Annex E substances (Methyl bromide): import and export banned from November 2000 for non-parties to the Montreal Amendment (1997).</p> <p>(b) Control of trade in products containing ODS with non-parties: Import of products (listed in Annex D) containing Annex A substances banned from May 1992;</p> <p>(c) Exports of ODS-technologies: Parties are discouraged "to the fullest practicable extent", export of technology for producing ODS; however, there are exceptions for HCFCs and for equipment or technology to recycle ODS.</p>
<b>Article 4A</b> <b>Control of trade with Parties</b>	<p>"1. Where, after the phase-out date applicable to it for a controlled substance, a Party is unable, despite having taken all practicable steps to comply with its obligation under the Protocol, to cease production of that substance for domestic consumption, other than for uses agreed by the Parties to be essential, it shall ban the export of used, recycled and reclaimed quantities of that substance, other than for the purpose of destruction.</p> <p>2. Paragraph 1 of this Article shall apply without prejudice to the operation of Article 11 of the Convention and the non-compliance procedure developed under Article 8 of the Protocol".</p>
<b>Article 4B</b> <b>Licensing</b>	<p>"1. Each Party shall, by 1 January 2000 or within three months of the date of entry into force of this Article for it, whichever is the later, establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E.</p> <p>2. Notwithstanding paragraph 1 of this Article, any Party operating under paragraph 1 of Article 5 which decides it is not in a position to establish and implement a system for licensing the import and export of controlled substances in Annexes C and E, may delay taking those actions until 1 January 2005 and 1 January 2002, respectively.</p> <p>3. Each Party shall, within three months of the date of introducing its licensing system, report to the Secretariat on the establishment and operation of that system.</p> <p>4. The Secretariat shall periodically prepare and circulate to all Parties a list of the Parties that have reported to it on their licensing systems and shall forward this information to the Implementation Committee for consideration and appropriate recommendations to the Parties".</p> <p>→ Many parties already have licensing systems in place as a method of complying with the controls of consumption and production of ODS. This licensing requirement is binding since November 1999. As of 31 October 2010, 176 Parties to the Montreal Amendment to the Montreal Protocol, and 37 Parties that are Parties to the Montreal Protocol but have not yet ratified the Montreal Amendment had already established licensing systems</p>



	for ODS. <b>Decision XXII/14</b> of the Twenty Second Meeting of the Parties urged all the 5 remaining Parties to the Montreal Amendment and the 3 remaining Parties to the Montreal Protocol that had not yet introduced import and export licensing systems to do so as a matter of urgency.
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## 2. Decisions of the Meetings of the Parties

### 1. Examples of decisions adopted at the Meetings of the Parties (MOP) include the following:

<b>MOP V Bangkok, 1993</b>	→ It was decided at MOP V that it was not feasible to ban or restrict the import of products made with, but not containing Annex A substances (CFCs and halons)( <b>Decision V/17</b> ).
<b>MOP IX Montreal, 1997</b>	→ MOP IX introduced, through the Montreal Amendment, <i>inter alia</i> , trade controls for methyl bromide (Annex E) with non-parties: <ul style="list-style-type: none"> <li>– From November 2000, each Party shall ban the import, and after November 2000, the export, of methyl bromide from any State not Party to the Montreal Amendment.</li> <li>– Parties are to discourage the export to non-parties of technology for producing or for utilising methyl bromide.</li> <li>– Each Party shall refrain from providing any assistance for the export to non-parties of any equipment or technology that would facilitate production of methyl bromide.</li> </ul>
<b>MOP XIV Rome, 2002</b>	→ MOP XIV adopted two trade-related decisions: <ul style="list-style-type: none"> <li>– <b>Decision XIV/7</b> on monitoring of trade in ozone-depleting substances and prevention of illegal trade in ozone-depleting substances, <i>inter alia</i>, encourages all Parties to exchange information and intensify joint efforts to improve means of identifying ODS and preventing illegal trade in ODS. The decision also invites Parties to report to the Ozone Secretariat fully proved cases of illegal trade in ODS and the Secretariat is requested to collect any information on illegal trade received from the Parties and to disseminate it to all Parties.</li> <li>– <b>Decision XIV/36</b> on the report on licensing system takes note of the status report for parties that have established licensing systems and encourages those Parties that have not yet done so to establish import and export licensing systems of ODS.</li> </ul> → MOP XIV also adopted <b>Decision XIV/11</b> on the relationship between the Montreal Protocol and the WTO: <ol style="list-style-type: none"> <li>1. To request the Ozone Secretariat to report to the Parties to the Montreal Protocol on any meetings it attends at the WTO and any substantive contacts with the WTO Secretariat and its Committee Secretariats;</li> <li>2. To request the Secretariat to monitor developments in the negotiations of the WTO CTE in special session and report to the Parties;</li> <li>3. To further request that the Ozone Secretariat, in coordination with the Multilateral Fund Secretariat, when called upon to provide general advice to the WTO on trade provisions of the Montreal Protocol and activities of the Multilateral Fund, consult with the Parties of the Montreal Protocol and the Executive Committee before providing this advice. If the Ozone Secretariat is asked for interpretations of the Protocol's trade provisions, the Secretariat should refer the matter to the Parties before providing that advice".</li> </ol>
<b>MOP XV Nairobi, 2003</b>	<b>Decision XV/20</b> on the report on licensing system takes note of the status report for parties that have established licensing systems and encourages those Parties that have not yet done so to establish import and export licensing systems of ozone-depleting substances.
<b>MOP XVI Prague, 2004</b>	→ MOP XIV adopted five trade-related decisions: <ul style="list-style-type: none"> <li>– <b>Decision XVI/7</b> on trade in products and commodities treated with methyl bromide invites the Parties to the Montreal Protocol, subject to rights and obligations under this agreement and any other international agreements, not to restrict trade in products or commodities from Parties that have ratified the Montreal Protocol provisions regarding methyl bromide and are otherwise in compliance with their Montreal Protocol obligations just because the commodities or products have been treated with methyl bromide, or because the commodities have been produced or grown on soil treated with methyl bromide.</li> </ul>



	<ul style="list-style-type: none"> <li>- <b>Decision XVI/11</b> on the coordination among UN bodies on quarantine and pre-shipment uses <i>inter alia</i> encourages the importing Parties to consider accepting the wood packaging treated with alternative methods to methyl bromide, in accordance with standard 15 of the International Standards for Phytosanitary Measures of the IPPC.</li> <li>- <b>Decision XVI/32</b> on the establishment of licensing systems under Article 4B of the Montreal Protocol <i>inter alia</i> encourages the Parties to establish import and export licensing systems for ODS.</li> <li>- <b>Decision XVI/33</b> on illegal trade in ODS noted the need for coordination of efforts by parties at national and international level to suppress illegal trade in ODS and requested draft terms for a study on the feasibility of developing a system of tracking trade in ODS. → Pursuant to this Decision, a workshop of experts was convened in 2005 to develop specific ideas and a conceptual framework of cooperation to address illegal trade in ODS.</li> <li>- <b>Decision XVI/34</b> on the cooperation between the secretariat of the Montreal protocol and other related conventions and international organizations requested the secretariat to enhance its cooperation with, <i>inter alia</i>, the WTO, as well as report on and monitor developments in the WTO.</li> </ul>
<b>MOP XVII Dakar, 2005</b>	<p>→ MOP XVII adopted several trade-related decisions:</p> <ul style="list-style-type: none"> <li>- <b>Decision XVII/16</b> on preventing illegal trade in controlled ODS approved the terms of reference for a study on the feasibility of developing an international system of monitoring the transboundary movement of controlled ODS between parties (This feasibility study was published in September 2006, and is available at <a href="http://ozone.unep.org/Meeting_Documents/mop/18mop/ODS-Tracking-September-2006.pdf">http://ozone.unep.org/Meeting_Documents/mop/18mop/ODS-Tracking-September-2006.pdf</a>). In addition, the Decision urged all Parties, including regional integration organizations, to implement fully their obligations under Article 4B of the Montreal Protocol, in particular the licensing systems for the control of imports, exports, and re-exports (exports of previously imported substances). The Decision also proposed to consider additional control measures with regard to the use of controlled ODS in particular sectors or in particular applications.</li> <li>- <b>Decision XVII/23</b> on establishing licensing systems under Article 4B of the Protocol noted that 107 Parties to the Montreal Amendment to the Montreal Protocol, and 37 Parties that are Parties to the Montreal Protocol but have not yet ratified the Montreal Amendment had already established licensing systems for ODS. The Decision encouraged all the remaining Parties to the Montreal Amendment that had not yet introduced import and export licensing systems to do so as a matter of urgency.</li> <li>- <b>Decision XVII/25</b> on non-compliance noted Armenia's non-compliance with the Montreal Protocol (exceeded the Party' maximum allowable consumption level of methyl bromide), and warned that if Armenia fails to return to compliance in a timely manner, the MOP will consider measures, which can include ensuring that the supply of methyl bromide be "ceased so that exporting Parties are not contributing to a continuing situation of non-compliance."</li> <li>- <b>Decision XVII/26</b> on non-compliance noted that Azerbaijan has failed to enforce its newly introduced ban on the import of CFCs due to its lack of expertise in the tracking of this substance, and requested exporting Parties to assist Azerbaijan to comply with its commitment.</li> </ul> <p>→ Similar decisions that noted non-compliance by other Parties include the following:</p> <ul style="list-style-type: none"> <li>- Non-compliance with the phase-out commitment for methyl chloroform: Decision XVII/27 (Bangladesh); Decision XVII/28 (Bosnia and Herzegovina); Decision XVII/31 (Ecuador); Decision VII/29 (Chile)</li> <li>- Non-compliance with the phase-out commitment for CFCs: Decision XVII/32 (Federated States of Micronesia)</li> <li>- Non-compliance with the phase-out commitment for methyl bromide: Decision XVII/33 (Fiji); Decision XVII/34 (Honduras); Decision XVII/37 (Libyan Arab Jamahiriya); Decision VII/29 (Chile)</li> <li>- Non-compliance with the phase-out commitment for halons: Decision XVII/36 (Kyrgyzstan); Decision XVII/37 (Libyan Arab Jamahiriya); Decision XVII/38 (Sierra Leone).</li> </ul>



<b>MOP XVIII New Delhi, 2006</b>	<b>- Decision XVIII/18</b> on preventing the illegal trade in ozone-depleting substances through systems for monitoring their transboundary movement between Parties. In addition, the Decision urged all "to implement fully their obligations under Article 4B of the Montreal Protocol, as well as to take into account recommendations contained in existing decisions of the Parties, notably decisions IX/8, XIV/7, XVII/12 and XVII/16".
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F. BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

1. Provisions of the Convention

<b>Article 1 Scope of the Convention</b>	<p>"1. The following wastes that are subject to transboundary movement shall be "hazardous wastes" for the purposes of this Convention:</p> <p>(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and</p> <p>(b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.</p> <p>2. Wastes that belong to any category contained in Annex II that are subject to transboundary movement shall be "other wastes" for the purposes of this Convention. ..."</p>
<b>Article 3 National Definitions of Hazardous Wastes</b>	<p>"1. Each Party shall, within six months of becoming a Party to this Convention, inform the Secretariat of the Convention of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.</p> <p>2. Each Party shall subsequently inform the Secretariat of any significant changes to the information it has provided pursuant to paragraph 1.</p> <p>3. The Secretariat shall forthwith inform all Parties of the information it has received pursuant to paragraphs 1 and 2.</p> <p>4. Parties shall be responsible for making the information transmitted to them by the Secretariat under paragraph 3 available to their exporters".</p>
<b>Article 4 General Obligations</b>	<p>"1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.</p> <p>(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.</p> <p>(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.</p> <p>2. Each Party shall take the appropriate measures to:</p> <p>(a) Ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;</p> <p>(b) Ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located, to the extent possible, within it, whatever the place of their disposal;...</p> <p>...(d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;</p> <p>(e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting.</p>



	<p>(f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V (A), to state clearly the effects of the proposed movement on human health and the environment;</p> <p>(g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;</p> <p>(h) Co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic; ...</p> <p>5. A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.</p> <p>6. The Parties agree not to allow the export of hazardous wastes or other wastes for disposal within the area south of 60° South latitude, whether or not such wastes are subject to transboundary movement.</p> <p>7. Furthermore, each Party shall:</p> <p>(a) Prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations;</p> <p>(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;</p> <p>(c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.</p> <p>8. Each Party shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting.</p> <p>9. Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes only be allowed if:</p> <p>(a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner; or</p> <p>(b) The wastes in question are required as a raw material for recycling or recovery industries in the State of import; or</p> <p>(c) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention.</p> <p>10. The obligation under this Convention of States in which hazardous wastes and other wastes are generated to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import or transit.</p> <p>11. Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order better to protect human health and the environment.</p> <p>12. Nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments ...".</p>
<p><b>Article 5</b> <b>Designation of</b> <b>Competent Authorities</b> <b>and Focal Point</b></p>	<p>"To facilitate the implementation of this Convention, the Parties shall:</p> <p>1. Designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit ...".</p>



**Article 6  
 Transboundary  
 Movement between  
 Parties**

→ Article 6 provides for the prior informed consent procedure or "control system", according to which the transboundary movements of hazardous wastes shall take place.

"1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in Annex V A, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.

2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.

3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that:

- (a) The notifier has received the written consent of the State of import; and
- (b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.

4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

5. In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only:

- (a) By the State of export, the requirements of paragraph 9 of this Article that apply to the importer or disposer and the State of import shall apply mutatis mutandis to the exporter and State of export, respectively;
- (b) By the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and State of import, respectively; or
- (c) By any State of transit which is a Party, the provisions of paragraph 4 shall apply to such State.

6. The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export via the same customs office of entry of the State of import, and, in the case of transit, via the same customs office of entry and exit of the State or States of transit.

7. The States concerned may make their written consent to the use of the general notification referred to in paragraph 6 subject to the supply of certain information, such as the exact quantities or periodical lists of hazardous wastes or other wastes to be shipped.

8. The general notification and written consent referred to in paragraphs 6 and 7 may cover multiple shipments of hazardous wastes or other wastes during a maximum period of 12 months.

9. The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the



	<p>exporter shall so notify the State of import.</p> <p>10. The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties.</p> <p>11. Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party".</p>
<b>Article 8 Duty to Re-import</b>	<p>"When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within 90 days from the time that the importing State informed the State of export and the Secretariat, or such other period of time as the States concerned agree. To this end, the State of export and any Party of transit shall not oppose, hinder or prevent the return of those wastes to the State of export."</p> <p>→ There is a duty to re-import if waste cannot be disposed of in an environmentally sound manner.</p>
<b>Article 9 Illegal Traffic</b>	<p>"1. For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:</p> <ul style="list-style-type: none"> <li>(a) without notification pursuant to the provisions of this Convention to all States concerned; or</li> <li>(b) without the consent pursuant to the provisions of this Convention of a State concerned; or</li> <li>(c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or</li> <li>(d) that does not conform in a material way with the documents; or</li> <li>(e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law,</li> </ul> <p>shall be deemed to be illegal traffic.</p> <p>2. In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:</p> <ul style="list-style-type: none"> <li>(a) taken back by the exporter or the generator or, if necessary, by itself into the State of export, or, if impracticable,</li> <li>(b) are otherwise disposed of in accordance with the provisions of this Convention,</li> </ul> <p>within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.</p> <p>3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the Parties concerned shall co-operate, as necessary, in the disposal of the wastes in an environmentally sound manner.</p> <p>4. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through co-operation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.</p> <p>5. Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic. The Parties shall co-operate with a view to achieving the objects of this Article".</p>
<b>Article 10 International cooperation</b>	<p>1. The Parties shall co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes.</p> <p>2. To this end, the Parties shall:</p>



	<p>(a) Upon request, make available information, whether on a bilateral or multilateral basis, with a view to promoting the environmentally sound management of hazardous wastes and other wastes, including harmonization of technical standards and practices for the adequate management of hazardous wastes and other wastes;</p> <p>(b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment;</p> <p>(c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound low-waste technologies and the improvement of existing technologies with a view to eliminating, as far as practicable, the generation of hazardous wastes and other wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new or improved technologies;</p> <p>(d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes and other wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field; ...</p>
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## 2. Decisions of the Conference of Parties

1. The following are examples of trade-related decisions adopted at meetings of the COP of the Basel Convention:

<b>COP-2 Geneva, 1994</b>	→ At COP-2, parties agreed to a ban on the export of hazardous wastes from OECD to non-OECD countries intended for final disposal, recovery, and recycling (Decision II/12). Because the decision was not incorporated in the text of the Convention itself, the question as to whether it was legally binding or not arose.
<b>COP-3 Geneva, 1995</b>	<p>→ At COP-3, it was proposed that the Ban be formally incorporated in the Basel Convention as an amendment (Decision III/1). If and when the ban comes into force (The Ban Amendment has 69 Parties as of October 2010), the amendment would insert in the Convention a new Article 4A(2) which would:</p> <ul style="list-style-type: none"> <li>– prohibit all transboundary movements of hazardous wastes <i>destined for final disposal</i> from Parties listed in Annex VII (consisting of members of OECD, EC and Liechtenstein) to states not listed in Annex VII, and</li> <li>– prohibit all transboundary movements of hazardous wastes under Art 1, para 1(a) destined for <i>recovery operations</i>, from Annex VII states to non-Annex VII states.</li> </ul>
<b>COP-4 Kuching, 1998</b>	<p>→ At COP-4, there was a discussion concerning other countries wishing to join Annex VII. These countries are Monaco, Slovenia and Israel. However, it was decided to wait and see how the ban was functioning and to leave Annex VII unchanged until its entry into force. A decision could then be made as to whether to close Annex VII or to have open criteria. This issue was raised again at COP-5.</p> <p>→ Annexes VIII and IX of the Convention, adopted at COP-4, clarify what is and what is not considered to be hazardous waste. Non-hazardous material is listed in Annex IX (list B) wastes. Many of the recyclable materials such as copper, zinc (and their products) and other precious metals are in Annex IX and are not considered hazardous unless they have been contaminated. Further clarification is needed for some wastes, such as lead acid and zinc ashes (as these would be considered hazardous waste under Basel).</p>



<p><b>COP-5</b> <b>Basel, 1999</b></p>	<p>→ At COP-5, the <b>Basel Declaration on Environmentally Sound Management</b> was adopted. This Declaration outlines the activities to be undertaken to achieve the objectives of the practical implementation of environmentally sound management: prevention, minimization, recycling, recovery and disposal of wastes subject to the Convention.</p>
<p><b>COP-6</b> <b>Geneva, 2002</b></p>	<p>→ At COP-6, Decision VI/30 was adopted by the COP on the Cooperation with the WTO:</p> <p>"... 1. Requests the secretariat of the Basel Convention to:</p> <ul style="list-style-type: none"> <li>(a) Seek observer status in the [CTE] meeting in Special Session, and to advise the Parties to the Basel Convention when the request has been submitted to and granted by [WTO];</li> <li>(b) Report to the Parties to the Basel Convention on any meetings it attends at [WTO] and any substantive contacts with the [WTO] Secretariat and its committee secretariats;</li> <li>(c) Monitor developments in the [WTO CTE] meeting in Special Session and report to the Parties thereon;</li> </ul> <p>2. Further requests the secretariat of the Basel Convention, when called upon to provide general information to [WTO] on trade provisions of the Basel Convention, to consult with the Parties to the Basel Convention before providing that information. If the Secretariat of the Basel Convention is requested to provide interpretation on the trade provisions of the Convention, it will refer such requests to the [COP]."</p>
<p><b>COP-7</b> <b>Geneva, 2004</b></p>	<p>→ The COP-7 adopted a ministerial statement on partnerships for meeting the global waste challenge which sets out strategies for mobilizing additional resources to address hazardous wastes. The statement calls for strengthening partnerships with industries and other international organizations and agreements, in particular the Rotterdam Convention on Trade in Hazardous Chemicals and Pesticides and the Stockholm Convention on Persistent Organic Pollutants. It also encourages governments to consider setting their own individual or regional targets for minimizing wastes. Decisions VII/2 on Hazardous Waste Minimization, VII/3 Basel Convention Partnership Programme and VII/4 Mobile Phone Partnership Initiative were adopted to meet the global waste challenge.</p> <p>→ Decision VII/38 on International Cooperation, including cooperation with the WTO and the Global Environment Facility (GEF) "requests the Secretariat to continue its cooperation, in accordance with decisions VI/29 and VI/30, on critical areas for the effective implementation of the Basel Convention, its protocol and amendments with relevant organizations, including the following: ... (j) the WTO; ..."</p>
<p><b>COP-8</b> <b>Nairobi, 2006</b></p>	<p>→ COP-8 adopted the Nairobi Ministerial declaration on the environmentally sound management of electronic and electrical waste which sets out strategies to address e-wastes, and includes the promotion of exchange of information and transfer of best available technologies for the environmentally sound management of e-waste from developed countries to developing countries and countries with economies in transition. The declaration also addresses the combating and prevention of illegal traffic in e-waste, and encourages national, regional and global comprehensive actions for the environmentally sound management of e-waste, and end-of-life equipment, through shared responsibilities and commitments from all concerned stakeholders. A decision on the environmentally sound management of e-waste was also adopted, which mandates the Open-ended Working Group to develop a work plan on the environmentally sound management of e-waste, focussing on the needs of developing countries and countries with economies in transition. The decision, inter alia, urges Parties to collaborate in the prevention and combating of illegal traffic through information exchange; tracking and early warning systems; capacity-building, particularly strengthening institutional mechanisms; legal frameworks; and control activities. It also requests Parties to ensure that donated electronic and electrical equipment that is the subject of transboundary movement is not end-of-life equipment. Reports on progress in the implementation of the decision will be made to COP-9.</p> <p>→ COP 8 adopted a decision requesting the Secretariat to further strengthen cooperation and coordination with other international and regional organizations and multilateral environmental agreements in areas of relevance to the Basel Convention, including the WTO. Moreover, the same decision requested the Secretariat to seek observer status with the Committee on Trade and Environment of the WTO and to advise the Parties to the Convention when the request has been submitted to, and granted by, the WTO.</p> <p>→ With respect to the interpretation of article 17, paragraph 5, of the Convention, which provides for the entry into force of amendments to the Convention, COP 8 mandated the Open-ended Working Group to begin work on addressing the issue of interpretation, and to develop a draft</p>



	<p>decision to reach an agreed interpretation, of article 17, paragraph 5, in accordance with international law for consideration by COP-9. It is noted that the entry into force of the amendment contained in decision III/1, adopted by COP-3, may be affected by the interpretation of article 17, paragraph 5.</p> <p>→ With respect to the transboundary movement of used and end-of-life mobile phones, COP-8 provisionally adopted a guidance document on the environmentally sound management of used and end-of-life mobile phones as a voluntary document, and invited Parties to use and test the guidance document, and five guidelines produced under the Mobile Phone Partnership Initiative which had worked during the biennium 2005-2006. The guidance document addresses, inter alia, the transboundary movement of used and end-of-life mobile phones.</p>
<b>COP-9 Bali, 2008</b>	<p>→ At COP-9, the Bali Declaration on Waste Management for Human Health and Livelihood was adopted. This Declaration calls:</p> <p>" Parties and by relevant public and private organizations, including international and regional organizations and programmes, to:</p> <ul style="list-style-type: none"> <li>(b) Strengthen subregional and regional cooperation on waste and health issues (...)</li> <li>(c) Improve waste shipment and border controls to prevent illegal movements of hazardous and other wastes(...)</li> <li>(d) Improve cooperation between national authorities in the waste, chemicals and health sectors and, in collaboration with other relevant authorities and stakeholders, in the development and implementation of effective and sound waste management systems;</li> <li>(e) Increase capacity-building and promote and, where possible, enhance, public and private investment for the transfer and use of appropriate technology for the safe and environmentally sound management of waste".</li> </ul> <p>→ The COP-9 agreed that the Secretariat should take note of the request of revising the draft technical guidelines so as to further address aspects such as incineration on land and the co-processing of hazardous wastes in the context of the Basel Convention.</p> <p>→ The COP-9 adopted a decision (IX/26) inviting the Parties to take into consideration the "possible way forward on the Ban Amendment" set out in the President's Statement, in order to explore means by which the Amendment's objectives might be achieved, while waiting for its entry into force.</p>
<b>ExCOP-1 Bali, 2010</b>	<p>The simultaneous extraordinary meetings of the Conferences of the Parties<sup>6</sup> to the Basel, Rotterdam and Stockholm conventions resulted in the adoption of an omnibus decision (BC Ex-1/1)<sup>7</sup>, on the following thematic areas:</p> <ul style="list-style-type: none"> <li>(a) Joint activities;</li> <li>(b) Joint managerial functions;</li> <li>(c) Joint services;</li> <li>(d) Synchronization of budget cycles;</li> <li>(e) Joint audits;</li> <li>(f) Review arrangements.</li> </ul> <p>The implementation of the omnibus decisions will be reviewed by the respective Conferences of the Parties in 2011. COP-10 is scheduled for 17-21 October 2011 in Colombia.</p>

<sup>6</sup> <http://excops.unep.ch/>

<sup>7</sup> <http://www.basel.int/synergies/documents/Attachment%2018.pdf>



G. CONVENTION ON BIOLOGICAL DIVERSITY

1. Provisions of the Convention

1. The text of the Convention does not explicitly refer to trade measures, nor does the Convention generally prescribe specific measures. The provisions of the Convention, with a few exceptions, set goals and establish general principles. The specific measures required to achieve these goals and operationalize these principles are largely the prerogative of the Parties. However, the Convention contains a number of provisions that are generally understood to require measures by Parties which may have consequences for trade. In addition, some of its provisions have inter-linkages with some international trade agreements.

<b>Article 6 General Measures for Conservation and Sustainable Use</b>	"Each Contracting Party shall, in accordance with its particular conditions and capabilities: (a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, <i>inter alia</i> , the measures set out in this Convention relevant to the Contracting Party concerned; and (b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies".
<b>Article 7(c) Identification and Monitoring</b>	"Each Contracting Party shall, as far as possible and as appropriate, in particular for the purposes of Articles 8 to 10: ... (c) Identify processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and monitor their effects through sampling and other techniques".
<b>Article 8 In-situ Conservation</b>	"Each Contracting Party shall, as far as possible and as appropriate: ... (h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species; ... (j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices; ... (l) Where a significant adverse effect on biological diversity has been determined pursuant to Article 7, regulate or manage the relevant processes and categories of activities;...".
<b>Article 10 Sustainable Use of Components of Biological Diversity</b>	"Each Contracting Party shall, as far as possible and as appropriate: ... (b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity; (c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements; ...".
<b>Article 11 Incentive Measures</b>	"Each Contracting Party shall, as far as possible and as appropriate, adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity".
<b>Article 14 Impact Assessment and Minimizing Adverse Impacts</b>	"1. Each Contracting Party, as far as possible and as appropriate, shall: (a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;



	<p>(b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;</p> <p>(c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;</p> <p>(d) In the case of imminent or grave danger or damage, originating under its jurisdiction or control, to biological diversity within the area under jurisdiction of other States or in areas beyond the limits of national jurisdiction, notify immediately the potentially affected States of such danger or damage, as well as initiate action to prevent or minimize such danger or damage; and</p> <p>(e) Promote national arrangements for emergency responses to activities or events, whether caused naturally or otherwise, which present a grave and imminent danger to biological diversity and encourage international cooperation to supplement such national efforts and, where appropriate and agreed by the States or regional economic integration organizations concerned, to establish joint contingency plans.</p> <p>2. The [COP] shall examine, on the basis of studies to be carried out, the issue of liability and redress, including restoration and compensation, for damage to biological diversity, except where such liability is a purely internal matter".</p>
<b>Article 15 Access to Genetic Resources</b>	<p>"1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.</p> <p>2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.</p> <p>3. For the purpose of this Convention, the genetic resources being provided by a Contracting Party, as referred to in this Article and Articles 16 and 19, are only those that are provided by Contracting Parties that are countries of origin of such resources or by the Parties that have acquired the genetic resources in accordance with this Convention.</p> <p>4. Access, where granted, shall be on mutually agreed terms and subject to the provisions of this Article.</p> <p>5. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party.</p> <p>6. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties.</p> <p>7. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, and in accordance with Articles 16 and 19 and, where necessary, through the financial mechanism established by Articles 20 and 21 with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms".</p>
<b>Article 16 Access to and Transfer of Technology</b>	<p>"1. Each Contracting Party, recognizing that technology includes biotechnology, and that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.</p> <p>2. Access to and transfer of technology referred to in paragraph 1 above to developing countries shall be provided and/or facilitated under fair and most favourable terms, including on concessional and preferential terms where mutually agreed, and, where necessary, in accordance with the financial mechanism established by Articles 20 and 21. In the case of technology subject to patents and other intellectual property rights, such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights. The application of this paragraph shall be consistent with paragraphs 3, 4 and 5 below.</p> <p>3. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular</p>



	<p>those that are developing countries, which provide genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, including technology protected by patents and other intellectual property rights, where necessary, through the provisions of Articles 20 and 21 and in accordance with international law and consistent with paragraphs 4 and 5 below.</p> <p>4. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that the private sector facilitates access to, joint development and transfer of technology referred to in paragraph 1 above for the benefit of both governmental institutions and the private sector of developing countries and in this regard shall abide by the obligations included in paragraphs 1, 2 and 3 above.</p> <p>5. The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives".</p>
<b>Article 19 Handling of Biotechnology and Distribution of its Benefits</b>	<p>"1. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, to provide for the effective participation in biotechnological research activities by those Contracting Parties, especially developing countries, which provide the genetic resources for such research, and where feasible in such Contracting Parties.</p> <p>2. Each Contracting Party shall take all practicable measures to promote and advance priority access on a fair and equitable basis by Contracting Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Contracting Parties. Such access shall be on mutually agreed terms.</p> <p>3. The Parties shall consider the need for and modalities of a protocol setting out appropriate procedures, including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity.</p> <p>4. Each Contracting Party shall, directly or by requiring any natural or legal person under its jurisdiction providing the organisms referred to in paragraph 3 above, provide any available information about the use and safety regulations required by that Contracting Party in handling such organisms, as well as any available information on the potential adverse impact of the specific organisms concerned to the Contracting Party into which those organisms are to be introduced".</p>
<b>Article 22 Relationship with Other International Conventions</b>	<p>"1. The provisions of this Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity.</p> <p>2. Contracting Parties shall implement this Convention with respect to the marine environment consistently with the rights and obligations of States under the law of the sea".</p>



## 2. Decisions of the Conference of the Parties<sup>8</sup>

1. A number of topics addressed by the Conference of the Parties relate to international trade and the work of the World Trade Organization. The COP emphasized the interrelationship between the Convention and the provisions of the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement), and the need to further explore this interrelationship. Specifically, COP recognized the role of intellectual property rights in encouraging access to genetic resources and the sharing of benefits from the use of those resources, in contributing to the protection of traditional knowledge, and in technology transfer under the Convention.

### (a) Access to genetic resources and the fair and equitable sharing of the benefits arising out of their utilization

<p><b>Decision V/26</b> <b>Access to Genetic Resources</b></p>	<p>"B. The relationship between intellectual property rights and the relevant provisions of the Agreement on Trade-related Aspects of Intellectual Property Rights and the [CBD] The [COP]...2. Invites the [WTO] to acknowledge relevant provisions of the Convention and to take into account the fact that the provisions of the [TRIPS] Agreement and the [CBD] are interrelated and to further explore this interrelationship; 3. Requests the Executive Secretary to transmit the present decision to the secretariats of the [WTO] and the [WIPO], for use by appropriate bodies of these organizations, and to endeavour to undertake further cooperation and consultation with these organizations; 4. Renews its request to the Executive Secretary of the Convention to apply for observer status on the [TRIPS Council], and requests him to report back to the [COP] on his efforts ...".</p>
<p><b>Decision VI/24</b> <b>Access and Benefit-sharing as Related to Genetic Resources</b></p>	<p>The Bonn Guidelines adopted by the Conference of the Parties at its sixth meeting are contained in annex to decision VI/24, section A. The following sections of the guidelines may be of particular relevance: "A. <b>Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization</b> I. General Provisions 1. These Guidelines may serve as inputs when developing and drafting legislative, administrative or policy measures on access and benefit-sharing with particular reference to provisions under Articles 8(j), 10 (c), 15, 16 and 19; and contracts and other arrangements under mutually agreed terms for access and benefit-sharing. ... 7. The present guidelines are voluntary and were prepared with a view to ensuring their: (a) Voluntary nature: they are intended to guide both users and providers of genetic resources on a voluntary basis;... 9. All genetic resources and associated traditional knowledge, innovations and practices covered by the [CBD] and benefits arising from the commercial and other utilization of such resources should be covered by the guidelines, with the exclusion of human genetic resources. ... 12. The Guidelines are intended to assist Parties in developing an overall access and benefit-sharing strategy, which may be part of their national biodiversity strategy and action plan, and in identifying the steps involved in the process of obtaining access to genetic resources and sharing benefits. <b>II. Roles and Responsibilities in Access and Benefit-sharing pursuant to Article 15 of the [CBD]</b> 13. Each Party should designate one national focal point for access and benefit-sharing and make such information available through the clearing-house mechanism. The national focal point should inform applicants for access to genetic resources on procedures for acquiring prior informed consent and mutually agreed terms, including benefit-sharing, and on competent national authorities, relevant indigenous and local communities and relevant stakeholders, through the clearing-house mechanism. ...</p>

<sup>8</sup> All decisions of the Conference of the Parties to the Convention are available online under <http://www.cbd.int/decisions/>.



16. Recognizing that Parties and stakeholders may be both users and providers, the following balanced list of roles and responsibilities provides key elements to be acted upon: ...

(b) In the implementation of mutually agreed terms, users should:

(i) Seek informed consent prior to access to genetic resources, in conformity with Article 15, paragraph 5, of the Convention; ...

(d) Contracting Parties with users of genetic resources under their jurisdiction should take appropriate legal, administrative, or policy measures, as appropriate, to support compliance with prior informed consent of the Contracting Party providing such resources and mutually agreed terms on which access was granted. These countries could consider, *inter alia*, the following measures:

(i) Mechanisms to provide information to potential users on their obligations regarding access to genetic resources;

(ii) Measures to encourage the disclosure of the country of origin of the genetic resources and of the origin of traditional knowledge, innovations and practices of indigenous and local communities in applications for intellectual property rights;

(iii) Measures aimed at preventing the use of genetic resources obtained without the prior informed consent of the Contracting Party providing such resources;

(iv) Cooperation between Contracting Parties to address alleged infringements of access and benefit-sharing agreements;

(v) Voluntary certification schemes for institutions abiding by rules on access and benefit-sharing;

(vi) Measures discouraging unfair trade practices;

(vii) Other measures that encourage users to comply with provisions under subparagraph 16 (b) above. ...

#### **IV. Steps in the Access and Benefit-sharing process**

24. As provided for in Article 15 of the [CBD], which recognizes the sovereign rights of States over their natural resources, each Contracting Party to the Convention shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and fair and equitable sharing of benefits arising from such uses. In accordance with Article 15, paragraph 5, of the [CBD], access to genetic resources shall be subject to prior informed consent of the contracting Party providing such resources, unless otherwise determined by that Party.

25. Against this background, the Guidelines are intended to assist Parties in the establishment of a system of prior informed consent, in accordance with Article 15, paragraph 5, of the Convention ...

D. Mutually agreed terms

...

1. Basic requirements for mutually agreed terms

43. The following elements should be considered as guiding parameters in contractual agreements. These elements could also be considered as basic requirements for mutually agreed terms:...

(c) Provision for the use of intellectual property rights include joint research, obligation to implement rights on inventions obtained and to provide licences by common consent;

(d) The possibility of joint ownership of intellectual property rights according to the degree of contribution."

*Other sections of decision VI/24 are also of relevance to the work of the WTO:*

#### **Under Decision VI/24, section C on the Role of intellectual property rights in the implementation of access and benefit-sharing arrangements**

The [COP]

1. Invites Parties and Governments to encourage the disclosure of the country of origin of genetic resources in applications for intellectual property rights, where the subject matter of the application concerns or makes use of genetic resources in its development, as a possible contribution to tracking compliance with prior informed consent and the mutually agreed terms on which access to those resources was granted;

2. Also invites Parties and Governments to encourage the disclosure of the origin of relevant traditional knowledge, innovations and practices of indigenous and local communities relevant for the conservation and sustainable use of biological diversity in applications for intellectual property



rights, where the subject matter of the application concerns or makes use of such knowledge in its development;

3. Requests the Executive Secretary, with the help of other international and intergovernmental organizations such as the [WIPO] and through the Ad Hoc Open-ended Inter-Sessional Working Group on Article 8(j) and Related Provisions of the Convention, where appropriate, to undertake further information gathering and analysis with regard to:

- (a) Impact of intellectual property regimes on access to and use of genetic resources and scientific research;
- (b) Role of customary laws and practices in relation to the protection of genetic resources and traditional knowledge, innovations and practices, and their relationship with intellectual property rights;
- (c) Consistency and applicability of requirements for disclosure of country of origin and prior informed consent in the context of international legal obligations;
- (d) Efficacy of country of origin and prior informed consent disclosures in assisting the examination of intellectual property rights applications and the re-examination of intellectual property rights granted;
- (e) Efficacy of country of origin and prior informed consent disclosures in monitoring compliance with access provisions;
- (f) Feasibility of an internationally recognized certificate of origin system as evidence of prior informed consent and mutually agreed terms; and
- (g) Role of oral evidence of prior art in the examination, granting and maintenance of intellectual property rights; ...

8. Invites other relevant international organizations (such as the [FAO, the UNCTAD, the WIPO, the WTO, and the UNCHR]), as well as regional organizations, Parties and Governments to contribute to the further study and analysis of the issues specified in paragraphs 3 and 4; ... ."

**Under decision VI/24, section D on Other issues relating to access and benefit-sharing**

The [COP],

The relationship between the [TRIPS Agreement of the WTO and the CBD]

Noting that the provisions of the [TRIPS Agreement of the WTO and the CBD] are interrelated,

Noting also that the relationship between the [TRIPS Agreement and the CBD] is being examined by the [TRIPS Council], in conformity with Article 19 of the Doha [WTO] Ministerial Declaration, adopted in November 2001,

Noting further that the Convention Secretariat has still not been granted observer status on the [TRIPS Council], notwithstanding the official request of the Executive Secretary to the Director-General of the [WTO] in a letter dated 4 July 2000,

1. Requests the Executive Secretary of the Convention to renew the application for observer status on the [TRIPS Council], and to report back to the Conference of Parties on his efforts;
2. Requests the Executive Secretary to follow discussions and developments in the [CTE of the WTO and the TRIPS Council] regarding the relationship between the [TRIPS Agreement] and the Convention;

Cooperation with other relevant intergovernmental organizations

3. Acknowledges relevant work being carried out by other intergovernmental organisations, such as the [WIPO, the WTO, the Union for the Protection of New Varieties of Plants, the UNCTAD, and the FAO], on issues related to access to genetic resources and benefit-sharing;
4. Requests the Executive Secretary to further collaborate with the above relevant organisations to ensure mutual supportiveness and avoid duplication of work; ...".



**Decision VII/19  
Access and Benefit-  
sharing as Related to  
Genetic Resources  
(Article 15)**

**"... D. International regime on access to genetic resources and benefit-sharing**

The [COP]...

1. Decides to mandate the Ad Hoc Open-ended Working Group on Access and Benefit-sharing with the collaboration of the Ad Hoc Open ended Inter-Sessional Working Group on Article 8(j) and Related Provisions, ensuring the participation of indigenous and local communities, non-Governmental organizations, industry and scientific and academic institutions, as well as intergovernmental organizations, to elaborate and negotiate an international regime on access to genetic resources and benefit-sharing with the aim of adopting an instrument\instruments to effectively implement the provisions in Article 15 and Article 8(j) of the Convention and the three objectives of the Convention;

2. Recommends that the Ad Hoc Open-ended Working Group on Access and Benefit-sharing should operate in accordance with the terms of reference contained in the annex to this decision; ...

5. Invites [UNEP, FAO, WTO, WIPO], the International Union for the Protection of New Varieties of Plants, to cooperate with the Ad Hoc Open-ended Working Group on Access and Benefit-sharing in elaborating the international regime; ...

**Annex: Terms of reference for the Ad Hoc Open-ended Working Group on Access and Benefit-sharing ...**

(d) Elements: The following elements shall be considered by the Ad Hoc Open-ended Working Group on Access and Benefit-sharing for inclusion in the international regime, *inter alia*: ...

(xiii) Internationally recognized certificate of origin/source/legal provenance of genetic resources and associated traditional knowledge;

(xiv) Disclosure of origin/source/legal provenance of genetic resources and associated traditional knowledge in applications for intellectual property rights;

(xxiii) Relevant elements of existing instruments and processes, including: ...

- [The TRIPS Agreement] and other [WTO] agreements; ...

**E. Measures, including consideration of their feasibility, practicality and costs, to support compliance with prior informed consent of the Contracting Party providing genetic resources and mutually agreed terms on which access was granted in Contracting Parties with users of such resources under their jurisdiction ...**

*Noting further* the ongoing activities and processes in relevant international forums such as the [WIPO, the TRIPS Council of the WTO], and the Commission on Plant Genetic Resources for Food and Agriculture of the [FAO] acting as the Interim Committee for the International Treaty on Plant and Genetic Resources for Food and Agriculture, regarding measures to support compliance with prior informed consent, ...

2. *Invites* Parties and Governments to continue taking appropriate and practical measures to support compliance with prior informed consent of the Contracting Parties providing such resources, including countries of origin, in accordance with Article 2 and Article 15, paragraph 3, of the Convention, and of the indigenous and local communities providing associated traditional knowledge, and with mutually agreed terms on which access was granted. Such measures may include: ...

(b) Incentive measures, as referred to in paragraph 51 of the Bonn Guidelines, to encourage users to comply with national legislation, including prior informed consent and mutually agreed terms, such as publicly sponsored research grants and voluntary certification schemes; ...

(d) Aspects related to the import and export of genetic resources, including regulations when feasible and as appropriate; ...

4. *Invites* Parties to establish national mechanisms to ensure compliance, when required by domestic law, with the obtaining of prior informed consent of indigenous and local communities regarding access to genetic resources and associated traditional knowledge; ...

**F. Needs for capacity-building identified by countries to implement the Guidelines ...**

1. Adopts the Action Plan on Capacity-building for Access to Genetic Resources and Benefit-sharing annexed to this decision; ...

Annex: Action plan on capacity-building for access to genetic resources and benefit-sharing ...



	5. Capacities should be strengthened at the systemic, institutional and individual levels in the following key areas: ... (m) Development of awareness with respect to conventions, norms and policies relating to intellectual property rights and trade and their interrelationship with genetic resources and traditional knowledge; ...".
<b>Decision VIII/4 Access and benefit-sharing</b>	"... <b>D. Measures, including consideration of their feasibility, practicality and costs, to support compliance with prior informed consent of the contracting Party providing genetic resources and mutually agreed terms on which access was granted in contracting Parties with users of such resources under their jurisdiction</b> The [COP]... <i>Noting</i> discussions regarding disclosure of origin/source/legal provenance in intellectual property rights applications in the [WIPO] and in the Doha Work Programme of the [WTO],... 4. <i>Requests</i> the Executive Secretary to renew the application for accreditation of the [CBD] as an observer at the [TRIPS Council] of the [WTO]."
<b>Decision X/1 Access to Genetic Resources and the fair and equitable Sharing of the Benefits Arising out of their Utilization</b>	"1. <i>Decides</i> to adopt the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (the Protocol) as set out in the annex I to the present decision;"  ⇒ See further information provided on the Protocol

**(b) Article 8 (j) and related provisions**

<b>Decision V/16 Article 8(j) and related provisions</b>	"The [COP]... 14. Recognizes the potential importance of <i>sui generis</i> and other appropriate systems for the protection of traditional knowledge of indigenous and local communities and the equitable sharing of benefits arising from its use to meet the provisions of the [CBD], taking into account the ongoing work on Article 8(j) and related provisions, and transmits its findings to the [WTO] and the [WIPO], as suggested in paragraph 6 (b) of recommendation 3 of the Inter-Sessional Meeting on the Operations of the Convention (UNEP/CBD/COP/5/4, annex); ..."
<b>Decision VI/10 Article 8(j) and related provisions</b>	"The [COP]... 35. Also requests the Executive Secretary to continue to compile information provided by Parties and Governments relating to existing national legislation and other measures for the protection of traditional knowledge, innovations and practices; 36. Invites the [WTO] and the [WIPO] to make available to the Executive Secretary information referred to in paragraph 35 above provided through their respective notification systems; ... 39. Encourages Parties and Governments, where they have not already done so, to take measures to establish or improve operational links between their national governmental intellectual-property bodies, national focal points of the [CBD], and indigenous and local communities and their organizations in order to better coordinate and institute measures to protect their traditional knowledge, innovations and practices relevant to the conservation and sustainable use of biological diversity, particularly with regard to traditional-knowledge documentation initiatives and community-based registries of traditional knowledge; ... 46. Invites Parties and Governments to encourage the disclosure of the origin of relevant traditional knowledge, innovations and practices of indigenous and local communities relevant to the conservation and sustainable use of biological diversity in applications for intellectual property rights, where the subject matter of the application concerns or makes use of such knowledge in its development; 47. Urges Parties and Governments to examine, as appropriate, relevant provisions of the [CBD] with respect to prior informed consent and mutually agreed terms where traditional knowledge is used in its original form or in the development of new products and/or new applications;



	48. Invites Parties and Governments, with the assistance of the [WIPO], to take into account traditional knowledge in the examination of novelty and inventive step in patent applications; ...".
<b>Decision VII/16 Article 8(j) and Related Provisions</b>	<p>"The [COP]... <b>H. Development of elements of sui generis systems for the protection of traditional knowledge, innovations and practices ...</b></p> <p>Noting that a mix of defensive and positive measures, taking into account both proprietary and non-proprietary aspects, may be necessary for the protection of traditional knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity, ...</p> <p>Emphasizing that any <i>sui generis</i> system for the protection of traditional knowledge, innovations and practices needs to be developed taking into consideration customary law and practices with the full and effective involvement and participation of concerned indigenous and local communities, ... Recognizing the need for continued collaboration with other relevant organizations working on issues related to the protection of traditional knowledge, innovations and practices, such as the [WIPO, the Permanent Forum on Indigenous Issues (PFII), the WHO and the FAO, the UNESCO, the UNCTAD and the WTO] to ensure mutual supportiveness and avoid duplication of efforts, ...</p> <p>7. Invites Parties and Governments to consider appropriate measures, with the full and effective participation of indigenous and local communities, to implement at local, national, subregional, regional and international levels <i>sui generis</i> systems and other new innovative mechanisms that ensure the protection of traditional knowledge, innovations and practices taking into consideration customary law and traditional practices; ...".</p>
<b>Decision VIII/5 Article 8(j) and related provisions</b>	<p>"...<b>E. Development of elements of sui generis systems for the protection of the knowledge, innovations and practices of indigenous and local communities</b></p> <p>The [COP]... 7. <i>Acknowledges</i> the ongoing discussions in the [WTO] to examine, <i>inter alia</i>, the relationship between the [TRIPS Agreement] and the [CBD] and the protection of traditional knowledge..."</p>

(c) **Technology transfer and scientific and technological cooperation**

<b>Decision IX/14 Technology transfer and cooperation</b>	<p>"The [COP]... 11. <i>Recalling</i> Article 16 paragraphs 2, 3 and 5 of the Convention, <i>invites</i> relevant international organizations and initiatives, research institutions at all levels, and non-governmental organizations, to undertake further research on the role of intellectual property rights in technology transfer in the context of the Convention, such as:</p> <p>(d) Further examination by relevant international organizations of the overall trends in the application of the flexibilities provided by the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS)..."</p>
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(d) Incentive measures

1. The Convention's provision on incentive measures (Article 11), its associated programmes of work, and the voluntary guidance developed thereunder, has linkages to trade and the work the WTO, in particular through its focus on positive incentive measures for the conservation and sustainable use of biodiversity, including market development and market promotion, as well as on the removal or mitigation of incentives with harmful effects for biodiversity ("perverse incentives").

<p><b>Decision III/18 Incentive Measures (as modified by Decision VII/33)</b></p>	<p>"The [COP]...</p> <p>2. Resolves that incentive measures shall be included as appropriate on the agenda of the [COP] and be integrated into the sectoral and thematic items under the medium-term programme of work of the [COP];</p> <p>3. Encourages Parties to review their existing legislation and economic policies, to identify and promote incentive for the conservation and sustainable use of components of biological diversity, stressing the importance of taking appropriate action on incentives that threaten biological diversity;</p> <p>4. Encourages Parties to ensure adequate incorporation of the market and non-market values of biological diversity into plans, policies and programmes and other relevant areas, <i>inter alia</i>, national accounting systems and investment strategies;...</p> <p>6. Encourages Parties to incorporate biological diversity considerations into impact assessments, consistent with Article 14 of the Convention, as a step in the design and implementation of incentive measures; ...".</p>
<p><b>Decision IV/10 Measures for Implementing the Convention on Biological Diversity (as modified by Decision VII/33)</b></p>	<p><b>"A. Incentive measures: consideration of measures for the implementation of Article 11</b></p> <p>[COP]...</p> <p>1. Encourages Parties, Governments and relevant organizations:</p> <p>(a) To promote the design and implementation of appropriate incentive measures, taking fully into account the ecosystem approach and the various conditions of the Parties and employing the precautionary approach of Principle 15 of the Rio Declaration on Environment and Development, in order to facilitate achieving the implementation of the objectives of the Convention and to integrate biological diversity concerns in sectoral policies, instruments and projects;...</p> <p>(c) To take into account economic, social, cultural and ethical valuation in the development of relevant incentive measures;...</p> <p>(f) To identify perverse incentives and consider the removal or mitigation of their negative effects on biological diversity in order to encourage positive, rather than negative, effects on the conservation and sustainable use of biological diversity;...</p> <p>(h) To undertake value addition and enhancement of naturally occurring genetic resources, based on the participatory approach, where appropriate, to work as incentives for their conservation and sustainable use; ...".</p>



<p><b>Decision VI/15 Incentive measures Annex I Proposals for the Design and Implementation of Incentive Measures</b></p>	<p>"The [COP]... 2. Endorses the proposals for the design and implementation of incentive measures and the recommendations for further cooperation on incentive measures, contained respectively in annexes I and II to the present decision, as far as they are consistent with Parties' national policies and legislation as well as their international obligations; ...</p> <p><b>Annex I: Proposals for the design and implementation of incentive measures</b></p> <p>1. In general terms, incentive measures should be designed to address the conservation and sustainable use of biological diversity, while taking into account: ...</p> <p>(d) The measures' relationship to existing international agreements. ...</p> <p>2. The following elements should be taken into consideration in the design and implementation of incentive measures for the conservation and sustainable use of biological diversity: ...</p> <p><b>E. Guidelines for selecting appropriate and complementary measures</b></p> <p>36. The following are guidelines for selecting appropriate and complementary measures:</p> <p>(a) Any decision-making process for selecting appropriate and complementary measures should take into account the specific circumstances of the country involved;</p> <p>(b) It is important to consider the context in which the incentive measure is being introduced to assist final decision-making on a particular measure or measures;</p> <p>(c) A key consideration in the design of an incentive measure is the recognition that a single measure will often not suffice to address the complexities involved in decisions on biodiversity conservation or sustainable use, and that a mix of measures may be needed;</p> <p>(d) Equity considerations, such as poverty alleviation, should be given a prominent role in the design and selection of appropriate incentive measures;</p> <p>(e) The implementation of incentive measures should not result in a significant increase in the cost of living and/or increase in government revenue;</p> <p>(f) The size of the country's economy is an important factor in the selection of financial incentive measures;</p> <p>(g) Well defined land and property rights are an important factor in the design and implementation of incentive measures in the conservation of biological diversity and the promotion of sustainable use;</p> <p>(h) Positive incentives can influence decision-making by recognizing and rewarding activities that are carried out for conservation and sustainable use purposes;</p> <p>(i) The removal of perverse incentives eases pressure on the environment. The identification of both internal and external perverse incentives and other threats to biodiversity conservation and to the promotion of sustainable use, is essential to the selection and design of incentive measures. The removal of perverse incentives may improve economic efficiency and reduce fiscal expenditures;</p> <p>(j) Disincentives continue to be an important tool for ensuring the conservation and sustainable use of biological diversity and can be used in combination with positive incentives ...".</p>
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<b>Decision VII/2 The Biological Diversity of Dry and Sub-humid Lands Annex</b>	<p>"The [COP]... 2. Adopts the proposal prepared by the Executive Secretary for the further refinement of the programme of work and suggesting collaborating partners as indicated in the annex to the present decision; ...</p> <p>Annex: Synthesis table of expected outcomes and timeframes, potential actors, and indicators of progress in the implementation of the programme of work on biological diversity of dry and sub-humid lands</p>					
	<b>Activity</b>	<b>Expected outcomes</b>	<b>Time-frame</b>	<b>Key actors</b>	<b>Status</b>	<b>Progress indicators</b>
	<b>... Activity 9.</b> Support for sustainable livelihoods ...					
	(d) Market development	<ul style="list-style-type: none"> <li>- Products derived from sustainable use increasingly marketed</li> <li>- Conducive market relationships developed</li> </ul>		Parties, WTO	Proposed	Initial case-studies reported on
<b>Decision VII/11 Ecosystem Approach</b>				Parties, WTO	Proposed	2006
<b>Decision VII/12 Sustainable use (Article 10)</b>	<p>"The [COP]... 3. Welcomes the implementation guidelines and annotations to rationale as outlined in annex I to the present decision and calls on parties and other Governments to implement the ecosystem approach, keeping in mind that in applying the ecosystem approach, all principles need to be considered, with appropriate weight given to each, in accordance with local conditions, and keeping in mind also that the implementation of the ecosystem approach and all principles need to be considered as voluntary instruments and should be adapted to local conditions and implemented in accordance with national legislation; ...</p> <p><b>Annex I: Refinement and elaboration of the ecosystem approach, based on assessment of experience of parties in implementation ...</b></p> <p><b>Principle 4:</b> Recognizing potential gains from management, there is usually a need to understand and manage the ecosystem in an economic context. Any such ecosystem-management programme should:</p> <ul style="list-style-type: none"> <li>(a) Reduce those market distortions that adversely affect biological diversity;</li> <li>(b) Align incentives to promote biodiversity conservation and sustainable use;</li> <li>(c) Internalize costs and benefits in the given ecosystem to the extent feasible.</li> </ul> <p>Rationale:</p> <p>The greatest threat to biological diversity lies in its replacement by alternative systems of land use. This often arises through market distortions, which undervalue natural systems and populations and provide perverse incentives and subsidies to favour the conversion of land to less diverse systems. Often those who benefit from conservation do not pay the costs associated with conservation and, similarly, those who generate environmental costs (e.g. pollution) escape responsibility. Alignment of incentives allows those who control the resource to benefit and ensures that those who generate environmental costs will pay. ..."</p>					
	<p>"The [COP]...1. Adopts the Addis Ababa Principles and Guidelines for the Sustainable Use of Biodiversity, as contained in annex II to the present decision;</p> <p>2. Invites Parties, other Governments and relevant organizations to initiate a process for the implementation of the Addis Ababa Principles and Guidelines, in accordance with Article 10 of the Convention which provides that Contracting Parties undertake specified actions as far as possible, and as appropriate, at the national and local levels, and in line with Article 6 of the [CBD], taking into account obligations under other international agreements and conventions and existing frameworks for sustainable use of components of biodiversity, including the concept of sustainable forest management, e.g., by developing pilot projects, with a view to:</p> <ul style="list-style-type: none"> <li>(a) Integrating and mainstreaming the Addis Ababa Principles and Guidelines into a range of measures including policies, programmes, national legislation and other regulations, sectoral and cross-sectoral plans and programmes addressing consumptive and non-consumptive use of</li> </ul>					



	<p>components of biological diversity, including plans and programmes addressing the removal or mitigation of perverse incentives that undermine the conservation and sustainable use of biodiversity, as deemed necessary by individual Parties; and</p> <p>(b) Gathering and disseminating through the clearing-house mechanism and other means relevant information on experiences and lessons learned for the further improvement of the guidelines;</p> <p>→ The full text of the Addis Ababa Principles and Guidelines for the Sustainable use of Biodiversity is contained in Annex II of Decision VII/12 and is available at <a href="http://www.biodiv.org/decisions/default.aspx?m=COP-07&amp;id=7749&amp;lg=0">http://www.biodiv.org/decisions/default.aspx?m=COP-07&amp;id=7749&amp;lg=0</a>.</p> <p>→ Some of the relevant principles include:</p> <p><b>Practical principle 3:</b> International or national policies, laws and regulations that distort markets which contribute to habitat degradation or otherwise generate perverse incentives that undermine conservation and sustainable use of biodiversity, should be identified and removed or mitigated.</p> <p>Rationale: Some policies or practices induce unsustainable behaviours that reduce biodiversity, often as unanticipated side effects as they were initially designed to attain other objectives. For example, some policies that encourage domestic overproduction often generate perverse incentives that undermine the conservation and sustainable use of biological diversity. Eliminating subsidies that contribute to illegal, unreported and unregulated fishing and to over-capacity, as required by the WSSD Plan of Implementation in order to achieve sustainable fisheries, is a further instance of the recognition of the need to remove perverse incentives.</p> <p>Operational guidelines</p> <ul style="list-style-type: none"> <li>– Identify economic mechanisms, including incentive systems and subsidies at international or national levels that are having a negative impact on the potential sustainability of uses of biological diversity;</li> <li>– Remove those systems leading to market distortions that result in unsustainable uses of biodiversity components; ...</li> </ul> <p><b>Practical principle 13:</b> The costs of management and conservation of biological diversity should be internalized within the area of management and reflected in the distribution of the benefits from the use. ...</p> <p>Rationale: The management and conservation of natural resources incurs costs. If these costs are not adequately covered then management will decline and the amount and value of the natural resources may also decline. It is necessary to ensure that some of the benefits from use flow to the local natural resource management authorities so that essential management to sustain the resources is maintained. Such benefits may be direct, such as entrance fees from visitors to a national park paid directly to, and retained by, the park management authority or indirect, such as stumpage tax revenue from timber harvesting paid by loggers that flows through a national treasury to a local forest service. In some cases, licence fees for fishing rights are paid directly to the management authority, or to the national treasury.</p> <p>Operational guidelines</p> <ul style="list-style-type: none"> <li>– Ensure that national policies do not provide subsidies that mask true costs of management;</li> </ul> <p>Provide economic incentives for managers who have already internalized environmental costs, e.g., certification to access new markets, waiver or deferral of taxes in lieu of environmental investment, promotion of "green-labelling" for marketing. ..."</p>
<p><b>Decision VII/28</b>  <b>Protected areas</b>  <b>(Articles 8 (a) to (e))</b></p>	<p>"The [COP] 1. <i>Confirms</i> that efforts to establish and maintain systems of protected areas and areas where special measures need to be taken to conserve biological diversity in line with Article 8 on <i>in situ</i> conservation and other relevant articles of the Convention, are essential for achieving, in implementing the ecosystem approach, the three objectives of the Convention and thus contributing to achieving the 2010 target contained in the Strategic Plan of the Convention and in the Plan of Implementation of the World Summit on Sustainable Development, and to achieve sustainable development and the attainment of the Millennium Development Goals; ...</p> <p>18. Adopts the programme of work on protected areas annexed to the present decision with the objective of the establishment and maintenance by 2010 for terrestrial and by 2012 for marine areas of comprehensive, effectively managed, and ecologically representative national and regional systems of protected areas that collectively, <i>inter alia</i> through a global network / contribute to achieving the three objectives of the Convention and the 2010</p>



	<p>target to significantly reduce the current rate of biodiversity loss; ...</p> <p>21. Urges concerned Parties, individually and collectively, to take further steps in curbing the illegal exploitation and trade of resources, particularly from existing protected areas and from areas of ecological importance for biodiversity conservation; ...</p> <p><b>Goal 3.1 - To provide an enabling policy, institutional and socio-economic environment for protected areas</b></p> <p><b>Target:</b> By 2008 review and revise policies as appropriate, including use of social and economic valuation and incentives, to provide a supportive enabling environment for more effective establishment and management of protected areas and protected areas systems.</p> <p>Suggested activities of the Parties ...</p> <p>3.1.2 Conduct national-level assessments of the contributions of protected areas, considering as appropriate environmental services, to the country's economy and culture, and to the achievement of the Millennium Development Goals at the national level; and integrate the use of economic valuation and natural resource accounting tools into national planning processes in order to identify the hidden and non-hidden economic benefits provided by protected areas and who appropriates these benefits.</p> <p>3.1.3 Harmonize sectoral policies and laws to ensure that they support the conservation and effective management of the protected area system. ...</p> <p>3.1.5 Identify and remove perverse incentives and inconsistencies in sectoral policies that increase pressure on protected areas, or take action to mitigate their perverse effects. Whenever feasible, redirect these to positive incentives for conservation.</p> <p>3.1.6 Identify and establish positive incentives that support the integrity and maintenance of protected areas and the involvement of indigenous and local communities and stakeholders in conservation.</p> <p>3.1.7 Adopt legal frameworks to national, regional and sub-national protected areas systems of countries where appropriate...</p> <p>3.1.9 Identify and foster economic opportunities and markets at local, national and international levels for goods and services produced by protected areas and/or reliant on the ecosystem services that protected areas provide, consistent with protected area objectives and promote the equitable sharing of the benefits. ..."</p>
<p><b>Decision VIII/25</b>  Incentive measures:  application of tools for  valuation of biodiversity and  biodiversity resources and  functions</p>	<p>"The [COP]... 1. <i>Takes note</i> of the options for the application of tools for valuation of biodiversity and biodiversity resources and functions annexed to the present decision;</p> <p>2. <i>Invites</i> Parties and other Governments to take, in accordance with their national policies and legislation, their capacity, and taking into account other international instruments, these options into consideration as possible inputs for analysis when considering, on a voluntary basis, the application of methods for assessing the changes of the value of biodiversity resources and functions, and associated ecosystem services, that result from their decision-making, including through pilot projects"</p>
<p><b>Decision VIII/26</b>  Incentive measures:  Preparation for the in-depth  review of the programme of  work on incentive measures</p>	<p>Section on positive incentive measures, preamble:</p> <p><i>Recognizing</i> that positive incentive measures, can influence decision-making by recognizing and rewarding activities that are carried out for the conservation and sustainable use of biological diversity, and are important in achieving the objectives of the Convention and the 2010 biodiversity target, when such positive incentive measures are targeted, flexible, transparent, appropriately monitored and adapted to local conditions,</p> <p><i>Noting</i> that policy guidance on incentive mechanisms developed under the Convention is voluntary and should be applied in accordance with national law, taking into account other international instruments.</p>
<p><b>Decision X/44</b>  Incentive measures</p>	<p>"12. <i>Invites</i> Parties and other Governments to foster, as appropriate, implementation of sustainable consumption and production patterns for the conservation and sustainable use of biodiversity, both in the public and the private sector, including through business and biodiversity initiatives, procurement policies that are in line with the objectives of the Convention, and development of methods to promote science-based information on biodiversity in consumer and producer decisions, consistent and in harmony with the Convention and other relevant international obligations; "</p>



<p><b>Decision X/2</b> Updating and Revision of the Strategic Plan for the post-2010 Period Annex</p>	<p>Section IV (Strategic Goals and the 2020 headline targets)  <b>"Target 3:</b> By 2020, at the latest, incentives, including subsidies, harmful to biodiversity are eliminated, phased out or reformed in order to minimize or avoid negative impacts, and positive incentives for the conservation and sustainable use of biodiversity are developed and applied, consistent and in harmony with the Convention and other relevant international obligations, taking into account national socio-economic conditions."</p>
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(e) Invasive alien species

1. COP recognized the need to strengthen institutional coordination at international, regional and national levels on invasive alien species as a trade-related issue, and therefore invited the World Trade Organization to give consideration to the risks from invasive alien species. Further to invitations expressed by COP, work is currently being undertaken with the SPS Committee as well as other partners on the lack of international standards covering invasive alien species, in particular animals, that are not pests of plants under the International Plant Protection Convention, nor diseases that are listed by the World Organization for Animal Health.

<p><b>Decision VI/23</b> <b>Alien Species that Threaten Ecosystems, Habitats or Species*</b></p> <p><b>Annex: Guiding Principles for the Prevention, Introduction and Mitigation of Impacts of Alien Species that Threaten Ecosystems, Habitats or Species</b></p>	<p>"The [COP]... 4. Having considered these options, adopts the Guiding Principles annexed to the present decision;  5. Urges Parties, other Governments and relevant organizations to promote and implement the Guiding Principles; ...  15. Urges Parties, Governments, multilateral organizations and other relevant bodies to consider the potential effects of global change on the risk of invasive alien species to biodiversity, and related ecosystem goods and services and, in particular: ...  b. Invites the [WTO], through its [CTE], to take this matter into account when considering the impacts of trade and trade liberalization; ...</p> <p>Guiding principle 1: Precautionary approach  Given the unpredictability of the pathways and impacts on biological diversity of invasive alien species, efforts to identify and prevent unintentional introductions as well as decisions concerning intentional introductions should be based on the precautionary approach, in particular with reference to risk analysis, in accordance with the guiding principles below. The precautionary approach is that set forth in principle 15 of the 1992 Rio Declaration on Environment and Development and in the preamble of the [CBD].  The precautionary approach should also be applied when considering eradication, containment and control measures in relation to alien species that have become established. Lack of scientific certainty about the various implications of an invasion should not be used as a reason for postponing or failing to take appropriate eradication, containment and control measures. ...</p> <p>Guiding principle 7: Border control and quarantine measures</p> <ol style="list-style-type: none"> <li>States should implement border controls and quarantine measures for alien species that are or could become invasive to ensure that: <ol style="list-style-type: none"> <li>Intentional introductions of alien species are subject to appropriate authorization (principle 10);</li> <li>Unintentional or unauthorized introductions of alien species are minimized.</li> </ol> </li> <li>States should consider putting in place appropriate measures to control introductions of invasive alien species within the State according to national legislation and policies where they exist.</li> <li>These measures should be based on a risk analysis of the threats posed by alien species and their potential pathways of entry. Existing</li> </ol>
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	appropriate governmental agencies or authorities should be strengthened and broadened as necessary, and staff should be properly trained to implement these measures. Early detection systems and regional and international coordination are essential to prevention ...". <sup>9</sup>
<b>Decision VII/13 Alien Species that Threaten Ecosystems, Habitats or Species (Article 8 (h))</b>	<p>"The [COP]... 5. Noting the existing international, regional and national frameworks but recognizing the need to strengthen institutional coordination at international, regional and national levels on invasive alien species as a trade-related issue:</p> <ul style="list-style-type: none"> <li>(a) Invites the [WTO] and its relevant bodies to give consideration to the risks from invasive alien species, in their deliberations;</li> <li>(b) Requests the Executive Secretary to collaborate, whenever feasible and appropriate, with the Secretariat of the [WTO] in its training, capacity-building and information activities, with a view to raising awareness of the issues related to invasive alien species, and promoting enhanced cooperation on this issue;</li> <li>(c) Requests the Executive Secretary to renew his application for observer status in the [SPS Committee of the WTO] with a view to enhancing the exchange of information on deliberations and recent development in the respective bodies of relevance to alien invasive species;</li> <li>(d) Invites Parties and other Governments to take into consideration, as appropriate, the risks associated with the introduction, use and spread of invasive alien species during the development, expansion and environmental review of international, bilateral and regional arrangements such as trade arrangements, where appropriate; ...</li> </ul> <p>6. Invites relevant Parties to the [CBD] and other Governments, as well as national, regional and international organizations to: ...</p> <ul style="list-style-type: none"> <li>(f) Consider the introduction of positive incentive measures for the prevention, mitigation, eradication or control of invasive alien species and the use of native species taking into consideration effectiveness in control and impact on the other native species in land and water management and other programmes; ...</li> </ul> <p>7. <i>Notes</i> that specific gaps in the international regulatory frameworks at global, regional and national levels persist, notably in relation to species that are invasive, but do not qualify as plant pests under the regulations of the [IPPC] and other international agreements or animal diseases under the regulations of the Office international des epizooties and other international agreements with regard to the following potential pathways: ..."</p>
<b>Decision VIII/27 Alien species that threaten ecosystems, habitats or species (Article 8/h): Further consideration of gaps and inconsistencies in the international regulatory framework</b>	"The [COP]... 14. <i>Requests</i> the Executive Secretary to consult with relevant international bodies and instruments, such as [the IPPC, the OIE, FAO , and the WTO], taking into account the observations of the report of the Ad Hoc Technical Expert Group (UNEP/CBD/SBSTTA/11/INF/4), regarding whether and how to address the lack of international standards covering invasive alien species, in particular animals, that are not pests of plants under the [IPPC], and to report on the results of these consultations for consideration by the Subsidiary Body on Scientific, Technical and Technological Advice and by the [COP] at its ninth meeting."

<sup>9</sup> \* One representative entered a formal objection during the process leading to the adoption of this decision and underlined that he did not believe that the Conference of the Parties could legitimately adopt a motion or a text with a formal objection in place. A few representatives expressed reservations regarding the procedure leading to the adoption of this decision (see UNEP/CBD/COP/6/20, paras. 294-324).



<p><b>Decision IX/4</b></p> <p><b>In-depth review of ongoing work on alien species that threaten ecosystems, habitats or species</b></p>	<p>"The COP...4. <i>Invites</i> the Committee on Sanitary and Phytosanitary Measures of the World Trade Organization to note the lack of international standards covering invasive alien species, in particular animals, that are not pests of plants under the International Plant Protection Convention, nor diseases that are listed by the World Organization for Animal Health, and to consider ways and means so that that the provisions in the Sanitary and Phytosanitary Agreement of the World Trade Organization covering animal and plant health can be implemented to address risks from invasive alien species associated with international trade; ...</p> <p>6. <i>Encourages</i> Parties and other Governments to raise the above issues formally through their national delegations to the World Organization for Animal Health, the Food and Agriculture Organization of the United Nations and the World Trade Organization; ...</p> <p>11. <i>Requests</i> the Executive Secretary to continue to collaborate with the secretariats of the International Plant Protection Convention, the World Organization for Animal Health, the Convention on International Trade in Endangered Species (CITES) and the World Trade Organization, as well as other international organizations, such as International Civil Aviation Organization and the International Maritime Organization, with a view to filling gaps and promoting coherence in the regulatory framework, reducing duplication, promoting other actions to address invasive alien species at the national level and facilitating support to Parties including through capacity-building, and to prepare a report for the tenth meeting of the Conference of the Parties;</p> <p>12. <i>Requests</i> the Executive Secretary to consult with the secretariats of relevant organizations, as mentioned in paragraph 11, to explore the extent to which existing international instruments recognize and address threats from invasive alien genotypes...."</p>
<p><b>X/38</b></p> <p><b>Invasive Alien Species</b></p>	<p>"The [COP]... 3. <i>Requests</i> the Executive Secretary:...</p> <p>(c) To explore further ways and means to improve the capacity of Parties to address invasive alien species introduced as pets, aquarium and terrarium species, as live bait and live food, including through consultation with secretariats of relevant biodiversity-related conventions and relevant international organizations such as the World Organisation for Animal Health (OIE), the Codex Alimentarius Commission, the International Plant Protection Convention (IPPC) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);...</p> <p>10. <i>Welcomes</i> the participation of the secretariats of the International Plant Protection Convention, the World Organisation for Animal Health (OIE), the World Trade Organization, the International Maritime Organization, the FAO and the Convention on International Trade in Endangered Species, as well as IUCN and GISP in the inter-agency liaison group on invasive alien species, and encourages these organizations, as well as the International Civil Aviation Organization, to continue their collaboration with the Executive Secretary in line with decision IX/4 A (paragraph 11);</p> <p>11. <i>Welcomes</i> the responses from the secretariats of the International Plant Protection Convention, the World Organisation for Animal Health (OIE), the World Trade Organization and the Committee on Fisheries of the Food and Agriculture Organization of the United Nations (FAO) to the invitations to these bodies in, respectively, paragraphs 2, 3, 4 and 5 decision IX/4 A, setting out how they may address particular gaps and inconsistencies in the international regulatory framework on invasive alien species;...</p>



(f) Cooperation and observer status

1. The COP affirmed the need to promoting increased mutual supportiveness of trade and environment agreements in achieving sustainable development, requested the Executive Secretary to apply for observer status in relevant bodies of the WTO, or to renew his requests accordingly, and to continue, and further strengthen, liaison and cooperation with the World Trade Organization.

<p><b>Decision IV/15</b> The Relationship of the Convention on Biological Diversity with the Commission on Sustainable Development and Biodiversity-Related Conventions, other International Agreements, Institutions and Processes of Relevance (as modified by Decision VII/33)</p>	<p>"The [COP]...</p> <p>8. Also notes that some Parties to the [CBD], particularly many developing countries, are not members of the [WTO], and are therefore limited in their abilities to present their concerns regarding biological diversity at the [WTO];</p> <p>9. Stresses the need to ensure consistency in implementing the [CBD] and the [WTO] agreements, including the [TRIPS] Agreement, with a view to promoting increased mutual supportiveness and integration of biological diversity concerns and the protection of intellectual property rights, and invites the [WTO] to consider how to achieve these objectives in the light of Article 16, paragraph 5, of the Convention, taking into account the planned review of Article 27, paragraph 3 (b), of the [TRIPS Agreement] in 1999;</p> <p>10. Emphasizes that further work is required to help develop a common appreciation of the relationship between intellectual property rights and the relevant provisions of the [TRIPS Agreement] and the [CBD], in particular on issues relating to technology transfer and conservation and sustainable use of biological diversity and the fair and equitable sharing of benefits arising out of the use of genetic resources, including the protection of knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity ...".</p>
<p><b>Decision VI/20</b> Cooperation with other Organizations, Initiatives and Conventions</p>	<p>Cooperation with the WTO</p> <p>"The [COP]...25. Reaffirms the need to promoting increased mutual supportiveness of trade and environment agreements in achieving sustainable development, as stressed in decision IV/15 of the fourth meeting of the [COP], and reiterated in the Cartagena Protocol on Biosafety and the Doha Ministerial Declaration of the [WTO] adopted on 14 November 2001;</p> <p>26. Notes the Doha Ministerial Declaration, which welcomes a continued cooperation by the [WTO] with [UNEP] and other intergovernmental environmental organizations, and encourages efforts to promote cooperation between the [WTO] and relevant international environmental and developmental organizations;</p> <p>27. Recognizes the importance of cooperation with the [WTO] with regard to matters that are relevant to the Cartagena Protocol on Biosafety and in preparing for the implementation of the Protocol, emphasizes the need to ensure mutual supportiveness with the relevant agreements under the [WTO], in particular with the [SPS Agreement] and the [TBT Agreement], with a view to achieving sustainable development;</p> <p>28. Welcomes the practice established between the Executive Secretary and the [WTO] to exchange information regarding developments under the Intergovernmental Committee for the Cartagena Protocol on Biosafety;</p> <p>29. Requests the Executive Secretary to apply to the WTO for an observer status and to represent the [CBD] in the meetings of the [SPS Committee] and the [TBT Committee];</p> <p>30. Further requests the Executive Secretary to renew the application to the [WTO] for observer status in the [TRIPS Council]".</p>



<b>Decision VII/26 Cooperation with Other Conventions and Inter- national Organizations and Initiatives</b>	"The [COP]...1. <i>Urges</i> further enhanced cooperation between the [CBD] and all relevant international conventions, organizations and bodies, strengthening and building on existing cooperative arrangements to enhance synergies and reduce inefficiencies in a manner consistent with their respective mandates, governance arrangements and agreed programs, within existing resources; ... 4. Requests the Executive Secretary to renew his applications for observer status in relevant bodies of the [WTO], in particular, in the [TRIPS Council]; ...".
<b>Decision VIII/16 Cooperation with other conventions and international organizations and initiatives</b>	"The [COP]... 13. <i>Requests</i> the Executive Secretary to liaise with the secretariat of the [WTO] on relevant issues, including trade-related intellectual property rights, sanitary and phytosanitary measures, and environmental goods and services, <i>inter alia</i> , with a view to identifying options for closer collaboration, including developing a memorandum of cooperation to promote the three objectives of the Convention..."
<b>Decision IX/27 Cooperation among multilateral environmental agreements and other organizations</b>	"The [COP]...10. <i>Requests</i> the Executive Secretary to renew the Convention's pending applications for observer status in relevant bodies of the World Trade Organization, and to continue, and further strengthen, liaison and cooperation with the World Trade Organization..."
<b>Decision X/20 Cooperation with other conventions and international organizations and initiatives</b>	"The [COP]...18. <i>Also requests</i> the Executive Secretary to continue, and further deepen, cooperation and liaison with the World Trade Organization, and to renew the Convention's pending applications for observer status in relevant bodies of the World Trade Organization;..."

(g) Other

<b>Decision VII/3 Agricultural Biological Diversity</b>	<b>"The [COP]... 6. Takes note also of the notes by the Executive Secretary on the impacts of trade liberalization on agricultural biodiversity (UNEP/CBD/COP/7/INF/14 and 15) prepared pursuant to paragraph 17 of decision VI/5, and requests further gathering and incorporation of data on this matter from all countries; ... ."</b>
<b>Decision VII/14 Biological Diversity and Tourism</b>	"The [COP] 1. Adopts the Guidelines on Biodiversity and Tourism Development annexed to the present decision; ... 9. In light of the collaboration between the [CBD, the UNEP and the UNESCO, invites the World Tourism Organization, the UNCTAD, the UNDP, the World Bank, the WTO], regional development banks and other relevant international organizations, to: (a) Take these Guidelines into account in undertaking their activities; ... <b>Annex: Guidelines on Biodiversity and Tourism Development...</b> 1. The present Guidelines are voluntary and represent a range of opportunities for local, regional, national Governments, indigenous and local communities and other stakeholders to manage tourism activities in an ecological, economic and socially sustainable manner. They can be flexibly applied to suit different circumstances and domestic institutional and legal settings. ...



	32. Legislation and control measures considered could include measures for: ... (n) Monitoring, control of and provision of information on activities related to collection and trade of biological and related cultural resources within tourism sites. ..."
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## H. CARTAGENA PROTOCOL ON BIOSAFETY

### 1. Provisions of the Protocol

<b>Preamble</b>	"... <i>Recognizing</i> that trade and environment agreements should be mutually supportive with a view to achieving sustainable development, <i>Emphasizing</i> that this Protocol shall not be interpreted as implying a change in the rights and obligations of a Party under any existing international agreements, <i>Understanding</i> that the above recital is not intended to subordinate this Protocol to other international agreements".
<b>Article 2 General Provisions</b>	"...4. Nothing in this Protocol shall be interpreted as restricting the right of a Party to take action that is more protective of the conservation and sustainable use of biological diversity than that called for in this Protocol, provided that such action is consistent with the objective and the provisions of this Protocol and is in accordance with that Party's other obligations under international law".
<b>Article 4 Scope</b>	"This Protocol shall apply to the transboundary movement, transit, handling and use of all [LMOs] that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health."
<b>Article 6 Transit and Contained Use</b>	"1. Notwithstanding Article 4 and without prejudice to any right of a Party of transit to regulate the transport of [LMOs] through its territory and make available to the Biosafety Clearing-House, any decision of that Party, subject to Article 2, paragraph 3, regarding the transit through its territory of a specific LMO], the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to [LMOs] in transit. 2. Notwithstanding Article 4 and without prejudice to any right of a Party to subject all [LMOs] to risk assessment prior to decisions on import and to set standards for contained use within its jurisdiction, the provisions of this Protocol with respect to the advance informed agreement procedure shall not apply to the transboundary movement of [LMOs] destined for contained use undertaken in accordance with the standards of the Party of import."
<b>Article 7 Application of the Advance Informed Agreement Procedure</b>	"1. Subject to Articles 5 and 6, the advance informed agreement procedure in Articles 8 to 10 and 12 shall apply prior to the first intentional transboundary movement of [LMOs] for intentional introduction into the environment of the Party of import. 2. "Intentional introduction into the environment" in paragraph 1 above, does not refer to [LMOs] intended for direct use as food or feed, or for processing. 3. Article 11 shall apply prior to the first transboundary movement of [LMOs] intended for direct use as food or feed, or for processing. 4. The advance informed agreement procedure shall not apply to the intentional transboundary movement of [LMOs] identified in a decision of the [COP] serving as the [MOP] to this Protocol as being not likely to have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health". → Lays out the Advanced Informed Agreement (AIA) procedure which shall apply for the first intentional transboundary movement of a LMO for intentional introduction into the environment of the Party of import. The AIA procedure is outlined in Articles 8 to 10 and 12. The procedure in Article 11 shall apply prior to the first transboundary movement of LMOs intended for direct use as food or feed, or for processing. The AIA procedure shall not apply to LMOs in transit or for contained use".



<b>Article 8 Notification</b>	<p>"1. The Party of export shall notify, or require the exporter to ensure notification to, in writing, the competent national authority of the Party of import prior to the intentional transboundary movement of a [LMO] that falls within the scope of Article 7, paragraph 1. The notification shall contain, at a minimum, the information specified in Annex I.</p> <p>2. The Party of export shall ensure that there is a legal requirement for the accuracy of information provided by the exporter ...".</p>
<b>Article 9 Acknowledgement of Receipt of Notification</b>	<p>"1. The Party of import shall acknowledge receipt of the notification, in writing, to the notifier within ninety days of its receipt.</p> <p>2. The acknowledgement shall state:</p> <ul style="list-style-type: none"> <li>(a) The date of receipt of the notification;</li> <li>(b) Whether the notification, prima facie, contains the information referred to in Article 8;</li> <li>(c) Whether to proceed according to the domestic regulatory framework of the Party of import or according to the procedure specified in Article 10.</li> </ul> <p>3. The domestic regulatory framework referred to in paragraph 2 (c) above, shall be consistent with this Protocol.</p> <p>4. A failure by the Party of import to acknowledge receipt of a notification shall not imply its consent to an intentional transboundary movement".</p>
<b>Article 10 Decision Procedure</b>	<p>"1. Decisions taken by the Party of import shall be in accordance with Article 15.</p> <p>2. The Party of import shall, within the period of time referred to in Article 9, inform the notifier, in writing, whether the intentional transboundary movement may proceed:</p> <ul style="list-style-type: none"> <li>(a) Only after the Party of import has given its written consent; or</li> <li>(b) After no less than ninety days without a subsequent written consent.</li> </ul> <p>3. Within two hundred and seventy days of the date of receipt of notification, the Party of import shall communicate, in writing, to the notifier and to the Biosafety Clearing-House the decision referred to in paragraph 2 (a) above:</p> <ul style="list-style-type: none"> <li>(a) Approving the import, with or without conditions, including how the decision will apply to subsequent imports of the same [LMO];</li> <li>(b) Prohibiting the import;</li> <li>(c) Requesting additional relevant information in accordance with its domestic regulatory framework or Annex I; in calculating the time within which the Party of import is to respond, the number of days it has to wait for additional relevant information shall not be taken into account; or</li> <li>(d) Informing the notifier that the period specified in this paragraph is extended by a defined period of time.</li> </ul> <p>4. Except in a case in which consent is unconditional, a decision under paragraph 3 above, shall set out the reasons on which it is based.</p> <p>5. A failure by the Party of import to communicate its decision within two hundred and seventy days of the date of receipt of the notification shall not imply its consent to an intentional transboundary movement.</p> <p>6. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a [LMO] on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of the [LMO] in question as referred to in paragraph 3 above, in order to avoid or minimize such potential adverse effects...".</p> <p>→ At the First COP serving as the MOP to this Protocol (COP-MOP 1) in 2004, COP-MOP 1 adopted procedures and mechanisms to facilitate decision-making by Parties of import (Decision BS-I/2). The guidelines and procedures state, <i>inter alia</i>, that Parties shall cooperate to ensure that importing Parties have access to the Biosafety Clearing-House (BCH), procedures and mechanisms should be demand-driven by importing Parties; and the roster of experts and the BCH are referred to as main mechanisms to provide support to facilitate decision making.</p>



<p><b>Article 11</b>  <b>Procedure for Living Modified Organisms Intended for Direct Use as Food or Feed, or for Processing</b></p>	<p>"1. A Party that makes a final decision regarding domestic use, including placing on the market, of a [LMO] that may be subject to transboundary movement for direct use as food or feed, or for processing shall, within fifteen days of making that decision, inform the Parties through the [BCH]. This information shall contain, at a minimum, the information specified in Annex II. The Party shall provide a copy of the information, in writing, to the national focal point of each Party that informs the Secretariat in advance that it does not have access to the [BCH]. This provision shall not apply to decisions regarding field trials.</p> <p>2. The Party making a decision under paragraph 1 above, shall ensure that there is a legal requirement for the accuracy of information provided by the applicant.</p> <p>3. Any Party may request additional information from the authority identified in paragraph (b) of Annex II.</p> <p>4. A Party may take a decision on the import of [LMOs] intended for direct use as food or feed, or for processing, under its domestic regulatory framework that is consistent with the objective of this Protocol.</p> <p>5. Each Party shall make available to the [BCH] copies of any national laws, regulations and guidelines applicable to the import of [LMOs] intended for direct use as food or feed, or for processing, if available.</p> <p>6. A developing country Party or a Party with an economy in transition may, in the absence of the domestic regulatory framework referred to in paragraph 4 above, and in exercise of its domestic jurisdiction, declare through the [BCH] that its decision prior to the first import of a [LMO] intended for direct use as food or feed, or for processing, on which information has been provided under paragraph 1 above, will be taken according to the following:</p> <p>(a) A risk assessment undertaken in accordance with Annex III; and</p> <p>(b) A decision made within a predictable timeframe, not exceeding two hundred and seventy days.</p> <p>7. Failure by a Party to communicate its decision according to paragraph 6 above, shall not imply its consent or refusal to the import of a [LMO] intended for direct use as food or feed, or for processing, unless otherwise specified by the Party.</p> <p>8. Lack of scientific certainty due to insufficient relevant scientific information and knowledge regarding the extent of the potential adverse effects of a [LMO] on the conservation and sustainable use of biological diversity in the Party of import, taking also into account risks to human health, shall not prevent that Party from taking a decision, as appropriate, with regard to the import of that [LMO] intended for direct use as food or feed, or for processing, in order to avoid or minimize such potential adverse effects.</p> <p>9. A Party may indicate its needs for financial and technical assistance and capacity-building with respect to [LMOs] intended for direct use as food or feed, or for processing. Parties shall cooperate to meet these needs in accordance with Articles 22 and 28".</p>
<p><b>Article 12</b>  <b>Review of Decisions</b></p>	<p>"1. A Party of import may, at any time, in light of new scientific information on potential adverse effects on the conservation and sustainable use of biological diversity, taking also into account the risks to human health, review and change a decision regarding an intentional transboundary movement. In such case, the Party shall, within thirty days, inform any notifier that has previously notified movements of the [LMO] referred to in such decision, as well as the [BCH], and shall set out the reasons for its decision.</p> <p>2. A Party of export or a notifier may request the Party of import to review a decision it has made in respect of it under Article 10 where the Party of export or the notifier considers that:</p> <p>(a) A change in circumstances has occurred that may influence the outcome of the risk assessment upon which the decision was based; or</p> <p>(b) Additional relevant scientific or technical information has become available.</p> <p>3. The Party of import shall respond in writing to such a request within ninety days and set out the reasons for its decision.</p> <p>4. The Party of import may, at its discretion, require a risk assessment for subsequent imports".</p>



<b>Article 13</b> <b>Simplified Procedure</b>	<p>"1. A Party of import may, provided that adequate measures are applied to ensure the safe intentional transboundary movement of [LMOs] in accordance with the objective of this Protocol, specify in advance to the [BCH]:</p> <p>(a) Cases in which intentional transboundary movement to it may take place at the same time as the movement is notified to the Party of import; and</p> <p>(b) Imports of [LMOs] to it to be exempted from the advance informed agreement procedure.</p> <p>Notifications under subparagraph (a) above, may apply to subsequent similar movements to the same Party.</p> <p>2. The information relating to an intentional transboundary movement that is to be provided in the notifications referred to in paragraph 1 (a) above, shall be the information specified in Annex I".</p>
<b>Article 14</b> <b>Bilateral, Regional and Multilateral Agreements and Arrangements</b>	<p>"1. Parties may enter into bilateral, regional and multilateral agreements and arrangements regarding intentional transboundary movements of [LMOs], consistent with the objective of this Protocol and provided that such agreements and arrangements do not result in a lower level of protection than that provided for by the Protocol.</p> <p>2. The Parties shall inform each other, through the [BCH], of any such bilateral, regional and multilateral agreements and arrangements that they have entered into before or after the date of entry into force of this Protocol.</p> <p>3. The provisions of this Protocol shall not affect intentional transboundary movements that take place pursuant to such agreements and arrangements as between the parties to those agreements or arrangements.</p> <p>4. Any Party may determine that its domestic regulations shall apply with respect to specific imports to it and shall notify the [BCH] of its decision".</p>
<b>Article 15</b> <b>Risk Assessment</b>	<p>"1. Risk assessments undertaken pursuant to this Protocol shall be carried out in a scientifically sound manner, in accordance with Annex III and taking into account recognized risk assessment techniques. Such risk assessments shall be based, at a minimum, on information provided in accordance with Article 8 and other available scientific evidence in order to identify and evaluate the possible adverse effects of [LMOs] on the conservation and sustainable use of biological diversity, taking also into account risks to human health.</p> <p>2. The Party of import shall ensure that risk assessments are carried out for decisions taken under Article 10. It may require the exporter to carry out the risk assessment.</p> <p>3. The cost of risk assessment shall be borne by the notifier if the Party of import so requires".</p>
<b>Article 16</b> <b>Risk Management</b>	<p>"1. The Parties shall, taking into account Article 8(g) of the Convention, establish and maintain appropriate mechanisms, measures and strategies to regulate, manage and control risks identified in the risk assessment provisions of this Protocol associated with the use, handling and transboundary movement of [LMOs].</p> <p>2. Measures based on risk assessment shall be imposed to the extent necessary to prevent adverse effects of the [LMO] on the conservation and sustainable use of biological diversity, taking also into account risks to human health, within the territory of the Party of import.</p> <p>3. Each Party shall take appropriate measures to prevent unintentional transboundary movements of [LMOs], including such measures as requiring a risk assessment to be carried out prior to the first release of a [LMO].</p> <p>4. Without prejudice to paragraph 2 above, each Party shall endeavour to ensure that any [LMO], whether imported or locally developed, has undergone an appropriate period of observation that is commensurate with its life-cycle or generation time before it is put to its intended use.</p> <p>5. Parties shall cooperate with a view to:</p> <p>(a) Identifying [LMOs] or specific traits of [LMOs] that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health; and</p> <p>(b) Taking appropriate measures regarding the treatment of such [LMOs] or specific traits".</p>



<b>Article 18</b> <b>Handling, Transport, Packaging And Identification</b>	<p>"1. In order to avoid adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, each Party shall take necessary measures to require that [LMOs] that are subject to intentional transboundary movement within the scope of this Protocol are handled, packaged and transported under conditions of safety, taking into consideration relevant international rules and standards.</p> <p>2. Each Party shall take measures to require that documentation accompanying:</p> <p>(a) [LMOs] that are intended for direct use as food or feed, or for processing, clearly identifies that they "may contain" [LMOs] and are not intended for intentional introduction into the environment, as well as a contact point for further information. The [COP] serving as the [MOP] to this Protocol shall take a decision on the detailed requirements for this purpose, including specification of their identity and any unique identification, no later than two years after the date of entry into force of this Protocol;</p> <p>(b) [LMOs] that are destined for contained use clearly identifies them as [LMOs]; and specifies any requirements for the safe handling, storage, transport and use, the contact point for further information, including the name and address of the individual and institution to whom the [LMOs] are consigned; and</p> <p>(c) [LMOs] that are intended for intentional introduction into the environment of the Party of import and any other [LMOs] within the scope of the Protocol, clearly identifies them as [LMOs]; specifies the identity and relevant traits and/or characteristics, any requirements for the safe handling, storage, transport and use, the contact point for further information and, as appropriate, the name and address of the importer and exporter; and contains a declaration that the movement is in conformity with the requirements of this Protocol applicable to the exporter.</p> <p>3. The [COP] serving as the [MOP] to this Protocol shall consider the need for and modalities of developing standards with regard to identification, handling, packaging and transport practices, in consultation with other relevant international bodies".</p>
<b>Article 25</b> <b>Illegal Transboundary Movements</b>	<p>"1. Each Party shall adopt appropriate domestic measures aimed at preventing and, if appropriate, penalizing transboundary movements of [LMOs] carried out in contravention of its domestic measures to implement this Protocol. Such movements shall be deemed illegal transboundary movements.</p> <p>2. In the case of an illegal transboundary movement, the affected Party may request the Party of origin to dispose, at its own expense, of the [LMO] in question by repatriation or destruction, as appropriate.</p> <p>3. Each Party shall make available to the [BCH] information concerning cases of illegal transboundary movements pertaining to it".</p>
<b>Article 26</b> <b>Socio-Economic Considerations</b>	<p>"1. The Parties, in reaching a decision on import under this Protocol or under its domestic measures implementing the Protocol, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of [LMOs] on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.</p> <p>2. The Parties are encouraged to cooperate on research and information exchange on any socio-economic impacts of [LMOs], especially on indigenous and local communities".</p>
<b>Annexes</b>	<p>→ Annex I sets out the information required in notifications under Articles 8, 10 and 13 (AIA Procedure and Simplified Procedure).</p> <p>→ Annex II sets out the information required for LMOs intended for direct use as food or feed, or for processing under Article 11.</p> <p>→ Annex III gives greater details on the risk assessments carried out pursuant to the Protocol.</p>



## 2. Decisions of the COP-MOP

<p><b>Handling, Transport, Packaging and Identification of Living Modified Organisms (Article 18)</b></p>	<p><i>Unique identification system(s)...</i>  <u>Decision BS-I/6</u>            "1. Invites Parties and other government to take measures to apply, as appropriate, the OECD Unique Identifiers for Transgenic Plants to living modified plants under the Protocol, without prejudice to the possible development and applicability of other systems;            2. Requests the Executive Secretary to develop or maintain, in the [BCH], a register of unique identification codes to ensure harmonisation of such codes by all users;            3. Encourages the OECD and other organizations involved in the development of unique identification systems for [LMOs] to initiate or enhance their activities towards the development of a harmonized system of unique identifiers for genetically modified micro-organisms and animals. ..."  <i>Paragraph 2 (a) of Article 18:</i>  <u>Decision BS-I/6</u>            "1. Requests Parties to the Protocol and urges other Governments to take measures to require the use of a commercial invoice or other document required or utilized by existing documentation systems, as documentation that should accompany [LMOs] that are intended for direct use as food or feed, or for processing, for the purpose of identification by incorporating the information requirements of the first sentence of paragraph 2 (a) of Article 18, and the requirements established under paragraph 4 below, pending a decision on detailed requirements for this purpose by the COP serving as the MOP to the Protocol, which could include the use of a stand-alone document;            2. Requests Parties to the Protocol and urges other Governments to take measures ensuring that documentation accompanying [LMOs] that are intended for direct use as food or feed, or for processing clearly identifies that the shipment may contain [LMOs] intended for direct use as food or feed, or for processing, and states that they are not intended for intentional introduction into the environment;            3. Further requests Parties to the Protocol and urges other Governments to take measures ensuring that the documentation accompanying [LMOs] that are intended for direct use as food or feed, or for processing, provides the details of a contact point for further information: the exporter, the importer, or any appropriate authority, when designated by a Government as the contact point;            4. Further urges Parties to the Protocol and other Governments to require that the documentation referred to in paragraph 1 above includes:                (i) the common, scientific and, where available, commercial names, and                (ii) the transformation event code of the [LMOs] or, where available, as a key to accessing information in the Biosafety Clearing-House, its unique identifier code;            5. Encourages Parties to the Protocol and other Governments to require exporters of [LMOs] that are intended for direct use as food or feed, or for processing under their jurisdiction to declare, in documentation accompanying transboundary movements known to intentionally contain [LMOs] that are intended for direct use as food or feed, or for processing, that the shipment contains [LMOs] that are intended for direct use as food or feed, or for processing, the identity of the [LMO], and any unique identification, where possible; ..."  <u>Decision BS-III/10</u>            "The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...            1. <i>Requests</i> Parties to the Protocol and <i>urges</i> other Governments to take measures to ensure the use of a commercial invoice or other document required or utilized by existing documentation systems, or documentation as required by domestic regulatory and/or administrative frameworks, as documentation that should accompany [LMOs] that are intended for direct use as food or feed, or for processing....;            3. <i>Further requests</i> Parties to the Protocol and urges other Governments to take measures ensuring that the documentation accompanying</p>
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[LMOs] that are intended for direct use as food or feed, or for processing, provides the details of a contact point for further information: the exporter, the importer, and/or any appropriate authority, when designated by a Government as the contact point;

4. *Requests* Parties to the Protocol and urges other Governments to take measures ensuring that documentation accompanying [LMOs] intended for direct use as food or feed, or for processing, in commercial production and authorized in accordance with domestic regulatory frameworks, is in compliance with the requirements of the country of import, and clearly states:

- (a) In cases where the identity of the [LMOs] is known through means such as identity preservation systems, that the shipment contains [LMOs] that are intended for direct use as food or feed, or for processing;
- (b) In cases where the identity of the [LMOs] is not known through means such as identity preservation systems, that the shipment may contain one or more [LMOs] that are intended for direct use as food or feed, or for processing;
- (c) That the [LMOs] are not intended for intentional introduction into the environment;
- (d) The common, scientific and, where available, commercial names of the [LMOs];
- (e) The transformation event code of the [LMOs] or, where available, as a key to accessing information in the [BCH], its unique identifier code;
- (f) The Internet address of the [BCH] for further information;

and *notes* that in accordance with Article 24 of the Protocol, transboundary movements of [LMOs] between Parties and non-Parties shall be consistent with the objective of the Protocol, and *further notes* that the specific requirements set out in this paragraph do not apply to such movements. In addition, in accordance with paragraph 2 of Article 24, Parties shall encourage non-Parties to adhere to the Protocol..."

Decision BS-IV/9

"The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...

1. *Notes* the important work that is being done by relevant international organizations such as the Codex Alimentarius Commission and the International Organization for Standardization and *encourages* Parties to participate in and share information with these and other relevant international standard-setting bodies, and utilize, as appropriate, criteria or methods for sampling and detection of living modified organisms published by them;

2. *Requests* Parties and *encourages* other Governments and relevant international organizations to ensure that information related to rules and standards on the sampling of living modified organisms and detection techniques, including experience with such techniques are made available via the Biosafety Clearing-House;

3. *Requests* Parties, and *encourages* other Governments, relevant international organizations as well as the Global Environment Facility, to cooperate with and support developing country Parties, in particular the least developed and small island developing States among them, and Parties with economies in transition, in their efforts to build their capacities in the area of sampling and detection of living modified organisms, including the setting up of laboratory facilities and training of local regulatory and scientific personnel;

4. *Underlines* the importance of accreditation of laboratories involved in sampling and detection of living modified organisms;

5. *Encourages* those in possession of reference materials to provide access for those agencies that may need such materials for the purpose of detection of living modified organisms."

Decision BS-V/8

"The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...

1. *Requests* Parties and *urges* other Governments to continue to take measures to ensure that the information required by paragraph 2 (a) of Article 18 and paragraph 4 of decision BS-III/10 to identify living modified organisms intended for direct use as food or feed, or for processing, is incorporated into existing documentation accompanying the living modified organisms, as specified in paragraph 1 of decision BS-III/10;

2. *Urges* Parties to expedite the implementation of their biosafety regulatory frameworks and make available to the Biosafety Clearing-House any laws, regulations and guidelines for the implementation of the Protocol, and any changes to their regulatory requirements related to the identification



and documentation of living modified organisms intended for direct use as food or feed, or for processing;

3. *Requests* Parties and *urges* other Governments to take measures that facilitate further implementation of decision BS-III/10, in particular its paragraph 4;

4. *Requests* Parties and *encourages* other Governments and relevant organizations to cooperate with and support developing country Parties and Parties with economies in transition to build capacity to implement the identification requirements of paragraph 2 (a) of Article 18 and related decisions;

5. *Encourages* Parties to develop domestic systems or use existing ones, as appropriate, to prevent imported living modified organisms intended for direct use as food or feed, or for processing, from being used for other purposes such as introduction into the environment;

6. *Decides*, taking into account the limited experience gained to date in the implementation of paragraph 4 of decision BS-III/10, to postpone the decision-taking referred to in paragraph 7 of decision BS-III/10 until its seventh meeting. This decision-taking should also include consideration of the need for a stand-alone document, as referred to in paragraph 2 of decision BS-III/10;

7. *Requests* Parties and *invites* other Governments and relevant organizations to submit to the Executive Secretary, no later than six months prior to the seventh meeting of the Parties to the Protocol, further information on experience gained with the implementation of paragraph 4 of decision BS-III/10 as well as the present decision, including any information on obstacles that are encountered in the implementation of these decisions as well as specific capacity-building needs to implement these decisions, and *requests* the Executive Secretary to compile the information and prepare a synthesis report for consideration by the Parties at their seventh meeting."

*Paragraphs 2 (b) and 2 (c) of Article 18:*

Decision BS-I/6

"1. Requests Parties to the Protocol and urges other Governments to take measures to ensure the use of a commercial invoice or other documents required or utilized by existing documentation systems, with consideration given to the formats outlined in the example templates annexed hereto, as documentation that should accompany [LMOs] for contained use and [LMOs] for intentional introduction into the environment of the Party of import, incorporating the information required under paragraphs 2 (b) and 2 (c) of Article 18 of the Protocol, as appropriate, with a view to fulfil the identification requirements of these paragraphs;

2. Requests Parties to the Protocol and invites other Governments to submit to the Executive Secretary, not later than six months prior to the third meeting of the [COP] serving as the [MOP] to the Protocol, information on experience gained with the use of documentation referred to in paragraph 1 above, with a view to the future consideration of a stand-alone document, to fulfil the identification requirements of paragraphs 2 (b) and 2 (c) of Article 18, and requests the Executive Secretary to compile the information received and to prepare a synthesis report presenting options for stand-alone documentation for consideration by the third meeting of the [COP] serving as the [MOP] to the Protocol;

3. Requests Parties to the Protocol and urges other Governments to take measures ensuring that documentation accompanying [LMOs] contains the following information and declaration:

(a) [LMOs] for contained use (Article 18, paragraph 2 (b)):

- (i) Clear identification as "[LMOs]" including common and scientific names of the organisms and as "destined for contained use";
- (ii) The name and address of the consignee, and exporter or importer, as appropriate, including contact details necessary to reach them as fast as possible in case of emergency;
- (iii) Any requirements for the safe handling, storage, transport and use of the [LMOs] under applicable existing international instruments, such as the United Nations Recommendations on the Transport of Dangerous Goods, the International Plant Protection Convention and the Organisation Internationale des Epizooties, domestic regulatory frameworks or under any agreements entered into by the importer and exporter. In the event that there is no requirement, indicate that there is no specific requirement;



- (iv) Where appropriate, further information should include the commercial names of the [LMOs], if available, new or modified traits and characteristics such as event(s) of transformation, risk class, specification of use, as well as any unique identification, where available, as a key to accessing information in the [BCH];
- (b) [LMOs] for intentional introduction into the environment of the Party of import and any other [LMOs] within the scope of the Protocol (Article 18, paragraph 2 (c)):
- (i) Clear identification as "[LMOs]" and a brief description of the organisms, including common and scientific name, relevant traits and genetic modification, including transgenic traits and characteristics such as event(s) of transformation or, where available and applicable, a reference to a system of unique identification;
- (ii) Any requirements for the safe handling, storage, transport and use of the [LMOs] as provided under applicable existing international requirements, domestic regulatory frameworks, or under any agreement entered into by the importer and exporter. In the event that there is no requirement, indicate that there is no specific requirement;
- (iii) The name and address of the exporter and importer;
- (iv) The details of the contact point for further information, including an individual or organization in possession of relevant information in case of emergency;
- (v) A declaration that the movement of the [LMOs] is in conformity with the requirements of the Cartagena Protocol on Biosafety applicable to the exporter;
- (vi) Where appropriate, further information should include the commercial name, risk class, and import approval for the first transboundary movement of [LMOs]; .."

Decision BS-II/10

"The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...

2. *Urges* Parties to the Protocol and invite other Governments to take necessary measures, taking into account their specific capabilities, to make sure that those requirements of paragraphs 2 (b) and 2 (c) of Article 18 of the Protocol as elaborated by decision BS-I/6 B are fully complied with;
3. *Further urges* Parties, especially those Parties of import, to make available to the [BCH] information on their domestic requirements concerning imports of [LMOs] in general, and documentation requirements in particular, with respect to [LMOs] for contained use and for intentional introduction into the environment, as part of the requirement set out in paragraph 3 of Article 20 of the Protocol for each Party to make available its laws, regulations and guidelines relevant to the implementation of the Protocol..."

Decision BS-IV/8

"The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...

1. *Requests* Parties and encourages other Governments and relevant international organizations to continue to implement the requirements under paragraphs 2(b) and 2(c) of Article 18 and associated decisions by the Conference of the Parties serving as the meeting of the Parties to the Protocol;
2. *Decides* to review this matter at its sixth meeting in light of the review of experience based on the analysis of the second national reports.

**Paragraph 3 of Article 18**

Decision BS-IV/10

"The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...

1. *Decides* to continue to gain experience in the implementation of the Protocol's provisions regarding handling, transport, packaging and identification, and *requests* the Executive Secretary to continue to collaborate with relevant international organizations in this regard;
2. *Requests* Parties and *encourages* other Governments and international organizations to ensure that information related to standards on the identification, handling, packaging and transport of living modified organisms is available through the Biosafety Clearing-House;
3. *Encourages* Parties to participate in ongoing work on standards on handling, transport, packaging and identification of living modified



organisms taking place in other relevant international organizations and, *decides* that if a gap in such standards has been identified, to consider the need for and modalities of developing the necessary standards, in particular by referring such gaps to other relevant international organizations;

4. *Requests* the Executive Secretary to organize an online conference to: (i) identify the relevant standards with regard to handling, transport, packaging and identification of living modified organisms; (ii) identify where gaps exist; and (iii) suggest possible modalities to fill the gaps; and to prepare a summary of the outcome of the conference, reflecting the full range of views expressed, for the consideration of the Conference of the Parties serving as the meeting of the Parties to Protocol at its fifth meeting;

5. *Invites* Parties, other Governments and relevant international organizations to provide the Executive Secretary with guiding questions for this online conference and *requests* the Executive Secretary to finalise the list of questions in consultation with the Bureau of the Conference of the Parties serving as the meeting of the Parties to the Protocol."

Decision BS-V/9

"The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...

1. Requests the Executive Secretary to:

(a) Continue following developments in standards related to the handling, transport, packaging and identification of living modified organisms and to report to the Parties at their sixth meeting on any such developments. The report should include information on developments in standard-setting on the sampling and detection of living modified organisms;

(b) Disseminate the results of the Online Forum on Standards for Shipments of Living Modified Organisms, including information about potential gaps in international standards, to relevant organizations;

(c) Organize regional workshops for: (i) heads of laboratories involved in the detection of living modified organisms to exchange information and experience on the implementation of relevant standards and methods; and (ii) customs officers requiring capacity in the sampling and detection of living modified organisms further to paragraph 10 of decision BS-III/10 and paragraph 3 of decision BS-IV/9;

(d) Commission a study to analyse information on existing standards, methods and guidance relevant to the handling, transport, packaging and identification of living modified organisms and to make the study available for consideration by the sixth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol. This study should address in particular:

(i) Possible gaps in existing standards, guidance and methods;

(ii) Ways to facilitate cooperation with relevant organisations;

(iii) Guidance on the use of existing international regulations and standards;

(iv) The possible need for the elaboration of standards for handling, transport, packaging and identification of living modified organisms;

2. Invites standard-setting bodies to form an electronic communications group with the Secretariat of the Convention on Biological Diversity to exchange information on activities relevant to the handling, transport, packaging and identification of living modified organisms being undertaken in each forum;

3. Invites the International Plant Protection Convention to collaborate with the Secretariat of the Convention on Biological Diversity in the development of an explanatory document on the terminology of the Protocol in relation to the glossary of phytosanitary terms adopted by the Commission on Phytosanitary Measures;

4. Requests Parties and *encourages* other Governments and relevant organizations, as appropriate, to make available to the Biosafety Clearing-House information on:

(a) Standards relevant to the handling, transport, packaging and identification of living modified organisms;

(b) Existing guidance on the use of relevant international standards;

(c) Methods for the detection and identification of living modified organisms;

5. Invites Parties to nominate national and international reference laboratories with the view to establishing, through the Biosafety-Clearing



	House, an electronic network of laboratories to facilitate the identification of living modified organisms as well as the sharing of information and experiences."
<b>Cooperation with Other Organizations, Conventions and Initiatives</b>	<p><b>Decision BS-II/6</b>          "The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...  <i>Requests</i> the Executive Secretary:</p> <ul style="list-style-type: none"> <li>(a) To pursue efforts to obtain observer status for the Secretariat of the [CBD] with the [WTO's] Committees on Sanitary and Phytosanitary Measures and on Technical Barriers to Trade;</li> <li>(b) To continue the involvement of the Secretariat of the [CBD] in discussions in the [WTO's CTE] on issues relevant to the Protocol</li> <li>(c) To reinforce cooperation with the Codex Alimentarius Commission, the Office International des Epizooties and the International Plant Protection Convention on issues of mutual relevance; ...</li> <li>(f) To establish cooperation with the World Customs Organization, the International Organization for Standardization (ISO), the United Nations Transport of Dangerous Goods Sub-Committee, the International Air Transport Association and other relevant customs and transport organizations where biosafety issues are considered, with a view to developing a harmonized approach for the packaging and transport of living modified organisms in preparation for the consideration at the third meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol of the need for and modalities of developing standards with regard to identification, handling, packaging and transport practices, in accordance with the medium-term programme of work." <p><b>Decision BS-III/6</b>          "The [COP-MOP]...</p> <ul style="list-style-type: none"> <li>2. <i>Commends</i> the Executive Secretary on his recent efforts to strengthen cooperation with other organizations and initiatives, in particular as regards the cooperation with the World Trade Organization and <i>requests</i> the Executive Secretary to intensify efforts to gain the World Trade Organization observer status in the Sanitary and Phytosanitary (SPS) and the Technical Barriers to Trade (TBT) Committees;</li> <li>3. <i>Also requests</i> the Executive Secretary to:</li> </ul> <ul style="list-style-type: none"> <li>(a) Continue pursuing, reinforcing and intensifying, as the case may be, cooperative arrangements with all the organizations referred to in decision BS-II/6;</li> </ul> <p><b>Decision BS-IV/6</b>          "The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...</p> <ul style="list-style-type: none"> <li>3. <i>Commends</i> the Executive Secretary on his sustained efforts to strengthen cooperation with other organizations, in particular with the World Trade Organization, and requests the Executive Secretary to further intensify efforts to gain observer status in the World Trade Organization committees on Sanitary and Phytosanitary measures (SPS) and Technical Barriers to Trade (TBT)..." <p><b>Decision BS-V/6</b>          "The [COP] serving as the [MOP] to the Cartagena Protocol on Biosafety...</p> <ul style="list-style-type: none"> <li>1. <i>Commends</i> the Executive Secretary on his sustained efforts to strengthen cooperation with other organizations, in particular with the World Trade Organization, and <i>requests</i> the Executive Secretary to further intensify efforts to gain observer status in the World Trade Organization committees on Sanitary and Phytosanitary Measures and Technical Barriers to Trade;</li> <li>2. <i>Requests</i> the Executive Secretary, subject to the availability of funds, to:</li> </ul> <ul style="list-style-type: none"> <li>(a) Pursue memoranda of understanding with the International Organization for Standardization and the International Seed Testing Association to further cooperation with these organizations in the context of Article 18;</li> <li>(b) Continue participating in the relevant meetings of the international standard-setting organizations referred to in decision BS-II/6;</li> <li>(c) Cooperate with other organizations, conventions and initiatives that are developing work on information-sharing mechanisms with the aim of:</li> </ul> </li></ul></li></ul>



	<p>(i) identifying possible linkages; and (ii) avoiding, as appropriate, the development of incompatible or duplicate data-sets and guaranteeing the reliability of the information provided;</p> <p>(d) Maintain cooperation with organizations involved in packaging and transport rules and standards."</p>
<p><b>Options for Implementation of Article 8</b></p>	<p><b>Decision BS-II/8</b></p> <p>" The [COP] serving as the[MOP] to the Cartagena Protocol on Biosafety...</p> <ol style="list-style-type: none"> <li>1. <i>Decides</i> to keep the item on notification referred to in decision BS-I/12 under review with a view to elaborating and developing, if appropriate, at its fourth meeting, modalities of implementation with respect to notification requirements under Article 8 of the Protocol, taking into account the information on national implementation and experiences on this matter gathered through interim national reports and the [BCH];</li> <li>2. <i>Recommends</i> to Parties to the Protocol to consider elements and options relevant to Article 8 of the Protocol, as well as the following elements, pending development of modalities referred to in paragraph 1 above: <ol style="list-style-type: none"> <li>(a) Applying necessary measures to enforce the notification requirements;</li> <li>(b) Requiring the exporter to use the language as determined by the Party of import in the notification;</li> <li>(c) Acknowledging the right of a Party of transit to regulate the transport of living modified organisms through its territory, including requiring communication in writing to the competent national authority of the Party of transit if so required by the regulations of that Party of transit."</li> </ol> </li> </ol> <p><b>Decision BS-IV/18</b></p> <p>" <i>Recalling</i> its decision to keep the item on notification under review with a view to elaborating and developing, if appropriate, at its fourth meeting, modalities of implementation of the requirements under Article 8 of the Protocol, taking into account national implementation and experiences that may be communicated through national reports and the Biosafety Clearing-House (BS-II/8, paragraph 1), <i>Recognizing</i> that the information made available by Parties through their interim and first national reports, and the Biosafety Clearing-House, demonstrates the existence of no or limited experiences in implementing the notification requirements under Article 8 of the Protocol..."</p>
<p><b>Socio-economic Considerations (Article 26, paragraph 2)</b></p>	<p><b>Decision BS- IV/16</b></p> <p>" <i>Recalling</i> Article 26 of the Protocol, in particular paragraph 2, <i>Recognizing</i> the divergent views and the complexity of the issue of socio-economic impacts of living modified organisms as observed through the submissions received and synthesized by the Secretariat in accordance with the request made under decision BS-II/12; <i>Invites</i> Parties, other Governments and relevant organizations to continue to share their research, research method and experience in taking into account socio-economic impacts of living modified organisms, through the Biosafety Clearing-House, where it could be retrievable using the search term "socio-economic..."</p> <p>Decision BS-V/3: Capacity building</p> <p><i>IV. Cooperation on identification of capacity-building needs for research and information exchange on socio-economic considerations</i></p> <ol style="list-style-type: none"> <li>21. <i>Takes note</i> of the recommendations of the sixth Coordination Meeting for Governments and Organizations Implementing or Funding Biosafety Capacity-Building Activities regarding possibilities for cooperation in identifying needs for capacity-building among Parties for research and information exchange on socio-economic impacts of living modified organisms (UNEP/CBD/BS/COP-MOP/5/INF/4);</li> <li>22. <i>Invites</i> Parties and other Governments to submit to the Biosafety Clearing-House their capacity-building needs and priorities regarding socio-economic considerations;</li> <li>23. <i>Urges</i> Parties, other Governments and relevant organizations to submit to the Executive Secretary relevant information on socio-economic considerations, including guidance material and case studies on, <i>inter alia</i>, institutional arrangements and best practices;</li> <li>24. <i>Requests</i> the Executive Secretary to convene regional online conferences to: (i) facilitate the exchange of views, information and experiences on socio-economic considerations on a regional basis; and (ii) identify possible issues for further consideration;</li> <li>25. <i>Requests also</i> the Executive Secretary to convene, prior to the sixth meeting of the Conference of the Parties serving as the meeting of the</li> </ol>



	<p>Parties to the Protocol, subject to the necessary financial resources being made available, a regionally-balanced workshop on capacity-building for research and information exchange on socio-economic impacts of living modified organisms, with the following main objectives:</p> <p>(a) Analysis of the capacity-building activities, needs and priorities regarding socio-economic considerations submitted to the Biosafety Clearing-House by Parties and other Governments, and identification of options for cooperation in addressing those needs;</p> <p>(b) Exchange and analysis of information on the use of socio-economic considerations in the context of Article 26 of the Protocol;</p> <p>26. <i>Requests</i> the Liaison Group on Capacity-Building for Biosafety to give advice to the Executive Secretary on the organisation of the workshop referred to in paragraph 25 above;</p> <p>27. <i>Requests</i> the Executive Secretary to synthesize the outcomes of the online conferences and workshop referred to in paragraphs 24 and 25 above and submit a report to the sixth meeting of the Parties for consideration of further steps;</p> <p>28. <i>Invites</i> Parties, in collaboration with regional bodies and relevant organizations, to organize regional workshops to facilitate sharing of information and experiences regarding socio-economic considerations;</p> <p>29. <i>Welcomes</i> the report of the survey on the application of and experience in the use of socio-economic considerations in decision-making on living modified organisms conducted by the United Nations Environment Programme and the Secretariat (UNEP/CBD/BS/COP-MOP/5/INF/10);</p> <p>30. <i>Invites</i> the United Nations Environment Programme and other organizations to conduct additional case studies to document experiences and lessons learned in different regions.</p>
<b>Liability and Redress under the Cartagena Protocol on Biosafety</b>	<p><b>Decision BS-V/11</b></p> <p>" The [COP] serving as the[MOP] to the Cartagena Protocol on Biosafety...</p> <p>3. <i>Decides</i> to adopt the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety, as contained in the annex to the present decision (hereinafter referred to as "the Supplementary Protocol");</p> <p>4. <i>Requests</i> the Secretary-General of the United Nations to be the Depositary of the Supplementary Protocol and to open it for signature at the United Nations Headquarters in New York from 7 March 2011 to 6 March 2012;</p> <p>3. <i>Encourages</i> Parties to the Cartagena Protocol on Biosafety to implement the Supplementary Protocol pending its entry into force;</p> <p>4. <i>Calls upon</i> the Parties to the Cartagena Protocol on Biosafety to sign the Supplementary Protocol on 7 March 2011 or at the earliest opportunity thereafter and to deposit instruments of ratification, acceptance or approval or instruments of accession, as appropriate, as soon as possible;</p> <p>.....</p> <p>7. <i>Decides</i> that, where the costs of response measures as provided for in the Supplementary Protocol have not been covered, such a situation may be addressed by additional and supplementary compensation measures;</p> <p>8. <i>Decides</i> that the measures referred to in paragraph 7 above may include arrangements to be addressed by the Conference of the Parties serving as the meeting of the Parties;..."</p>
<b>Risk Assessment and Risk Management</b>	<p><u>Decision BS-III/11</u></p> <p>"The [COP-MOP]...</p> <p>15. <i>Requests</i> the Executive Secretary to collaborate with relevant organizations such as the Food and Agriculture Organization of the United Nations, to promote networking and interlinkages between experts in risk assessment of living modified organisms and experts in other relevant fields of risk assessment and risk management (e.g., plant health, animal health, food safety), using, <i>inter alia</i>, Internet portals such as the Biosafety Clearing-House and the International Portal on Food Safety, Animal &amp; Plant Health;</p> <p><u>Decision BS-IV/11</u></p> <p>" The [COP] serving as the[MOP] to the Cartagena Protocol on Biosafety...</p>



	<p>" 3. <i>Decides</i> to establish through the Biosafety Clearing-House an open-ended online forum on specific aspects on risk assessment as referenced to in the annex;</p> <p>4. <i>Decides</i> to establish an Ad Hoc Technical Expert Group on Risk Assessment and Risk Management according to the modality of work and the terms of reference annexed hereto..."</p> <p>Decision BS-V/12</p> <p>" The [COP] serving as the[MOP] to the Cartagena Protocol on Biosafety...</p> <p>4. <i>Decides</i> to extend the current open-ended online forum and the Ad Hoc Technical Expert Group on Risk Assessment and Risk Management in accordance with the terms of reference annexed hereto;</p> <p>6. <i>Further notes</i> that the first version of the Guidance requires further scientific reviewing and testing to establish its overall utility and applicability to living modified organisms of different taxa introduced into different environments, and <i>requests</i> the Executive Secretary to, prior to the first meeting of the Ad Hoc Technical Expert Group on Risk Assessment and Risk Management, (i) translate the first version of the Guidance into all United Nations languages with a view to enabling a large number of experts to take part in the reviewing process; (ii) coordinate with Parties and other Governments, through their technical and scientific experts, and relevant organizations, a review process of the first version of the Guidance; (iii) make the comments of the review process available through the Biosafety-Clearing House;</p> <p>8. <i>Further requests</i> the Executive Secretary to: (i) update the common format for submission of records to the Biosafety Information Resources Centre in order to link its records on risk assessment to specific sections of the Guidance; and (ii) explore possible ways to link background materials available in the "Scientific Bibliographic Database on Biosafety" to specific sections of the Guidance;</p> <p>10. <i>Urges</i> Parties and <i>invites</i> other Governments to submit to the Biosafety Clearing-House decisions and risk assessments where potential adverse effects have been identified, as well as any other relevant information that may assist Parties in the identification of living modified organisms or specific traits that may have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, including information, if possible, when a decision is not taken due to the potential of a living modified organism to cause adverse effects when introduced into specific environments;</p> <p>12. <i>Requests</i> Parties and <i>invites</i> other Governments and relevant organizations to submit to the Executive Secretary (i) information on risk assessments, carried out on a case-by-case basis with regards to the receiving environment of the living modified organism, that might assist Parties in the identification of living modified organisms that are not likely to have adverse effects on the conservation and sustainable use of biological diversity, taking also into account risks to human health, and (ii) the criteria that were considered for the identification of such living modified organisms;</p> <p>13. <i>Requests</i> the Executive Secretary to compile the information received and prepare a synthesis report for consideration by the Parties at their sixth meeting..."</p>
<b>Decision BS- V/10 Rights and/or obligations of Parties of transit of living modified organisms</b>	<p>" The [COP] serving as the[MOP] to the Cartagena Protocol on Biosafety...</p> <p>1. <i>Encourages</i> Parties to continue addressing issues related to the transit of living modified organisms through their territories using their domestic administrative and legal systems;</p> <p>2. <i>Decides</i> to consider this item at its eighth meeting.</p>
<b>BS-V/15. Assessment and review (Article 35)</b>	<p>" The [COP] serving as the[MOP] to the Cartagena Protocol on Biosafety...</p> <p>1. <i>Decides</i>:</p> <p>(a) That the scope of the second assessment and review of the effectiveness of the Protocol focus primarily on evaluating the status of implementation of core elements of the Protocol as identified in the annex below;</p> <p>(b) That the evaluation should be based on information on the implementation of the Protocol gathered through the second national reports, the</p>



	<p>Biosafety Clearing-House, information that might be made available through the Compliance Committee in relation to its functions to review general issues of compliance, the capacity-building coordination mechanism and other relevant processes and organizations;</p> <p>2. <i>Requests</i> the Executive Secretary to collect and compile information on the implementation of the Protocol and to commission the analysis of such compilation of information with a view to facilitating the second assessment and review of the effectiveness of the Protocol;</p> <p>3. <i>Decides also:</i></p> <p>(a) To establish a regionally balanced ad hoc technical expert group, subject to the availability of funds, to: (i) review the analysis of information referred to in paragraph 2 above; and (ii) submit its recommendations to the sixth meeting of the Conference of the Parties serving as the meeting of the Parties for its consideration; and</p> <p>(b) That the third assessment and review of the Protocol be conducted in conjunction with the mid-term review of the implementation of the Strategic Plan at the eighth meeting of the Parties, using, among other things, information collected through the third national reports;</p> <p>4. <i>Urges</i> Parties and <i>invites</i> other Governments and relevant international organizations to contribute, as appropriate, to the data collection processes by completing and submitting, in a timely manner, national reports, or by responding to a questionnaire and providing complete information on the implementation of the Protocol...."</p>
<p><b>BS-V/16.</b>  <b>Strategic plan for the</b>  <b>Cartagena Protocol on</b>  <b>Biosafety for the period</b>  <b>2011-2020</b></p>	<p>" The [COP] serving as the[MOP] to the Cartagena Protocol on Biosafety...</p> <p>1. <i>Adopts</i> the Strategic Plan of the Cartagena Protocol on Biosafety for the period 2011-2020 (annex I to the present decision) and its multi-year programme of work of the Conference of the Parties serving as the meeting of the Parties to the Protocol (annex II to the present decision);</p> <p>2. <i>Urges</i> Parties and <i>invites</i> other Governments and relevant international organizations, as appropriate, to:</p> <p>(a) Review and align, as appropriate, their national action plans and programmes relevant to the implementation of the Protocol, including their National Biodiversity Strategies and Action Plans, with the Strategic Plan; and</p> <p>(b) Allocate adequate human and financial resources necessary to expedite the implementation of the Strategic Plan;</p> <p>3. <i>Urges</i> Parties to submit their national reports on the implementation of the Cartagena Protocol on Biosafety in a comprehensive and timely manner using the second national reporting format in order for the second assessment and review on the effectiveness of the Protocol to, among other things, establish a baseline for evaluating progress in the implementation of the Protocol and the Strategic Plan;</p> <p>4. <i>Decides</i> to conduct a mid-term evaluation of the Strategic Plan:</p> <p>(a) Five years after its adoption in conjunction with the third assessment and review scheduled to be conducted at the eighth meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol;</p> <p>(b) Using appropriate evaluation criteria that need to be proposed by the Executive Secretary at the seventh meeting of the Conference of the Parties serving as the meeting of the Parties to the Protocol.</p>



I. NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION

1. The text of the Protocol does not explicitly refer to trade measures. However, the Protocol contains a number of provisions which may have consequences for trade. In addition, some of its provisions have inter-linkages with some international trade agreements.

<b>Article 3bis Relationship with other international agreements</b>	<p>"1. The provisions of this Protocol shall not affect the rights and obligations of any Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity. This paragraph is not intended to create a hierarchy between this Protocol and other international instruments.</p> <p>2. Nothing in this Protocol shall prevent the Parties from developing and implementing other relevant international agreements, including other specialised access and benefit-sharing agreements, provided that they are supportive of and do not run counter to the objectives of the Convention and this Protocol.</p> <p>3. This Protocol shall be implemented in a mutually supportive manner with other international instruments relevant to this Protocol. Due regard should be paid to useful and relevant ongoing work or practices under such international instruments and relevant international organizations, provided that they are supportive of and do not run counter to the objectives of the Convention and this Protocol.</p> <p>4. This Protocol is the instrument for the implementation of the access and benefit-sharing provisions of the Convention. Where a specialised international access and benefit-sharing instrument applies that is consistent with, and does not run counter to the objectives of the Convention and this Protocol, this Protocol does not apply for the Party or Parties to the specialised instrument in respect of the specific genetic resource covered by and for the purpose of the specialised instrument."</p>
<b>Article 4 Fair and equitable benefit- sharing</b>	<p>"1. In accordance with Article 15, paragraphs 3 and 7 of the Convention, benefits arising from the utilization of genetic resources as well as subsequent applications and commercialization shall be shared in a fair and equitable way with the Party providing such resources that is the country of origin of such resources or a Party that has acquired the genetic resources in accordance with the Convention. Such sharing shall be upon mutually agreed terms.(...)</p> <p>2. To implement paragraph 1, each Party shall take legislative, administrative or policy measures, as appropriate.(...)"</p>



<p><b>Article 13</b>  <b>Monitoring the Utilization</b>  <b>of Genetic Resources</b></p>	<p>"1. To support compliance, each Party shall take measures, as appropriate, to monitor and to enhance transparency about the utilization of genetic resources. Such measures shall include:</p> <ul style="list-style-type: none"> <li>(a) The designation of one or more checkpoints, as follows:           <ul style="list-style-type: none"> <li>(i) Designated checkpoints would collect or receive, as appropriate, relevant information related to prior informed consent, to the source of the genetic resource, to the establishment of mutually agreed terms, and/or to the utilization of genetic resources, as appropriate.</li> <li>(ii) Each Party shall, as appropriate and depending on the particular characteristics of a designated checkpoint, require users of genetic resources to provide the information specified in the above paragraph at a designated checkpoint. Each Party shall take appropriate, effective and proportionate measures to address situations of non-compliance.</li> <li>(iii) Such information, including from internationally recognized certificates of compliance where they are available, will, without prejudice to the protection of confidential information, be provided to relevant national authorities, to the Party providing prior informed consent and to the Access and Benefit-sharing Clearing-House, as appropriate.</li> <li>(iv) Check points must be effective and should have functions relevant to implementation of this sub-paragraph (a). They should be relevant to the utilization of genetic resources, or to the collection of relevant information at, <i>inter alia</i>, any stage of research, development, innovation, pre-commercialization or commercialization.</li> </ul> </li> <li>(b) Encouraging users and providers of genetic resources to include provisions in mutually agreed terms to share information on the implementation of such terms, including through reporting requirements; and</li> <li>(c) Encouraging the use of cost-effective communication tools and systems.</li> </ul> <p>2. A permit or its equivalent issued in accordance with Article 5, paragraph 2 (d) and made available to the Access and Benefit-sharing Clearing-House, shall constitute an internationally recognized certificate of compliance.</p> <p>3. An internationally recognized certificate of compliance shall serve as evidence that the genetic resource which it covers has been accessed in accordance with prior informed consent and that mutually agreed terms have been established, as required by the domestic access and benefit-sharing legislation or regulatory requirements of the Party providing prior informed consent.</p> <p>4. The internationally recognized certificate of compliance shall contain the following minimum information when it is not confidential:</p> <ul style="list-style-type: none"> <li>(a) Issuing authority;</li> <li>(b) Date of issuance;</li> <li>(c) The provider;</li> <li>(d) Unique identifier of the certificate;</li> <li>(e) The person or entity to whom prior informed consent was granted;</li> <li>(f) Subject-matter or genetic resources covered by the certificate;</li> <li>(g) Confirmation that mutually agreed terms were established;</li> <li>(h <i>bis</i>) Confirmation that prior informed consent was obtained; and</li> <li>(h) Commercial and/or non-commercial use."</li> </ul>
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J. UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

1. The UNFCCC does not have provisions that directly restrict trade, but domestic actions of countries implementing the UNFCCC could have trade implications.

<b>Article 3.5 Principles</b>	<p>"The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade".</p> <p>→ No adverse impacts on trade pursuant to policies and measures adopted by Parties have been reported to the UNFCCC.</p> <p>→ COP 16 reaffirmed the Article 3.5 Principle.</p>
<b>Article 4 Commitments</b>	<p>"2. The developed country Parties and other Parties included in Annex I commit themselves specifically as provided for in the following:</p> <p>(a) Each of these Parties shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention, recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such modification, and taking into account the differences in these Parties' starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective. These Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the achievement of the objective of the Convention and, in particular, that of this subparagraph".</p> <p>→ Sets up the requirement for developed country Parties to adopt national policies and corresponding measures to mitigate climate change.</p>

K. KYOTO PROTOCOL

<b>Article 2</b>	<p>"1. Each Party included in Annex I, in achieving its quantified emission limitation and reduction commitments under Article 3, in order to promote sustainable development, shall:</p> <p>(a) Implement and/or further elaborate policies and measures in accordance with its national circumstances, such as:</p> <p>(i) Enhancement of energy efficiency in relevant sectors of the national economy;</p> <p>(ii) Protection and enhancement of sinks and reservoirs of greenhouse gases not controlled by the Montreal Protocol, taking into account its commitments under relevant international environmental agreements; promotion of sustainable forest management practices, afforestation and reforestation;</p> <p>(iii) Promotion of sustainable forms of agriculture in light of climate change considerations;</p> <p>(iv) Research on, and promotion, development and increased use of, new and renewable forms of energy, of carbon dioxide sequestration technologies and of advanced and innovative environmentally sound technologies;</p> <p>(v) Progressive reduction or phasing out of market imperfections, fiscal incentives, tax and duty exemptions and subsidies in all greenhouse gas emitting sectors that run counter to the objective of the Convention and application of market instruments;</p>
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	<p>(vi) Encouragement of appropriate reforms in relevant sectors aimed at promoting policies and measures which limit or reduce emissions of greenhouse gases not controlled by the Montreal Protocol;</p> <p>(vii) Measures to limit and/or reduce emissions of greenhouse gases not controlled by the Montreal Protocol in the transport sector;</p> <p>(viii) Limitation and/or reduction of methane emissions through recovery and use in waste management, as well as in the production, transport and distribution of energy.</p> <p>(b) Cooperate with other such Parties to enhance the individual and combined effectiveness of their policies and measures adopted under this Article, pursuant to Article 4, paragraph 2(e)(i), of the Convention. To this end, these Parties shall take steps to share their experience and exchange information on such policies and measures, including developing ways of improving their comparability, transparency and effectiveness. The [CMP] to this Protocol shall, at its first session or as soon as practicable thereafter, consider ways to facilitate such cooperation, taking into account all relevant information.</p> <p>2. The Parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively.</p> <p>3. The Parties included in Annex I shall strive to implement policies and measures under this Article in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in Article 4, paragraphs 8 and 9, of the Convention, taking into account Article 3 of the Convention. The [CMP] to this Protocol may take further action, as appropriate, to promote the implementation of the provisions of this paragraph.</p> <p>4. The [CMP] to this Protocol, if it decides that it would be beneficial to coordinate any of the policies and measures in paragraph 1(a) above, taking into account different national circumstances and potential effects, shall consider ways and means to elaborate the coordination of such policies and measures".</p>
<p><b>Articles 6, 12 and 17</b></p>	<p>→ The Kyoto Protocol sets out three mechanisms:</p> <ul style="list-style-type: none"> <li>– Article 6: Joint Implementation (projects between Parties included in Annex I with commitments inscribed in Annex B to the Kyoto Protocol (Annex I Parties) countries to help meet a Party's commitments).</li> <li>– Article 12: Clean Development Mechanism (The CDM allows Annex I Parties to invest in projects in developing countries to achieve sustainable development, contribute to the objective of the Convention and assist Annex 1 Parties to comply with reduction commitments).</li> <li>– Article 17: Emissions Trading.</li> </ul> <p>→ In decision 2/CMP.1 the CMP of Kyoto Protocol agreed on Principles, nature and scope of the mechanisms pursuant to Articles 6, 12 and 17 of the Kyoto Protocol.</p> <p>→ Guidelines for the implementation of Article 6 of the Kyoto Protocol are contained in the annex to decision 9/CMP.1 of the CMP of the Kyoto Protocol, as revised by subsequent decisions of the CMP.</p> <p>→ Modalities and procedures for the CDM as defined in Article 12 of the Kyoto Protocol are contained in the annex to decision 31/CMP.1 of the CMP of Kyoto Protocol.</p> <p>→ Modalities, rules and guidelines for emissions trading under Article 17 of the Kyoto Protocol are contained in the annex to decision 11/CMP.1 of the CMP of the Kyoto Protocol.</p>



## L. INTERNATIONAL TROPICAL TIMBER AGREEMENT

### 1. Provisions of the Agreement

1. There are no provisions for trade measures in the ITTA, 1994. However, following the entry into force of the ITTA, 1994, the mandate of the International Tropical Timber Organization (ITTO) on trade has been updated and refined. This is reflected in six trade-related objectives of the agreement which are outlined in Article 1.

<b>Article 1 Objectives</b>	"Recognizing the sovereignty of members over their natural resources, as defined in Principle 1 (a) of the Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of all Types of Forests, the objectives of the International Tropical Timber Agreement, 1994 (hereinafter referred to as "this Agreement") are: ... (b) To provide a forum for consultation to promote non-discriminatory timber trade practices; ... (d) To enhance the capacity of members to implement a strategy for achieving exports of tropical timber and timber products from sustainably managed sources by the year 2000; (e) To promote the expansion and diversification of international trade in tropical timber from sustainable sources by improving the structural conditions in international markets, by taking into account, on the one hand, a long term increase in consumption and continuity of supplies, and, on the other, prices which reflect the costs of sustainable forest management and which are remunerative and equitable for members, and the improvement of market access; ... (h) To improve market intelligence with a view to ensuring greater transparency in the international timber market, including the gathering, compilation, and dissemination of trade related data, including data related to species being traded; ... (k) To improve marketing and distribution of tropical timber exports from sustainably managed sources; ... (n) To encourage information-sharing on the international timber market".
<b>Article 36 Non-discrimination</b>	"Nothing in this Agreement authorizes the use of measures to restrict or ban international trade in, and in particular as they concern imports of and utilization of, timber and timber products".

### 2. Decisions and Recommendations

1. Examples of the decisions and recommendations adopted by the ITTO Council (ITTC) include the following:

<b>Decision 3(X)</b>	→ In June 1991, the ITTC committed itself by Decision 3(X) to the "ITTO Year 2000 Objective", which was the goal of having all tropical timber entering international trade coming from sustainably managed sources by 2000. Since then, the Council has approved policy studies and project financing for a number of activities to help member countries move toward this Objective. The ITTO Year 2000 Objective has been incorporated in the operative objectives of ITTA, 1994 (Article 1(d)). At its Twenty-ninth Session, the ITTC reaffirmed its commitment to moving as rapidly as possible towards achieving exports of tropical timber and timber products from sustainably managed sources pursuant to the ITTO Objective 2000 (Decision 2 (XXIX) adopted on 4 November 2000).
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<b>The ITTO Yokohama Action Plan 2002-2006</b>	→ In November 2001, the ITTC adopted the ITTO Yokohama Action Plan 2002-2006, its third action plan (Decision 2 (XXXI), 3 November 2001).
<b>Decision 10 (XXXIV)</b>	→ In May 2003, the ITTC decided to undertake a study on the costs and benefits of certification in selected ITTO member countries, to develop procedures for phased approaches to certification and to convene an international workshop to promote phased approaches to certification.
<b>Decision 12 (XXXIV)</b>	→ In May 2003, the ITTC also decided to undertake a study which would: <ul style="list-style-type: none"> <li>– Identify product standards, quality or grading requirements, building codes, and technical regulations that may affect the trade of tropical timber and timber products;</li> <li>– assess the possible impacts of product standards, quality or grading requirements, building codes, and technical regulations, on trade in tropical timber, <i>inter alia</i>, with respect to panel products;</li> <li>– assess the capacity of tropical timber-producing countries to meet existing and evolving product standards and technical regulations for timber products in importing countries and, where gaps exist, identify and propose ways to address them and provide relevant assistance to tropical timber producing countries;</li> <li>– propose recommendations for consideration by member countries and Council; and</li> <li>– in the context of the Doha Development Agenda, report on tariffs, negotiations and the negotiating process as related to tropical timber products at the Thirty-Sixth Session of the Council.</li> </ul>
<b>Decision 2 (XXXVII)</b>	→ In December 2004, the ITTC adopted a decision on enhanced cooperation between ITTO and CITES for ramin and mahogany.
<b>The ITTO Yokohama Action Plan 2008-2011</b>	→ In November 2008, the ITTC adopted the ITTO Action Plan 2008-2011,[Decision 4(XLIV)].

#### M. UN FISH STOCKS AGREEMENT

<b>Article 17 Non-members of Organizations and Non-participants in Arrangements</b>	"...4. States which are members of [RFMOs] or participants in [RFMAs] shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures".
<b>Article 20 International cooperation in enforcement</b>	"...7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State".
<b>Article 23 Measures taken by a Port State</b>	"1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State. 2. A port State may, <i>inter alia</i> , inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals. 3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established



	that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas. 4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law".
<b>Article 33 Non-parties to the Agreement</b>	"...2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement".

N. ROTTERDAM CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE

1. Provisions of the Convention

<b>Preamble</b>	"The Parties to this Convention, Aware of the harmful impact on human health and the environment from certain hazardous chemicals and pesticides in international trade, (...) "...Recognizing that trade and environmental policies should be mutually supportive with a view to achieving sustainable development, Emphasizing that nothing in this Convention shall be interpreted as implying in any way a change in the rights and obligations of a Party under any existing international agreement applying to chemicals in international trade or to environmental protection, Understanding that the above recital is not intended to create a hierarchy between this Convention and other international agreements, Determined to protect human health, including the health of consumers and workers, and the environment against potentially harmful impacts from certain hazardous chemicals and pesticides in international trade...".
<b>Articles 5, 6, 7 and 9</b>	→ Set out the procedures for i) inclusion of relevant to list chemicals in Annex III to be that are subject to the Prior Informed Consent, and ii) removal of chemicals from Annex III.
<b>Article 5 Procedures for Banned or Severely Restricted Chemicals</b>	"1. Each Party that has adopted a final regulatory action shall notify the Secretariat in writing of such action. Such notification shall be made as soon as possible, and in any event no later than ninety days after the date on which the final regulatory action has taken effect, and shall contain the information required by Annex I, where available. 2. Each Party shall, at the date of entry into force of this Convention for it, notify the Secretariat in writing of its final regulatory actions in effect at that time, except that each Party that has submitted notifications of final regulatory actions under the Amended London Guidelines or the International Code of Conduct need not resubmit those notifications. 3. The Secretariat shall, as soon as possible, and in any event no later than six months after receipt of a notification under paragraphs 1 and 2, verify whether the notification contains the information required by Annex I. If the notification contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the information received. If the notification does not contain the information required, it shall inform the notifying Party accordingly. 4. The Secretariat shall every six months communicate to the Parties a synopsis of the information received pursuant to paragraphs 1 and 2, including information regarding those notifications which do not contain all the information required by Annex I. 5. When the Secretariat has received at least one notification from each of two Prior Informed Consent regions regarding a particular chemical that it has verified meet the requirements of Annex I, it shall forward them to the Chemical Review Committee. The composition of the Prior Informed



	<p>Consent regions shall be defined in a decision to be adopted by consensus at the first meeting of the [COP].</p> <p>6. The Chemical Review Committee shall review the information provided in such notifications and, in accordance with the criteria set out in Annex II, recommend to the [COP] whether the chemical in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III".</p>
<b>Article 6 Procedures for Severely Hazardous Pesticide Formulations</b>	<p>"1. Any Party that is a developing country or a country with an economy in transition and that is experiencing problems caused by a severely hazardous pesticide formulation under conditions of use in its territory, may propose to the Secretariat the listing of the severely hazardous pesticide formulation in Annex III. In developing a proposal, the Party may draw upon technical expertise from any relevant source. The proposal shall contain the information required by part 1 of Annex IV.</p> <p>2. The Secretariat shall, as soon as possible, and in any event no later than six months after receipt of a proposal under paragraph 1, verify whether the proposal contains the information required by part 1 of Annex IV. If the proposal contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the information received. If the proposal does not contain the information required, it shall inform the proposing Party accordingly.</p> <p>3. The Secretariat shall collect the additional information set out in part 2 of Annex IV regarding the proposal forwarded under paragraph 2.</p> <p>4. When the requirements of paragraphs 2 and 3 above have been fulfilled with regard to a particular severely hazardous pesticide formulation, the Secretariat shall forward the proposal and the related information to the Chemical Review Committee.</p> <p>5. The Chemical Review Committee shall review the information provided in the proposal and the additional information collected and, in accordance with the criteria set out in part 3 of Annex IV, recommend to the [COP] whether the severely hazardous pesticide formulation in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III".</p>
<b>Article 7 Listing of Chemicals in Annex III</b>	<p>"1. For each chemical that the Chemical Review Committee has decided to recommend for listing in Annex III, it shall prepare a draft decision guidance document. The decision guidance document should, at a minimum, be based on the information specified in Annex I, or, as the case may be, Annex IV, and include information on uses of the chemical in a category other than the category for which the final regulatory action applies.</p> <p>2. The recommendation referred to in paragraph 1 together with the draft decision guidance document shall be forwarded to the [COP]. The [COP] shall decide whether the chemical should be made subject to the Prior Informed Consent procedure and, accordingly, list the chemical in Annex III and approve the draft decision guidance document.</p> <p>3. When a decision to list a chemical in Annex III has been taken and the related decision guidance document has been approved by the [COP], the Secretariat shall forthwith communicate this information to all Parties".</p>
<b>Article 8 Chemicals in the Volun- tary Prior Informed Consent Procedure</b>	<p>"For any chemical, other than a chemical listed in Annex III, that has been included in the voluntary Prior Informed Consent procedure before the date of the first meeting of the [COP], the [COP] shall decide at that meeting to list the chemical in Annex III, provided that it is satisfied that all the requirements for listing in that Annex have been fulfilled".</p> <p>→ In Decision RC-1/3, COP 1, at its first meeting, decided to include 14 chemicals in Annex III.</p>



<b>Article 9</b> <b>Removal of Chemicals</b> <b>from Annex III</b>	<p>"1. If a Party submits to the Secretariat information that was not available at the time of the decision to list a chemical in Annex III and that information indicates that its listing may no longer be justified in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, the Secretariat shall forward the information to the Chemical Review Committee.</p> <p>2. The Chemical Review Committee shall review the information it receives under paragraph 1. For each chemical that the Chemical Review Committee decides, in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, to recommend for removal from Annex III, it shall prepare a revised draft decision guidance document.</p> <p>3. A recommendation referred to in paragraph 2 shall be forwarded to the [COP] and be accompanied by a revised draft decision guidance document. The [COP] shall decide whether the chemical should be removed from Annex III and whether to approve the revised draft decision guidance document.</p> <p>4. When a decision to remove a chemical from Annex III has been taken and the revised decision guidance document has been approved by the [COP], the Secretariat shall forthwith communicate this information to all Parties".</p> <p>→ Sets out the procedure for removing a chemical from the list contained in Annex III.</p>
<b>Articles 10, 11, 12, 13</b>	<p>Obligations relating to the import and/or export of i) chemicals listed in Annex III, and ii) chemicals that are banned or severely restricted by a Party but not listed in Annex III.</p>
<b>Article 10</b> <b>Obligations in Relation</b> <b>to Imports of Chemicals</b> <b>Listed in Annex III</b>	<p>"1. Each Party shall implement appropriate legislative or administrative measures to ensure timely decisions with respect to the import of chemicals listed in Annex III.</p> <p>2. Each Party shall transmit to the Secretariat, as soon as possible, and in any event no later than nine months after the date of dispatch of the decision guidance document referred to in paragraph 3 of Article 7, a response concerning the future import of the chemical concerned. If a Party modifies this response, it shall forthwith submit the revised response to the Secretariat.</p> <p>3. The Secretariat shall, at the expiration of the time period in paragraph 2, forthwith address to a Party that has not provided such a response, a written request to do so. Should the Party be unable to provide a response, the Secretariat shall, where appropriate, help it to provide a response within the time period specified in the last sentence of paragraph 2 of Article 11.</p> <p>4. A response under paragraph 2 shall consist of either:</p> <ul style="list-style-type: none"> <li>(a) A final decision, pursuant to legislative or administrative measures: <ul style="list-style-type: none"> <li>(i) To consent to import;</li> <li>(ii) Not to consent to import; or</li> <li>(iii) To consent to import only subject to specified conditions; or</li> </ul> </li> <li>(b) An interim response, which may include: <ul style="list-style-type: none"> <li>(i) An interim decision consenting to import with or without specified conditions, or not consenting to import during the interim period;</li> <li>(ii) A statement that a final decision is under active consideration;</li> <li>(iii) A request to the Secretariat, or to the Party that notified the final regulatory action, for further information;</li> <li>(iv) A request to the Secretariat for assistance in evaluating the chemical.</li> </ul> </li> </ul> <p>5. A response under subparagraphs (a) or (b) of paragraph 4 shall relate to the category or categories specified for the chemical in Annex III.</p> <p>6. A final decision should be accompanied by a description of any legislative or administrative measures upon which it is based.</p> <p>7. Each Party shall, no later than the date of entry into force of this Convention for it, transmit to the Secretariat responses with respect to each chemical listed in Annex III. A Party that has provided such responses under the Amended London Guidelines or the International Code of Conduct need not resubmit those responses.</p> <p>8. Each Party shall make its responses under this Article available to those concerned within its jurisdiction, in accordance with its legislative or administrative measures.</p>



	<p>9. A Party that, pursuant to paragraphs 2 and 4 above and paragraph 2 of Article 11, takes a decision not to consent to import of a chemical or to consent to its import only under specified conditions shall, if it has not already done so, simultaneously prohibit or make subject to the same conditions:</p> <ul style="list-style-type: none"> <li>(a) Import of the chemical from any source; and</li> <li>(b) Domestic production of the chemical for domestic use.</li> </ul> <p>10. Every six months the Secretariat shall inform all Parties of the responses it has received. Such information shall include a description of the legislative or administrative measures on which the decisions have been based, where available. The Secretariat shall, in addition, inform the Parties of any cases of failure to transmit a response".</p>
<p><b>Article 11</b>  <b>Obligations in Relation to Exports of Chemicals Listed in Annex III</b></p>	<p>"1. Each exporting Party shall:</p> <ul style="list-style-type: none"> <li>(a) Implement appropriate legislative or administrative measures to communicate the responses forwarded by the Secretariat in accordance with paragraph 10 of Article 10 to those concerned within its jurisdiction;</li> <li>(b) Take appropriate legislative or administrative measures to ensure that exporters within its jurisdiction comply with decisions in each response no later than six months after the date on which the Secretariat first informs the Parties of such response in accordance with paragraph 10 of Article 10;</li> <li>(c) Advise and assist importing Parties, upon request and as appropriate:             <ul style="list-style-type: none"> <li>(i) To obtain further information to help them to take action in accordance with paragraph 4 of Article 10 and paragraph 2 (c) below; and</li> <li>(ii) To strengthen their capacities and capabilities to manage chemicals safely during their life-cycle.</li> </ul> </li> </ul> <p>2. Each Party shall ensure that a chemical listed in Annex III is not exported from its territory to any importing Party that, in exceptional circumstances, has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, unless:</p> <ul style="list-style-type: none"> <li>(a) It is a chemical that, at the time of import, is registered as a chemical in the importing Party; or</li> <li>(b) It is a chemical for which evidence exists that it has previously been used in, or imported into, the importing Party and in relation to which no regulatory action to prohibit its use has been taken; or</li> <li>(c) Explicit consent to the import has been sought and received by the exporter through a designated national authority of the importing Party.</li> </ul> <p>The importing Party shall respond to such a request within sixty days and shall promptly notify the Secretariat of its decision.</p> <p>The obligations of exporting Parties under this paragraph shall apply with effect from the expiration of a period of six months from the date on which the Secretariat first informs the Parties, in accordance with paragraph 10 of Article 10, that a Party has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, and shall apply for one year".</p>
<p><b>Article 12</b>  <b>Export Notification</b></p>	<p>"1. Where a chemical that is banned or severely restricted by a Party is exported from its territory, that Party shall provide an export notification to the importing Party. The export notification shall include the information set out in Annex V.</p> <p>2. The export notification shall be provided for that chemical prior to the first export following adoption of the corresponding final regulatory action. Thereafter, the export notification shall be provided before the first export in any calendar year. The requirement to notify before export may be waived by the designated national authority of the importing Party.</p> <p>3. An exporting Party shall provide an updated export notification after it has adopted a final regulatory action that results in a major change concerning the ban or severe restriction of that chemical.</p> <p>4. The importing Party shall acknowledge receipt of the first export notification received after the adoption of the final regulatory action. If the exporting Party does not receive the acknowledgement within thirty days of the dispatch of the export notification, it shall submit a second notification. The exporting Party shall make reasonable efforts to ensure that the importing Party receives the second notification.</p> <p>5. The obligations of a Party set out in paragraph 1 shall cease when:</p>



	<p>(a) The chemical has been listed in Annex III;</p> <p>(b) The importing Party has provided a response for the chemical to the Secretariat in accordance with paragraph 2 of Article 10; and</p> <p>(c) The Secretariat has distributed the response to the Parties in accordance with paragraph 10 of Article 10".</p>
<b>Article 13 Information to Accompany Exported Chemicals</b>	<p>"1. The COP shall encourage the World Customs Organization to assign specific Harmonized System customs codes to the individual chemicals or groups of chemicals listed in Annex III, as appropriate. Each Party shall require that, whenever a code has been assigned to such a chemical, the shipping document for that chemical bears the code when exported.</p> <p>2. Without prejudice to any requirements of the importing Party, each Party shall require that both chemicals listed in Annex III and chemicals banned or severely restricted in its territory are, when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.</p> <p>3. Without prejudice to any requirements of the importing Party, each Party may require that chemicals subject to environmental or health labelling requirements in its territory are, when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.</p> <p>4. With respect to the chemicals referred to in paragraph 2 that are to be used for occupational purposes, each exporting Party shall require that a safety data sheet that follows an internationally recognized format, setting out the most up-to-date information available, is sent to each importer.</p> <p>5. The information on the label and on the safety data sheet should, as far as practicable, be given in one or more of the official languages of the importing Party".</p>
<b>Article 15 Implementation of the Convention</b>	<p>"" 1. Each Party shall take such measures as may be necessary to establish and strengthen its national infrastructures and institutions for the effective implementation of this Convention. These measures may include, as required, the adoption or amendment of national legislative or administrative measures and may also include:</p> <p>(...)</p> <p>2. Each Party shall ensure, to the extent practicable, that the public has appropriate access to information (...)</p> <p>3. The Parties agree to cooperate, directly or, where appropriate, through competent international organizations, in the implementation of this Convention</p> <p>4. Nothing in this Convention shall be interpreted as restricting the right of the Parties to take action that is more stringently protective of human health and the environment than that called for in this Convention, provided that such action is consistent with the provisions of this Convention and is in accordance with international law".</p>

## 2. Main COP Decisions on the linkage between the Secretariat of the Rotterdam Convention and the WTO

<b>Decision RC-1/15 Cooperation with the WTO (2004)</b>	<p>" The Conference of the Parties...</p> <p>1. <i>Welcomes</i> the enhanced cooperation between the secretariat of the Convention and the World Trade Organization;</p> <p>2. <i>Requests</i> the secretariat:</p> <p>(a) To seek observer status in the CTE in Special Session of the WTO and inform Parties when the request has been submitted and when it has been granted;</p> <p>(b) To report to the COP on any meetings of the WTO that it attends, any substantive contacts that it has with the secretariat of the WTO and any general or factual information provided to or any other information requested by the secretariat of the WTO or any other body of the WTO;</p> <p>(c) To ensure that at all times it does not provide an interpretation of the provisions of the Convention;</p> <p>(d) To monitor developments in the CTE in Special Session and report on such developments to the COP;</p>
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	<p>(e) To reflect on ways of enhancing information flows on matters of common interest with the WTO; ...".</p> <p>→ At the invitation of the CTESS, the Secretariat of the Convention participated as an ad hoc observer in the Special Session on 14 October 2005, 21-22 February 2006, and on 6-7 July 2006.</p> <p>→ At COP 3, the Secretariat of the Convention highlighted some of the progress made on the implementation of Decision RC-1/15.</p>
<b>Decision RC-4/10 Cooperation with the WTO (2008)</b>	"The [COP] (...) <i>Requests</i> the secretariat, while continuing to follow up the request for observer status in the World Trade Organization's Committee on Trade and Environment in Special Session, to seek observer status in the Organization's Committee on Trade and Environment, as that Committee is the standing body of the World Trade Organization mandated to discuss trade and environment issues in regular sessions, and to inform Parties when the request has been submitted and when it has been granted".

O. STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS

<b>Preamble</b>	<p>"The Parties to this Convention, (...) ... Recognizing that this Convention and other international agreements in the field of trade and the environment are mutually supportive..."</p>
<b>Article 3 Measures to Reduce or Eliminate Releases from Intentional Production and Use</b>	<p>"1. Each Party shall:</p> <ul style="list-style-type: none"> <li>(a) Prohibit and/or take the legal and administrative measures necessary to eliminate: <ul style="list-style-type: none"> <li>(i) Its production and use of the chemicals listed in Annex A subject to the provisions of that Annex; and</li> <li>(ii) Its import and export of the chemicals listed in Annex A in accordance with the provisions of paragraph 2; and</li> </ul> </li> <li>(b) Restrict its production and use of the chemicals listed in Annex B in accordance with the provisions of that Annex".</li> </ul> <p>2. Each Party shall take measures to ensure:</p> <ul style="list-style-type: none"> <li>(a) That a chemical listed in Annex A or Annex B is imported only: <ul style="list-style-type: none"> <li>(i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6; or</li> <li>(ii) For a use or purpose which is permitted for that Party under Annex A or Annex B;</li> </ul> </li> <li>(b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only: <ul style="list-style-type: none"> <li>(i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;</li> <li>(ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or</li> <li>(iii) To a State not Party to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to: <ul style="list-style-type: none"> <li>a. Protect human health and the environment by taking the necessary measures to minimize or prevent releases;</li> <li>b. Comply with the provisions of paragraph 1 of Article 6; and</li> <li>c. Comply, where appropriate, with the provisions of paragraph 2 of Part II of Annex B.</li> </ul> </li> </ul> </li> </ul> <p>The certification shall also include any appropriate supporting documentation, such as legislation, regulatory instruments, or administrative or policy guidelines. The exporting Party shall transmit the certification to the Secretariat within sixty days of receipt.</p> <p>(c) That a chemical listed in Annex A, for which production and use specific exemptions are no longer in effect for any Party, is not exported from it except for the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;</p>



	<p>(d) For the purposes of this paragraph, the term "State not Party to this Convention" shall include, with respect to a particular chemical, a State or regional economic integration organization that has not agreed to be bound by the Convention with respect to that chemical.</p> <p>3. Each Party that has one or more regulatory and assessment schemes for new pesticides or new industrial chemicals shall take measures to regulate with the aim of preventing the production and use of new pesticides or new industrial chemicals which, taking into consideration the criteria in paragraph 1 of Annex D, exhibit the characteristics of persistent organic pollutants.</p> <p>4. Each Party that has one or more regulatory and assessment schemes for pesticides or industrial chemicals shall, where appropriate, take into consideration within these schemes the criteria in paragraph 1 of Annex D when conducting assessments of pesticides or industrial chemicals currently in use.</p> <p>5. Except as otherwise provided in this Convention, paragraphs 1 and 2 shall not apply to quantities of a chemical to be used for laboratory-scale research or as a reference standard.</p> <p>6. Any Party that has a specific exemption in accordance with Annex A or a specific exemption or an acceptable purpose in accordance with Annex B shall take appropriate measures to ensure that any production or use under such exemption or purpose is carried out in a manner that prevents or minimizes human exposure and release into the environment. For exempted uses or acceptable purposes that involve intentional release into the environment under conditions of normal use, such release shall be to the minimum extent necessary, taking into account any applicable standards and guidelines".</p>
<p><b>Article 4</b> <b>Register of Specific Exemptions</b></p>	<p>"1. A Register is hereby established for the purpose of identifying the Parties that have specific exemptions listed in Annex A or Annex B. It shall not identify Parties that make use of the provisions in Annex A or Annex B that may be exercised by all Parties. The Register shall be maintained by the Secretariat and shall be available to the public.</p> <p>2. The Register shall include:</p> <ul style="list-style-type: none"> <li>(a) A list of the types of specific exemptions reproduced from Annex A and Annex B;</li> <li>(b) A list of the Parties that have a specific exemption listed under Annex A or Annex B; and</li> <li>(c) A list of the expiry dates for each registered specific exemption.</li> </ul> <p>3. Any State may, on becoming a Party, by means of a notification in writing to the Secretariat, register for one or more types of specific exemptions listed in Annex A or Annex B.</p> <p>4. Unless an earlier date is indicated in the Register by a Party, or an extension is granted pursuant to paragraph 7, all registrations of specific exemptions shall expire five years after the date of entry into force of this Convention with respect to a particular chemical.</p> <p>5. At its first meeting, the [COP] shall decide upon its review process for the entries in the Register.</p> <p>6. Prior to a review of an entry in the Register, the Party concerned shall submit a report to the Secretariat justifying its continuing need for registration of that exemption. The report shall be circulated by the Secretariat to all Parties. The review of a registration shall be carried out on the basis of all available information. Thereupon, the [COP] may make such recommendations to the Party concerned as it deems appropriate.</p> <p>7. The [COP] may, upon request from the Party concerned, decide to extend the expiry date of a specific exemption for a period of up to five years. In making its decision, the [COP] shall take due account of the special circumstances of the developing country Parties and Parties with economies in transition.</p> <p>8. A Party may, at any time, withdraw an entry from the Register for a specific exemption upon written notification to the Secretariat. The withdrawal shall take effect on the date specified in the notification.</p> <p>9. When there are no longer any Parties registered for a particular type of specific exemption, no new registrations may be made with respect to it".</p> <p>→ Establishes a register of specific exemptions for Parties for production or use of POPs listed in Annexes A or B.</p>



<b>Articles 5 and 6 Measures to reduce or eliminate releases</b>	→ Sets out obligations for Parties to take measures in view of the reduction or elimination of releases i) from unintentional production, and ii) from stockpiles and wastes.
<b>Article 7 Implementation plans</b>	<p>"1. Each Party shall:</p> <p>(a) Develop and endeavour to implement a plan for the implementation of its obligations under this Convention;</p> <p>(b) Transmit its implementation plan to the Conference of the Parties within two years of the date on which this Convention enters into force for it; and</p> <p>(c) Review and update, as appropriate, its implementation plan on a periodic basis and in a manner to be specified by a decision of the Conference of the Parties.</p> <p>2. The Parties shall, where appropriate, cooperate directly or through global, regional and subregional organizations, and consult their national stakeholders, including women's groups and groups involved in the health of children, in order to facilitate the development, implementation and updating of their implementation plans.</p> <p>3. The Parties shall endeavour to utilize and, where necessary, establish the means to integrate national implementation plans for persistent organic pollutants in their sustainable development strategies where appropriate".</p>
<b>Article 8 Listing of chemicals in Annexes A, B and C</b>	→ Sets out the procedures for listing POPs in Annexes A, B and C.

### III. SUPPORTIVE MEASURES

<b>A. IPPC</b>
<p><b>Article XX – Technical Assistance</b></p> <p>"The contracting parties agree to promote the provision of technical assistance to contracting parties, especially those that are developing contracting parties, either bilaterally or through the appropriate international organizations, with the objective of facilitating the implementation of this Convention".</p> <p>→ The CPM has adopted an IPPC capacity building strategic plan that can be found at: <a href="https://www.ippc.int/index.php?id=1110702&amp;tx_publication_pi1[showUid]=2180149">https://www.ippc.int/index.php?id=1110702&amp;tx_publication_pi1[showUid]=2180149</a></p> <p>→ The Phytosanitary Capacity Evaluation (PCE) tool is a national self evaluation tool developed for countries that allows countries to undertake a Gaps Analysis, develop and national IPPC strategic plan and then determine national capacity development priorities.</p> <p>→ The CPM does not consider a compliance mechanism appropriate for the IPPC, but has established an Implementation Review and Support System (IRSS) that will undertake a gaps analysis of ISPM implementation and then develop strategies to improved implementation when challenges are identified (see <a href="https://www.ippc.int/index.php?id=207746&amp;L=0">https://www.ippc.int/index.php?id=207746&amp;L=0</a>).</p>
<b>B. ICCAT</b>
<p>→ Contracting Parties have access to scientific research, statistical database and other information. They can also obtain technical assistance in establishing their statistical systems, and in receiving training from the Commission.</p> <p>→ Funding of many of the Commission's activities is through the regular budget, provided by Contracting Party contributions. Special funding arrangements have been established, with funds from the public and private sectors.</p>



## C. CITES

### **Decision Conf. 13.79-13.83 – National laws for implementation of the Convention**

"...Directed to the Secretariat, the Secretariat shall:

- a) with regard to Parties with legislation in Category 2 or 3 or not yet categorized, compile and analyse the information submitted by Parties on legislation adopted before the 14th meeting of the Conference of the Parties to fulfil the requirements laid down in the text of the Convention and Resolution Conf. 8.4;
- b) prepare or revise the analyses of national legislation and the categories, and advise the Parties concerned of the initial or revised analyses, specifying any requirements that are not yet met;
- c) prepare or revise the analyses of national legislation and the categories, and advise the Parties concerned of the initial or revised analyses, specifying any requirements that are not yet met;
- i) legal guidance in the preparation of necessary legislative measures;
- ii) training of CITES authorities and other relevant bodies responsible for the formulation of wildlife trade policies or legislation; and
- iii) any specific support relevant to the fulfilment of the legislative requirements for the implementation of CITES;
- d) report at the 53rd and subsequent meetings of the Standing Committee on Parties' progress in enacting adequate legislation and, if necessary, recommend the adoption of appropriate compliance measures, including suspension of trade pursuant to decisions taken by the Standing Committee;
- e) identify for the Standing Committee any countries that require attention as a priority under the National Legislation Project; and
- f) report at the 14th meeting of the Conference of the Parties on:
  - i) the legislation adopted by the Parties to implement the Convention and any recommendations relating to Parties that have not adopted adequate legislation for implementation of the Convention; and
  - ii) any progress concerning technical assistance provided to the Parties in the development of their national legislation for implementation of CITES."

### **Decision 13.87 – Enforcement Matters**

"...Directed to the Secretariat,

The Secretariat shall increase its efforts on capacity building and training of CITES enforcement officers, in particular in developing countries, countries with economies in transition and small island developing States, and assist in providing expertise also using regional organizations such as the one existing under the Lusaka Agreement."

### **Decisions 14.28 (Rev. CoP15 – 14.30 (Rev. CoP15 – Cooperation between Parties and promotion of multilateral measures**

### **Decisions 15.5 – 15.7 – CITES and livelihoods**

### **Decision 15.8 – National wildlife trade policy reviews**

### **Decisions 15.30 – 15.41 – National laws for implementation of the Convention**

### **Decisions 15.54 – 56 – Electronic permitting**

### **Decisions 15.57 – 15.58 – E-commerce of specimens of CITES-listed species**

### **Decisions 15.59 – 15.60 – Transport of live specimens**

### **Decisions 15.67 – 15.69 – Use of Taxonomic Serial Numbers**

→ CITES is funded through a Trust Fund administered by UNEP. CITES projects are funded through donor organizations and countries. Donor countries include the European Union, Australia, Belgium, Denmark, Finland, Germany; Hong Kong (China), Japan, Netherlands, Norway, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Funds have also been provided by approved non-governmental organizations.

→ There are two general types of CITES projects: (1) "Administrative projects" include, *inter alia*: those related to the funding of participants to CITES CoPs or other meetings; technical assistance (e.g. support in the development of CITES-related legislation); training; and the provision of information (published and electronic); (2) "Species" projects are those that fund scientific research related to a particular animal or plant species (e.g. status survey, management and conservation of the African grey parrot in one or more



countries).

→ The CITES Secretariat provides technical assistance to developing countries through special programmes. These programmes aim to raise the capacity of the Parties to implement the Convention. CITES' training activities are coordinated by Capacity-building Services. Capacity-building activities include: workshops, seminars, training packages, dissemination of information through Internet and Newsletter, technical assistance, etc. The Scientific Services provide assistance to the CITES Parties to enhance the scientific basis for decision-making in CITES. SCU is responsible for workshops on non-detriment findings and quota management, as well as the creation of identification manuals. Compliance and enforcement are also important focal activities of the CITES Secretariat. Regulatory Services monitor national reports, respond to permit queries, provide legal and policy advice for the development of national legislation, review of national wildlife trade policies and adoption of measures to promote and achieve compliance, provide technical assistance to enforcement officers in relation to allegations of illegal trade, organizes enforcement seminars and works with Capacity-building Services to prepare relevant training packages. Governing Bodies and Meeting Services assist the Parties with Convention-related documentation and provide logistic support in the organization of CITES meetings. Knowledge Management and Outreach Services manage the CITES website, media relations, and resource mobilization and provide information/communications technology, e-permitting, on-line capacity building and communications support to Parties.

→ Many Parties have asked the Secretariat for advice or assistance in the development of legislation to implement CITES. The Secretariat has responded in a variety of ways, including drafting models of law, developing a legislative checklist, undertaking country missions or organizing regional workshops, and providing written advice and/or comments on draft legislation. Parties to CITES have precisely defined an approach, the National Legislation Project, for reviewing and evaluating domestic measures to implement the Convention. Three categories and four criteria are used to assess a Party's national legislation. The project has been operating since 1992. Legislative assistance under the Convention could be further developed to address the interaction between environmental and trade legislation, as well as the necessary institutional co-operation between Ministries of Environment and Ministries of Trade.

→ Certain external contributions received by the Secretariat are used on species-related surveys, a number of which have been aimed at gathering information on a specific population's conservation status with a view to devising sustainable management programmes. Some of this financial support has also come from users of wildlife. Species covered in surveys with a sustainable use dimension include cats, parrots, pythons, crocodilians, lizards, corals and orchids.

→ Specific programmes include:

1. There is a Legal Affairs and Trade Policy team in Regulatory Services which assists the Parties, *inter alia*, in the development of "trade and environment" policies and to prepare "trade and environment" analyses for presentation and discussion at meetings of the CoP and for consideration by fora such as the WTO.
2. MIKE (Monitoring of the Illegal Killing of Elephants Programme). The objectives of this programme are to: measure levels and trends in the illegal hunting of elephants; determine changes in these trends over time; and determine the factors causing or associated with such changes, and to try and assess in particular to what extent observed trends are a result of any decisions taken by the CoP to CITES.
3. ETIS (Elephant Trade Information System). This comprehensive information system tracks illegal trade in ivory and other elephant products.
4. Species programmes on trade in African cherry, elephants, falcons, great apes, hawksbills turtles, mahogany and sturgeons.
5. EC-funded project to strengthen the CITES implementation capacity of developing countries to ensure sustainable wildlife management and non-detrimental trade.

#### D. CCAMLR

No provisions



#### E. MONTREAL PROTOCOL

→ **Article 10 (as modified by the London Amendment)** established a Multilateral Fund for incremental costs of phasing out ODS by developing countries. As of April 2006, the Fund has disbursed US\$1.984 billion through more than 5,250 projects and activities in 139 developing countries for the purpose of institutional strengthening, training, project preparation, and implementation of investment projects. The Fund has the obligation to meet all the agreed incremental costs of developing countries for implementing the control measures (ie. changing from ODS technologies to more ozone-friendly technologies and phasing out their consumption of ODS in accordance with the Protocol. The budget has been replenished in 1993, 1996, 1999 2002, and 2005, and the allocations so far have been as follows (Period Amount in US\$ in Millions): \$240 (1991- 1993); \$455 (1994 - 1996); \$466 (1997 to 1999); \$440 (2000 to 2002); \$474 (2003-2005); \$400.4 (2006-2008).

→ for more information on the Fund, see <http://www.multilateralfund.org/>

→ The Global Environmental Facility (GEF) also provides funds to countries with economies in transition. There are a number of GEF-eligible countries that are Parties to the Protocol, where the production or consumption of ODS is too high to qualify for support under the Multilateral Fund. These are mainly countries in Central and Eastern Europe, and the former Soviet Union. The same criteria apply for the funding of ozone projects under the GEF as under the Multilateral Fund. The GEF has allocated US\$160 million for 17 CEIT countries (countries with economies in transition) in the phase-out of Annex A and B substances, and spent an additional \$60 million to assist these countries with the phase-out of HCFCs and Methyl Bromide.

→ Technology Transfer under Article 10A occurs under fair and most favourable conditions.

#### F. BASEL CONVENTION

→ UNEP administers two trust funds for the Basel Convention:

1. A Trust Fund to meet the operational costs of the Convention (mainly costs of meetings of the Parties and for the Secretariat) where contributions by Parties are based on the UN scale of assessment and;
2. A Technical Cooperation Trust Fund to assist developing countries and other countries in need of assistance to implement the Convention. Funds received are from voluntary contributions and may be earmarked by donors for specific activities.

→ Basel has no specific financial mechanism to promote capacity building and to facilitate technology transfer.

→ Capacity building is carried out by the fourteen Basel Convention Regional and Coordinating Centres (BCRCs), the Secretariat, Parties and other stakeholders. The Secretariat also plays a facilitative role between donors, recipients and implementing agencies. With the adoption of the Basel Declaration on Environmentally Sound Management in 1999, efforts increased to assist Parties to minimize generation of hazardous and other wastes and to manage these wastes in an environmentally sound manner. The COP, at its sixth meeting in December 2002, adopted a Strategic Plan for the implementation of the Basel Convention to 2010, building on and using the framework of the 1999 Ministerial Basel Declaration on Environmentally Sound Management. Under the Strategic Plan the Parties approved US\$1,200,000 for 21 projects being carried out by the BCRCs and the Parties. During COP-10, Parties will consider the adoption of a Strategic Framework 2012-2021 for the implementation of the Basel Convention.

→ At COP-5, the Parties decided to enlarge the scope of the Technical Cooperation Trust Fund, on an interim basis, to assist those Parties which are developing countries or countries with economies in transition in cases of emergency and compensation for damage resulting from incidents arising from the transboundary movements of hazardous wastes or other wastes and their disposal. At COP6, the Parties adopted guidelines for the interim emergency mechanism. Contributions have been received for the interim emergency mechanism. The first and so far only request for assistance under this mechanism was received from, and granted to, Côte d'Ivoire in 2006 in connection with the incident of toxic waste dumping in Abidjan which took place in August 2006.

→ At COP7, Parties adopted a Ministerial Statement on Partnership for meeting the Global Waste Challenge that provides fundamental policy direction to Parties and the other stakeholders, focusing on implementing life-cycle approach, integrated waste management and regional approaches for priority waste streams such as POPs wastes, biomedical and healthcare wastes, electronic wastes, used lead-acid batteries and hazardous wastes mixed with hazardous wastes.

→ At COP-8, the Parties took note of cost estimates provided by the Secretariat for a number of activities planned for 2007-2008 aimed at addressing the priority waste streams identified by COP-7, for funding through the Basel Convention Technical Cooperation Trust Fund. The implementation of these activities will, therefore, be dependent on funding



through the Technical Cooperation Trust Fund or from external sources of funding. COP-8 also called upon Parties, use and support the Basel Convention regional and coordinating centres in the implementation of activities aimed at supporting implementation of the Convention. A decision on resource mobilization also called for increased efforts to identify sources of funding to support implementation of the Convention, including through the Global Environmental Facility and other multilateral sources of funding. Several decisions adopted by COP-8 highlighted the importance of cooperation and coordination between the Basel Convention, the Stockholm Convention and the Rotterdam Convention, in the conduct of relevant activities.

→ At COP-9, the Parties decided to enlarge the Technical Cooperation Trust Fund to establish an implementation fund in order to assist developing countries facing difficulties in their implementation of the Convention. This implementation fund would be subsidized by voluntary contributions.

## G. CBD

### Article 17 – Exchange of Information

"...2. Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1. It shall also, where feasible, include repatriation of information".

### Article 18 – Technical and Scientific Cooperation

"...3. The [COP], at its first meeting, shall determine how to establish a clearing-house mechanism to promote and facilitate technical and scientific cooperation.

4. The Contracting Parties shall, in accordance with national legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of this Convention. For this purpose, the Contracting Parties shall also promote cooperation in the training of personnel and exchange of experts".

→ The financial mechanism for the CBD is the GEF. By the end of 2009, GEF has provided total grants of US\$2.88 billion in the focal area of biodiversity, with co-financing of US\$7.85 billion.

## H. CARTAGENA PROTOCOL

### Article 20 – Information Sharing and the Biosafety Clearing-House (BCH)

"1. A [BCH] is hereby established as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention, in order to:

- (a) Facilitate the exchange of scientific, technical, environmental and legal information on, and experience with, [LMOs]; and
- (b) Assist Parties to implement the Protocol, taking into account the special needs of developing country Parties, in particular the least developed and small island developing States among them, and countries with economies in transition as well as countries that are centres of origin and centres of genetic diversity.

2. The [BCH] shall serve as a means through which information is made available for the purposes of paragraph 1 above. It shall provide access to information made available by the Parties relevant to the implementation of the Protocol. It shall also provide access, where possible, to other international biosafety information exchange mechanisms.

3. Without prejudice to the protection of confidential information, each Party shall make available to the [BCH] any information required to be made available to the [BCH] under this Protocol, and:

- (a) Any existing laws, regulations and guidelines for implementation of the Protocol, as well as information required by the Parties for the advance informed agreement procedure;
- (b) Any bilateral, regional and multilateral agreements and arrangements;
- (c) Summaries of its risk assessments or environmental reviews of [LMOs] generated by its regulatory process, and carried out in accordance with Article 15, including, where appropriate, relevant information regarding products thereof, namely, processed materials that are of [LMO] origin, containing detectable novel combinations of replicable genetic material obtained through the use of modern biotechnology;
- (d) Its final decisions regarding the importation or release of [LMOs]; and



(e) Reports submitted by it pursuant to Article 33, including those on implementation of the advance informed agreement procedure.

4. The modalities of the operation of the [BCH], including reports on its activities, shall be considered and decided upon by the COP serving as the MOP to this Protocol at its first meeting, and kept under review thereafter".

→ In 2004, COP-MOP 1 adopted modalities for the operation of the BCH (Decision BS-I/3), which outline the role of the BCH, its characteristics, its administration, the role of BCH focal points, modalities for technical overseeing and advice, the obligations of partner organizations, reporting arrangements, and modalities for periodic review by the COP-MOP.

#### **Article 22 – Capacity-Building**

"1. The Parties shall cooperate in the development and/or strengthening of human resources and institutional capacities in biosafety, including biotechnology to the extent that it is required for biosafety, for the purpose of the effective implementation of this Protocol, in developing country Parties, in particular the least developed and small island developing States among them, and in Parties with economies in transition, including through existing global, regional, subregional and national institutions and organizations and, as appropriate, through facilitating private sector involvement.

2. For the purposes of implementing paragraph 1 above, in relation to cooperation, the needs of developing country Parties, in particular the least developed and small island developing States among them, for financial resources and access to and transfer of technology and know-how in accordance with the relevant provisions of the Convention, shall be taken fully into account for capacity-building in biosafety. Cooperation in capacity-building shall, subject to the different situation, capabilities and requirements of each Party, include scientific and technical training in the proper and safe management of biotechnology, and in the use of risk assessment and risk management for biosafety, and the enhancement of technological and institutional capacities in biosafety. The needs of Parties with economies in transition shall also be taken fully into account for such capacity-building in biosafety".

→ In 2004, COP-MOP 1 adopted interim guidelines for the roster of experts on biosafety (Decision BS-I/4) to provide assistance, upon request, to developing countries and countries with economies in transition Parties to the Protocol in risk assessment and risk management, and in capacity building. It also adopted interim guidelines for the pilot phase of the voluntary fund for the roster of experts.

→ COP-MOP 3 requested the Liaison Group on Capacity-Building for Biosafety to develop, for consideration at the 4<sup>th</sup> meeting of the Protocol, draft criteria and minimum requirements (including minimum qualifications or experience), for experts to be included in the roster to assist countries in making their nominations to the roster and in re-assessing the nominations already made. The COP-MOP also requested the Liaison Group to explore the possibility of establishing a quality control mechanism.

→ In Decision BS-I/5 on capacity building, COP-MOP 1 also adopted an action plan for building capacities for the effective implementation of the Protocol, a coordination mechanism and indicators for monitoring implementation of the action plan.

→ In Decision BS-III/3, COP-MOP 3 adopted an updated version of the Action Plan for Building Capacities for the Effective Implementation of the Protocol, and invited the GEF, developed country Parties and Governments, as well as relevant organizations to increase their financial and technical support to developing countries and countries with economies in transition for the implementation of the Action Plan.

#### **Article 28 – Financial Mechanism and Resources**

"...2. The financial mechanism established in Article 21 of the Convention shall, through the institutional structure entrusted with its operation, be the financial mechanism for this Protocol.

3. Regarding the capacity-building referred to in Article 22 of this Protocol, the [COP] serving as the [MOP] to this Protocol, in providing guidance with respect to the financial mechanism referred to in paragraph 2 above, for consideration by the [COP], shall take into account the need for financial resources by developing country Parties, in particular the least developed and the small island developing States among them.

4. In the context of paragraph 1 above, the Parties shall also take into account the needs of the developing country Parties, in particular the least developed and the small island developing States among them, and of the Parties with economies in transition, in their efforts to identify and implement their capacity - building requirements for the purposes of the implementation of this Protocol.

6. The developed country Parties may also provide, and the developing country Parties and the Parties with economies in transition avail themselves of financial and technological resources for the implementation of the provisions of this Protocol through bilateral, regional and multilateral channels."



→ Following the recommendation from the first meeting of the COP-MOP, the COP, in its decision VII/20, provided detailed guidance to the GEF with regard to the Cartagena Protocol, including the eligibility criteria, strategy and programme priorities.

→ In November 2000, the GEF Council approved an initial strategy for assisting countries to prepare for the entry into force of the Cartagena Protocol on Biosafety, together with a global UNEP-GEF project to assist all eligible countries to develop national biosafety frameworks (NBFs). The project was launched in June 2001, and has assisted 123 countries. Under the initial strategy, the GEF also provided support to 12 demonstration projects for capacity building in implementation of NBFs.

→ In November 2003, the GEF approved an add-on project to the UNEP-GEF project on the Development of NBFs entitled Building Capacity for Effective Participation in the BCH of the Cartagena Protocol.

→ In Decision BS-II/5, COP-MOP encouraged all donors and their agencies as well as the GEF to simplify, to the extent possible, their project cycle requirements in order to expedite access, by developing country Parties and the Parties with economies in transition, to the financial resources needed to assist the implementation of the Protocol.

## I. NAGOYA PROTOCOL

### ARTICLE 11: THE ACCESS AND BENEFIT-SHARING CLEARING-HOUSE AND INFORMATION-SHARING

1. An Access and Benefit-sharing Clearing-House is hereby established as part of the clearing-house mechanism under Article 18, paragraph 3, of the Convention. It shall serve as a means for sharing of information related to access and benefit-sharing. In particular, it shall provide access to information made available by each Party relevant to the implementation of this Protocol.
2. Without prejudice to the protection of confidential information, each Party shall make available to the Access and Benefit-sharing Clearing-House any information required by this Protocol, as well as information required pursuant to the decisions taken by the Conference of the Parties serving as the meeting of the Parties to this Protocol. The information shall include:
  - (a) Legislative, administrative and policy measures on access and benefit-sharing;
  - (b) Information on the national focal point and competent national authority(ies); and
  - (c) Permits or their equivalent issued at the time of access as evidence of the decision to grant prior informed consent and of the establishment of mutually agreed terms.
3. Additional information, if available and as appropriate, may include:
  - (a) Relevant competent authorities of indigenous and local communities, and information as so decided;
  - (b) Model contractual clauses;
  - (c) Methods and tools developed to monitor genetic resources; and
  - (d) Codes of conduct and best practices.
4. The modalities of the operation of the Access and Benefit-sharing Clearing-House, including reports on its activities, shall be considered and decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first meeting, and kept under review thereafter.

## J. UNFCCC

### Article 4 – Commitments

- "... 3. The developed country Parties and other developed Parties included in Annex II shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties.
4. The developed country Parties and other developed Parties included in Annex II shall also assist the developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to those adverse effects.



5. The developed country Parties and other developed Parties included in Annex II shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly developing country Parties, to enable them to implement the provisions of the Convention. In this process, the developed country Parties shall support the development and enhancement of endogenous capacities and technologies of developing country Parties. Other Parties and organizations in a position to do so may also assist in facilitating the transfer of such technologies ...

7. The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.

8. In the implementation of the commitments in this Article, the Parties shall give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures..."

→ A Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention or "Non-Annex 1 Parties" (CGE) helps developing countries prepare national reports on climate change issues. A Least Developed Country Expert Group (LEG) advises such nations on establishing programmes for adapting to climate change and an Expert Group on Technology Transfer (EGTT) enhances technology transfer activities under the Convention.

→ At **COP16**, the COP affirmed that capacity-building is essential to enable developing country Parties to participate fully in, and to implement effectively, their commitments under the Convention; and that the goal is to enhance the capacity of developing country Parties in all areas. It decided to establish the **Cancun Adaptation Framework** and an **Adaptation Committee** to promote the implementation of enhanced action on adaptation in a coherent manner under the Convention.

#### **Article 9 – Subsidiary Body for Scientific and Technological Advice**

→ This subsidiary body is charged with providing advice on "ways and means of supporting endogenous capacity building in developing countries."

#### **Article 11 – Financial Mechanism**

→ Establishes a financial mechanism (the GEF) to provide financial resources, including for the transfer of technology. The COP entrusted the operation of the financial mechanism to the GEF.

→ GEF covers the difference (or "increment") between the costs of a project undertaken with global environmental objectives in mind, and the costs of an alternative project that the country would have implemented in the absence of global environmental concerns. Since 1991, approximately US\$ 2 billion was provided in grants from the GEF Trust Fund to climate change activities.

→ Further financial resources are provided for in the Special Climate Change Fund (SCCF) and the Least Developed Countries Fund (LDCF). The SCCF will finance projects relating to adaptation; technology transfer and capacity building; energy, transport, industry, agriculture, forestry and waste management; and economic diversification. The LDCF will support a work programme to assist LDCs to carry out, *inter alia*, the preparation and implementation of national adaptation programmes of action.

→ At COP 7 (Marrakech, November/December 2001), Parties established frameworks for capacity-building for developing countries and countries with economies in transition (Decisions 2/CP.7 and 3/CP.7) to help these countries comply with their obligations under the Convention.

In decision 9/CP.9, the COP decided to complete a first comprehensive review of the capacity building framework for developing countries by its tenth session, and to conduct further comprehensive reviews every five years thereafter. The results of the first comprehensive review of the capacity building frameworks, given in decisions 2/CP.10 and 3/CP.10, acknowledged some progress in a range of priority areas identified in the frameworks. However, the COP noted that significant gaps still needed to be filled and access to financial resources to be addressed. The COP reiterated the relevance of the frameworks contained in decisions 2/CP.7 and 3/CP.7 and identified key factors to be taken into account by the GEF (as an operating entity of the financial mechanism) when supporting capacity building activities in developing countries, as defined in the Strategic Approach to Enhance Capacity Building (GEF/C.22/8).

In its decision 2/CP.10, the COP decided on a time frame and process for a second comprehensive review of the implementation of the capacity building framework in developing countries. In decision 8/CP.15, the COP postponed to its sixteenth session (Cancun, November-December 2010) the review that should have initially been initiated at SBI 28



(June 2008) with a view to completing it at COP 15 (Copenhagen, November-December 2009th).

→ At SBI 28 (June 2008), the Secretariat was mandated, to provide, upon request, information on the assessment of financing needs of non-Annex I Parties with regard to the implementation of mitigation and adaptation measures (FCCC/SBI/2008/8). The National Economic, Environment and Development Study (NEEDS) for Climate Change Project was launched in order to support the participating countries in the selection of the key sectors for climate change mitigation and adaptation measures (on the basis of priorities identified in the national communications and in national development plans), the assessment of the financing required and received to implement mitigation and adaptation measures in the key sectors selected and identifying appropriate financial and regulatory instruments to support these measures, and in raising awareness and facilitating informed consensus among government agencies on the policy actions required to mobilize finance and investment in mitigation and adaptation measures. Eleven countries have availed of technical assistance from the secretariat to conduct financial needs assessments as part of this project.

→ At **COP 16**, the COP took note of the collective commitment by developed countries to provide new and additional resources, including forestry and investments through international institutions, approaching USD 30 billion for the period 2010.2012, with a balanced allocation between adaptation and mitigation; funding for adaptation will be prioritized for the most vulnerable developing countries, such as the least developed countries, small island developing States and Africa. It recognized that developed country Parties commit, in the context of meaningful mitigation actions and transparency on implementation, to a goal of mobilizing jointly USD 100 billion per year by 2020 to address the needs of developing countries.

A **Green Climate Fund** was established to be designated as an operating entity of the financial mechanism of the Convention under Article 11 to support projects, programmes, policies and other activities in developing country Parties. The Fund, supported by an independent secretariat, shall be governed by a board of 24 members comprising an equal number of members from developing and developed country Parties. The World Bank has been invited to serve as the interim trustee of the Green Climate Fund. A Transitional Committee will design the Green Climate Fund. A **Standing Committee** under the COP will assist the COP in exercising its functions with respect to the financial mechanism of the Convention in terms of improving coherence and coordination in the delivery of climate change financing, rationalization of the financial mechanism, mobilization of financial resources and measurement, reporting and verification of support provided to developing country Parties; Parties agree to further define the roles and functions of this Standing Committee. (Decision 1/CP.16)

#### **Technology development and transfer**

→ COP 16 confirmed the importance of promoting and enhancing national and international cooperative action on the development and transfer of environmentally sound technologies to developing country Parties to support action on mitigation and adaptation now, up to and beyond 2012, in order to achieve the ultimate objective of the Convention. It recognized that an early and rapid reduction in emissions and the urgent need to adapt to the adverse impacts of climate change require large-scale diffusion and transfer of, or access to, environmentally sound technologies, and stressed the need for effective mechanisms, enhanced means, appropriate enabling environments and the removal of obstacles to the scaling up of the development and transfer of technology to developing country Parties. In this regard, a **Technology Mechanism** was established and will consist of a **Technology Executive Committee** and a **Climate Technology Centre and Network**.



K.	KYOTO PROTOCOL
<p><b>Article 11</b></p> <p>"... 2. In the context of the implementation of Article 4, paragraph 1, of the Convention, in accordance with the provisions of Article 4, paragraph 3, and Article 11 of the Convention, and through the entity or entities entrusted with the operation of the financial mechanism of the Convention, the developed country Parties and other developed Parties included in Annex II to the Convention shall:</p> <p>(a) Provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in advancing the implementation of existing commitments under Article 4, paragraph 1(a), of the Convention that are covered in Article 10, subparagraph (a); and</p> <p>(b) Also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of advancing the implementation of existing commitments under Article 4, paragraph 1, of the Convention that are covered by Article 10 and that are agreed between a developing country Party and the international entity or entities referred to in Article 11 of the Convention, in accordance with that Article.</p> <p>The implementation of these existing commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among developed country Parties. The guidance to the entity or entities entrusted with the operation of the financial mechanism of the Convention in relevant decisions of the Conference of the Parties, including those agreed before the adoption of this Protocol, shall apply <i>mutatis mutandis</i> to the provisions of this paragraph.</p> <p>3. The developed country Parties and other developed Parties in Annex II to the Convention may also provide, and developing country Parties avail themselves of, financial resources for the implementation of Article 10, through bilateral, regional and other multilateral channels."</p>	
L.	ITTA
<p>→ <b>Article 20</b> provides for the establishment of the <b>Special Account</b> comprising of the Pre-Project Sub-Account and the Project Sub-Account. The sources of finance for the Special Account may come from the Common Fund for Commodities, regional and international financial institutions and voluntary contributions. The resources of the Special Account shall be used only for approved ITTO pre-projects and projects. Since it became operational in 1987, the ITTO has funded over 700 projects, pre-projects and activities for a total cost of over US\$ 280 million.</p> <p>→ <b>Article 21</b> of the ITTA, 1994 provides for the establishment of the <b>Bali Partnership Fund</b> for the sustainable management of tropical timber-producing forests. The fund is exclusively reserved for producing members to achieve the objective of Art 1 (d) of the ITTA, 1994 and is additional to the Special Account.</p>	
M.	UN FISH STOCKS AGREEMENT
<p>→ Part VII on "Requirements of Developing States" (Articles 24-26) provides for special assistance in favour of developing States in the implementation of the Agreement, in recognition of their special requirements in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. Such assistance also applies in respect to the conservation and management of straddling fish stocks and highly migratory fish stocks in areas under national jurisdiction of developing coastal States (Part I, Article 3.3).</p> <p><b>Article 24 – Recognition of the special requirements of developing States</b></p> <p>"1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies, provide assistance to developing States."</p> <p><b>Article 25 – Forms of cooperation with developing States</b></p> <p>"1. States shall cooperate, either directly or through subregional, regional or global organizations:</p> <p>(a) to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks</p>	



and highly migratory fish stocks and to develop their own fisheries for such stocks;

(b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11; and

(c) to facilitate the participation of developing States in subregional and regional fisheries management organizations and arrangements

2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services.

3. Such assistance shall, *inter alia*, be directed specifically towards:

(a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;

(b) stock assessment and scientific research; and

(c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment."

#### **Article 26 – Special assistance in the implementation of this Agreement**

"1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organizations should assist developing States in establishing new subregional or regional fisheries management organizations or arrangements, or in strengthening existing organizations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks".

→ An Assistance Fund under Part VII was established by Resolution 58/14 at the 58th Session of the UNGA in 2003 to assist developing States Parties in the implementation of the Agreement. The FAO administers the Fund in collaboration with the Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs of the United Nations, and invites States, intergovernmental organizations, international financial institutions, national institutions, NGOs as well as natural and juridical persons, to make voluntary financial contributions to the Fund. Paragraph 14 of the Terms of Reference of the Fund provides that financial assistance from the Fund can be sought for the following purposes:

a) Facilitating the participation of representatives from developing States Parties, in particular the least-developed among them and Small Island developing States Parties to the Agreement, in the meetings and activities of relevant regional and subregional fisheries management organizations and arrangements. Such assistance may include such costs as travel costs and, if appropriate, daily subsistence allowances for delegations participating in relevant regional and subregional fisheries management organisations or arrangements, including technical experts.

b) Assisting with travel costs, and if appropriate daily subsistence allowances, associated with the participation of developing States Parties, in particular the least-developed among them and small island developing States Parties to the Agreement, in relevant meetings concerning high seas fisheries of relevant global organizations, such as the United Nations Development Programme, the Food and Agriculture Organization and other specialised agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies. Applications for this purpose shall include details of how the meeting in question relates to implementation of the Agreement.

c) Supporting ongoing and future negotiations to establish new regional or subregional fisheries management organizations and arrangements in areas where such bodies are not currently in place, to renegotiate founding agreements for such organizations and arrangements and to strengthen existing subregional and regional fisheries management organizations and arrangements in accordance with the Agreement. A condition for such support is that reference to implementing the Agreement is made in founding documents and/or work programmes of the regional or subregional fisheries management organizations or arrangements and in the national fisheries policies and/or management plans of States Parties.

d) Building capacity for activities in key areas such as effective exercise of flag State responsibilities, monitoring, control and surveillance, data collection and scientific research relevant to straddling and highly migratory fish stocks on a national and/or regional level.

e) Facilitating exchange of information and experience on the implementation of the Agreement.



f) Assisting developing States Parties to the Agreement, in particular the least-developed among them and small island developing States, with human resources development, technical training, and technical assistance in relation to conservation and management of straddling and highly migratory fish stocks and development of fisheries for such stocks, consistent with the duty to ensure the proper conservation and management of such stocks.

g) Assisting in meeting the costs involved in proceedings for the settlement of disputes between States Parties to the Agreement concerning the interpretation or application of the Agreement in accordance with Part VIII of the Agreement or proceedings concerning the interpretation or application of a subregional, regional or global fishery agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks and complementary to any assistance provided under the ITLOS Trust Fund established by General Assembly resolution 55/7 or the Trust Fund for the International Court of Justice established by General Assembly resolution A/47/444 or the financial assistance fund established by the Permanent Court of Arbitration.

## N. ROTTERDAM CONVENTION

### **Article 11 – Obligations in relation to exports of chemicals listed in Annex III**

"1. Each exporting Party shall (...)

(c) Advise and assist importing Parties, upon request and as appropriate:

(i) To obtain further information to help them to take action in accordance with paragraph 4 of Article 10 and paragraph 2 (c) below; and

(ii) To strengthen their capacities and capabilities to manage chemicals safely during their life-cycle...."

### **Article 16 – Technical assistance**

"The Parties shall, taking into account in particular the needs of developing countries and countries with economies in transition, cooperate in promoting technical assistance for the development of the infrastructure and the capacity necessary to manage chemicals to enable implementation of this Convention. Parties with more advanced programmes for regulating chemicals should provide technical assistance, including training, to other Parties in developing their infrastructure and capacity to manage chemicals throughout their life-cycle".

→ Since 1998, the Secretariat has conducted a series of subregional workshops. Initially these workshops focused on awareness raising; however, since 2004, the focus has been on providing training in the practical implementation of the Rotterdam Convention. In addition, the Secretariat has organized trainer workshops designed to familiarize selected regional experts with the detailed workings of the Rotterdam Convention. These trained regional experts in turn participate in the Convention workshops as facilitators and presenters, and also work with designated national authorities in individual countries within their region to address specific problems in the implementation of the Convention. The Secretariat has also developed a guide and case studies on the development of national laws to implement the Convention, plans for the implementation of chemicals-related MEAs, and a resource kit to provide comprehensive information on the Convention to stakeholders as well as other tools and guidance documents that are available to Parties through workshops - which have focused on more specific issues and programmes, such as synergies, customs, industrial chemicals, etc. - and also published on the Rotterdam Convention's website.

→ In the final decision, at its third meeting in October 2006 (UNEP/FAO/RC/COP.3/CRP.10), the COP requested Parties to contribute to the voluntary trust fund in support of technical assistance and adopted the 2007-2008 programme of work for the regional and national delivery of technical assistance activities.

→ In October 2008, the COP 4 requested the Parties "in a position to do so to contribute to the Convention's Voluntary Special Trust Fund in support of technical assistance activities" and the Secretariat to support the activities as contained in the programme for the regional and national delivery of technical assistance for 2009-2011 (Decision RC-4/9) "as available resources allow and in accordance with Decision RC-4/12 on Financing and Budget for the Triennium 2009-2011".



## O. STOCKHOLM CONVENTION

### Article 12 – Technical assistance

"1. The Parties recognize that rendering of timely and appropriate technical assistance in response to requests from developing country Parties and Parties with economies in transition is essential to the successful implementation of this Convention.

2. The Parties shall cooperate to provide timely and appropriate technical assistance to developing country Parties and Parties with economies in transition, to assist them, taking into account their particular needs, to develop and strengthen their capacity to implement their obligations under this Convention.

3. In this regard, technical assistance to be provided by developed country Parties, and other Parties in accordance with their capabilities, shall include, as appropriate and as mutually agreed, technical assistance for capacity-building relating to implementation of the obligations under this Convention. Further guidance in this regard shall be provided by the [COP].

4. The Parties shall establish, as appropriate, arrangements for the purpose of providing technical assistance and promoting the transfer of technology to developing country Parties and Parties with economies in transition relating to the implementation of this Convention. These arrangements shall include regional and subregional centres for capacity-building and transfer of technology to assist developing country Parties and Parties with economies in transition to fulfil their obligations under this Convention. Further guidance in this regard shall be provided by the [COP].

5. The Parties shall, in the context of this Article, take full account of the specific needs and special situation of least developed countries and small island developing states in their actions with regard to technical assistance".

### Article 13 – Financial resources and mechanisms

→ Parties undertake to provide financial support and incentives to achieve the objective of the Convention. Developed country Parties shall provide new and additional financial resources to enable developing country Parties and Parties with economies in transition to meet the agreed full incremental costs of implementing measures which fulfil their obligations under the Convention.

→ Establishes a mechanism for the provision of adequate and sustainable financial resources to developing country Parties and Parties with economies in transition on a grant or concessional basis to assist in their implementation of the Convention.

→ Calls upon the first meeting of the COP to develop appropriate guidance to be provided to the mechanism. At its second meeting, and on a regular basis, the COP shall review the effectiveness of the mechanism.

### Article 14 – Interim financial arrangements

→ Entrusts the GEF, on an interim basis, to be the principal entity operating the financial mechanism referred to in Article 13.



#### IV. NON-COMPLIANCE MECHANISM

##### A. IPPC

###### **Article VII:2(f) – Requirements in relation to imports**

"2. In order to minimize interference with international trade, each contracting party, in exercising its authority under paragraph 1 of this Article, undertakes to act in conformity with the following: ...

f) Importing contracting parties shall, as soon as possible, inform the exporting contracting party concerned or, where appropriate, the re-exporting contracting party concerned, of significant instances of non-compliance with phytosanitary certification. The exporting contracting party or, where appropriate, the re-exporting contracting party concerned, should investigate and, on request, report the result of its investigation to the importing contracting party concerned".

→ Guidance for non-compliance of phytosanitary certification only is elaborated in the International Standard for Phytosanitary Measures No. 13 (2001), Guidelines for the Notification of Non-Compliance and Emergency Actions.

##### B. ICCAT

###### **Article IX**

"1. The Contracting Parties agree to take all action necessary to ensure the enforcement of this Convention. Each Contracting Party shall transmit to the Commission, biennially or at such other times as may be required by the Commission, a statement of the action taken by it for these purposes.

2. The Contracting Parties agree:

(a) to furnish, on the request of the Commission, any available statistical, biological and other scientific information the Commission may need for the purposes of this Convention;

(b) when their official agencies are unable to obtain and furnish the said information, to allow the Commission, through the Contracting Parties, to obtain it on a voluntary basis direct from companies and individual fishermen.

3. The Contracting Parties undertake to collaborate with each other with a view to the adoption of suitable effective measures to ensure the application of the provisions of this Convention and in particular to set up a system of international enforcement to be applied to the Convention area except the territorial sea and other waters, if any, in which a state is entitled under international law to exercise jurisdiction over fisheries".

→ The mandate and terms of reference for a Conservation and Management Measures Compliance Committee were adopted in Decision 95-15.

→ Some non-compliance procedures have been enforced, such as reducing catch quotas by the amount of excess catch over the quota and or by 125 per cent of the excess. Also, trade measures can be, and have been, applied to Contracting Parties (see Section II on Trade-Related Measures).



C. CITES
<b>(1) Provisions of the Convention</b>
<p><b>Article XIII – International Measures</b></p> <p>"1. When the Secretariat in the light of information received is satisfied that any species included in Appendix I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.</p> <p>2. When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.</p> <p>3. The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next CoP which may make whatever recommendations it deems appropriate".</p> <p>→The CoP regularly reviews the implementation of the Convention, and makes "whatever recommendations it deems appropriate" in relation to allegations of unsustainable trade or ineffective implementation of the Convention (Article XIII). Evaluation of compliance within the Convention is based on the Secretariat's reports to the COP and CITES subsidiary bodies (e.g. annual reports, the Review of Significant Trade, national legislation and alleged infractions and other implementation problems).</p> <p>→ The Standing Committee carries out such interim activities on behalf of the CoP as may be necessary and provides guidance and advice on matters brought to it by the Secretariat in the exercise of its function. The CoP often instructs or delegates its authority to the Standing Committee, e.g. pursuant to Resolution Conf. 8.4 (Rev. CoP15), to consider "appropriate measures", which may include restrictions on the trade in specimens of CITES-listed species. In various instances, e.g. pursuant to Resolution Conf. 12.8 (Rev. CoP13), the Secretariat recommends to the Standing Committee that it adopt certain compliance measures, which may include a recommended suspension of trade in the affected species with a particular Party. (See also Guide to CITES compliance procedures contained in Resolution Conf. 14.3).</p> <p>→ As CITES uses trade measures for its implementation, one recommendation for improving the effectiveness of the Convention is a temporary suspension of trade recommended by either the CoP or the Standing Committee. In practical terms, this provides a period of time during which the relevant Party can move from non-compliance to compliance by, <i>inter alia</i>, submitting missing annual reports, enacting adequate legislation, combating and reducing illegal trade or responding to specific recommendations of the Standing Committee concerning the implementation of Article IV of the Convention in the context of the Review of Significant Trade. Having identified a problem of serious non-compliance, it would be inappropriate for Parties not to respond. Recommendations for a suspension of trade may be regarded as a precautionary measure to prevent a continuing violation of the Convention that may also be detrimental to the survival of one or more CITES-listed species.</p> <p>→ Recommendations to suspend trade are generally used as a last resort and CITES puts primary emphasis on promoting and facilitating Parties' compliance through consultations and advice or assistance. Furthermore, such measures are generally used in cases involving significant levels of trade and where no domestic measures exist to enforce the Convention. Finally, such recommendations are withdrawn immediately upon a Party's return to compliance.</p>
<b>(2) Resolutions and Decisions of the Conference of the Parties</b>
<p><b>Resolution Conf. 8.4 (Rev. CoP15)</b></p> <p>"Instructs the Standing Committee to determine which Parties have not adopted appropriate measures for effective implementation of the Convention and to consider appropriate compliance measures, which may include recommendations to suspend trade, in accordance with Resolution Conf. 14.3";</p> <p><b>Resolution Conf. 11.3 (Rev. CoP15)– Compliance and enforcement</b></p> <p><b>"... Regarding compliance, control and cooperation</b></p>



*Urges* all Parties to strengthen, as soon as possible, the controls on trade in wildlife in the territories under their jurisdiction, and in particular controls on shipments from producing countries, including neighbouring countries, and to strictly verify the documents originating from such countries with the respective Management Authorities;

*Recommends* that:

a) all Parties:

- i) recognize the seriousness of illegal trade in wild fauna and flora and identify it as a matter of high priority for their national law enforcement agencies;
- ii) if appropriate, consider formulating national and regional action plans, incorporating timetables, targets and provisions for funding, designed to enhance enforcement of CITES, achieve compliance with its provisions, and support wildlife-law enforcement agencies;
- iii) provide officials who have wildlife-law enforcement responsibilities with equivalent training, status and authority to those of their counterparts in Customs and the police;
- iv) ensure strict compliance and control in respect of all mechanisms and provisions of the Convention relating to the regulation of trade in animal and plant species listed in Appendix II, and of all provisions ensuring protection against illegal traffic for the species included in the Appendices;
- v) in case of violation of the above-mentioned provisions, immediately take appropriate measures pursuant to Article VIII, paragraph 1, of the Convention in order to penalize such violation and to take appropriate remedial action; and
- vi) inform each other of all circumstances and facts likely to be relevant to illegal traffic and also of control measures, with the aim of eradicating such traffic;

b) Parties should advocate sanctions for infringements that are appropriate to their nature and gravity;

c) Parties that are not yet signatories to, or have not yet ratified, the UN Convention against Transnational Organized Crime and the UN Convention against Corruption consider doing so;

d) importing Parties in particular not accept under any circumstances or pretext, export or re-export documents issued by any authority, irrespective of its hierarchical level, other than the Management Authority officially designated as competent by the exporting or re-exporting Party and duly notified to the Secretariat;

e) if an importing country has reason to believe that specimens of an Appendix-II or -III species are traded in contravention of the laws of any country involved in the transaction, it:

- i) immediately inform the country whose laws were thought to have been violated and, to the extent possible, provide that country with copies of all documentation relating to the transaction; and
- ii) where possible, apply stricter domestic measures to that transaction as provided for in Article XIV of the Convention; and

f) Parties remind their diplomatic missions, their delegates on mission in foreign countries and their troops serving under the flag of the United Nations that they are not exempted from the provisions of the Convention;

***Regarding application of Article XIII, recommends*** that:

a) when, in application of Article XIII, the Secretariat requests information on an alleged infraction, Parties reply within a time-limit of one month or, if this is impossible, acknowledge within the month and indicate a date, even an approximate one, by which they consider it will be possible to provide the information requested;

b) when, within a one year time-limit, the information requested has not been provided, Parties provide the Secretariat with justification of the reasons for which they have not been able to respond;

c) if major problems with implementation of the Convention in particular Parties are brought to the attention of the Secretariat, the Secretariat work together with the Party concerned to try to solve the problem and offer advice or technical assistance as required;

d) if it does not appear a solution can be readily achieved, the Secretariat bring the matter to the attention of the Standing Committee, which may pursue the matter in direct contact with the Party concerned with a view to helping to find a solution; and

e) the Secretariat keep the Parties informed as fully as possible, through Notifications, of such implementation problems and of actions taken to solve them, and include such problems in its report of alleged infractions...".

**Resolution Conf. 11.17 (Rev. CoP14) – National reports**

*Recommends* that, when compiling their annual reports in accordance with Article VIII, paragraph 7, of the Convention and this Resolution, Parties pay particular attention to the



reporting of trade in specimens of species subject to annual export quotas. For these species, the report should indicate the level of the quota and the amount actually exported. In cases where trade is authorized in the reporting year in specimens obtained under a quota for the previous year, this should be reflected in the annual report;

Decides that:

- a) failure to submit an annual report by 31 October of the year following the year for which the report was due constitutes a major problem with the implementation of the Convention, which the Secretariat shall refer to the Standing Committee for a solution in accordance with Resolution Conf. 11.3 (Rev. CoP14); and
- b) the Secretariat may approve a valid request from a Party for a reasonable extension of time to the 31 October deadline for the submission of annual or biennial reports provided the Party submits to the Secretariat a written request, containing adequate justification, before that deadline;

Instructs the Standing Committee to determine, on the basis of reports presented by the Secretariat, which Parties have failed, for three consecutive years and without having provided adequate justification, to provide the annual reports required under Article VIII, paragraph 7 (a), of the Convention within the deadline (or any extended deadline) provided in the present Resolution;

Recommends that Parties not authorize trade in specimens of CITES-listed species with any Party that the Standing Committee has determined has failed, for three consecutive years and without having provided adequate justification, to provide the annual reports required under Article VIII, paragraph 7 (a), of the Convention within the deadline (or any extended deadline) provided in the present Resolution;

**Resolution Conf. 12.8 (Rev. CoP13)– Review of significant trade in specimens of Appendix-II species**

***"... Measures to be taken regarding the implementation of recommendations"***

- q) the Secretariat shall, in consultation with the Chairman of the Animals or Plants Committee, determine whether the recommendations referred to above have been implemented and report to the Standing Committee accordingly;
- r) where the recommendations have been met, the Secretariat shall, following consultation with the Chairman of the Standing Committee, notify the Parties that the species was removed from the process;
- s) when the Secretariat, having consulted with the Chairman of the Animals or Plants Committee, is not satisfied that a range State has implemented the recommendations made by the Animals or Plants Committee in accordance with paragraphs n) or o), it should recommend to the Standing Committee appropriate action, which may include, as a last resort, a suspension of trade in the affected species with that State. On the basis of the report of the Secretariat, the Standing Committee shall decide on appropriate action and make recommendations to the State concerned, or to all Parties;
- t) the Secretariat shall notify the Parties of any recommendations or actions taken by the Standing Committee;
- u) a recommendation to suspend trade in the affected species with the State concerned should be withdrawn only when that State demonstrates to the satisfaction of the Standing Committee, through the Secretariat, compliance with Article IV, paragraph 2 (a), 3 or 6 (a); and
- v) the Standing Committee, in consultation with the Secretariat and the Chairman of the Animals or Plants Committee, shall review recommendations to suspend trade that have been in place for longer than two years and, if appropriate, take measures to address the situation; ...".

→ For a list of outstanding Standing Committee recommendations made in accordance with this Resolution to suspend imports of CITES-listed species from certain countries, see Notification No. 20010/012 of 15 June 2010.



D. CCAMLR

**(1) Promotion of Compliance**

**Article XXI**

"1. Each Contracting Party shall take appropriate measures within its competence to ensure compliance with the provisions of this Convention and with conservation measures adopted by the Commission to which the Party is bound in accordance with Article IX of this Convention.

2. Each Contracting Party shall transmit to the Commission information on measures taken pursuant to paragraph 1 above, including the imposition of sanctions for any violation".

**Conservation Measure 10-03 (2009) – Port Inspections of Vessels Carrying Toothfish**

"... 1. Contracting Parties shall undertake inspection of all fishing vessels carrying *Dissostichus* spp. which enter their ports. The inspection shall be for the purpose of determining that if the vessel carried out harvesting activities in the Convention Area, these activities were carried out in accordance with CCAMLR conservation measures, and that if it intends to land or tranship *Dissostichus* spp. the catch to be unloaded or transhipped is accompanied by a *Dissostichus* catch document (DCD) required by Conservation Measure 10-05, and that the catch agrees with the information recorded on the document. ...

3. In the event that there is evidence that the vessel has fished in contravention of CCAMLR conservation measures, the catch shall not be landed or transhipped. The Contracting Party will inform the Flag State of the vessel of its inspection findings and will cooperate with the Flag State in taking such appropriate action as is required to investigate the alleged infringement, and, if necessary, apply appropriate sanctions in accordance with national legislation..."

**Conservation Measure 10-06 (2008) – Scheme to Promote Compliance by Contracting Party Vessels with CCAMLR Conservation Measures**

"... 1. At each annual meeting, the Commission will identify those Contracting Parties whose vessels have engaged in fishing activities in the Convention Area in a manner which has diminished the effectiveness of CCAMLR conservation measures in force, and shall establish a list of such vessels (Contracting Party Illegal Unregulated, and Unreported Vessel List or "CPP-IUU Vessel List"), in accordance with the procedures and criteria set out hereafter. ...

4. For the purposes of this conservation measure, the Contracting Parties are considered as having carried out fishing activities that have diminished the effectiveness of the conservation measures adopted by the Commission if:

(i) the Parties do not ensure compliance by their vessels with the conservation measures adopted by the Commission and in force, in respect of the fisheries in which they participate that are placed under the competence of CCAMLR;

(ii) their vessels are repeatedly included in the CP-IUU Vessel List.

5. In order for a Contracting Party's vessel to be included in the CP-IUU Vessel List there must be evidence, gathered in accordance with paragraphs 2 and 3, that the vessel has:

(i) engaged in fishing activities in the CCAMLR Convention Area without a licence issued in accordance with Conservation Measure 10-02, or in violation of the conditions under which such licence would have been issued in relation to authorised areas, species and time periods; or

(ii) not recorded or not declared its catches made in the CCAMLR Convention Area in accordance with the reporting system applicable to the fisheries it engaged in, or made false declarations; or

(iii) fished during closed fishing periods or in closed areas in contravention of CCAMLR conservation measures; or

(iv) used prohibited gear in contravention of applicable CCAMLR conservation measures; or

(v) transhipped or participated in joint fishing operations with, supported or re-supplied other vessels identified by CCAMLR as carrying out IUU fishing activities (i.e. vessels on the CP-IUU Vessel List or the NCP-IUU Vessel List (Non-Contracting Party Illegal Unregulated, and Unreported Vessel List), established under Conservation Measure 10-07); or

(vi) failed to provide, when required under Conservation Measure 10-05, a valid catch document for *Dissostichus* spp.; or

(vii) engaged in fishing activities in a manner that undermines the attainment of the objectives of the Convention in waters adjacent to islands within the area to which the Convention applies over which the existence of State sovereignty is recognised by all Contracting Parties, in the terms of the statement made by the Chairman on 19 May 1980; or

(viii) engaged in fishing activities contrary to any other CCAMLR conservation measures in a manner that undermines the attainment of the objectives of the Convention according to Article XXII of the Convention.



7. Contracting Parties whose vessels are included in the Draft CP-IUU Vessel List shall transmit their comments to the Executive Secretary before 1 September, including verifiable VMS data and other supporting information showing that the vessels listed have not engaged in the activities which led to their inclusion in the Draft CP-IUU Vessel List....

12. At each CCAMLR annual meeting, the Standing Committee on Implementation and Compliance (SCIC) shall, by consensus:

(a) adopt a Proposed CP-IUU Vessel List, following consideration of the Provisional CP-IUU Vessel List and information and evidence circulated under paragraph 10. The Proposed CP-IUU Vessel List shall be submitted to the Commission for approval;

(b) recommend to the Commission which, if any, vessels should be removed from the CP-IUU Vessel List adopted at the previous CCAMLR annual meeting, following consideration of that List and information and evidence circulated under paragraph 10...

14. SCIC shall recommend that the Commission should remove a vessel from the CP- IUU Vessel List if the Contracting Party proves that:

(i) the vessel did not take part in the activities described in paragraph 1 which led to the inclusion of the vessel in the CP-IUU Vessel List; or

(ii) it has taken effective action in response to the activities in question, including prosecution and imposition of sanctions of adequate severity; or

(iii) the vessel has changed ownership, including beneficial ownership if known to be distinct from the registered ownership, and that the new owner can establish the previous owner no longer has any legal, financial, or real interests in the vessel, or exercises control over it and that the new owner has not participated in IUU fishing; or

(iv) it has taken measures considered sufficient to ensure the granting of the right to the vessel to fly its flag will not result in IUU fishing. ...

22. Without prejudice to their rights to take proper action consistent with international law, Contracting Parties should not take any trade measures or other sanctions which are inconsistent with their international obligations against vessels using as the basis for the action the fact that the vessel or vessels have been included in the draft ICP-IUU Vessel List drawn up by the Executive Secretariat, pursuant to paragraph 6.

23. The Chair of the Commission shall request the Contracting Parties identified pursuant to paragraph 1 to take all necessary measures to avoid diminishing the effectiveness of the CCAMLR conservation measures resulting from their vessels' activities, and to advise the Commission of actions taken in that regard.

24. The Commission shall review, at subsequent CCAMLR annual meetings, as appropriate, action taken by those Contracting Parties to which requests have been made pursuant to paragraph 23, and identify those which have not rectified their fishing activities.

25. The Commission shall decide appropriate measures to be taken in respect to *Dissostichus* spp. so as to address these issues with those identified Contracting Parties. In this respect, Contracting Parties may cooperate to adopt appropriate multilaterally agreed trade-related measures, consistent with their obligations as members of the [WTO], that may be necessary to prevent, deter and eliminate the IUU fishing activities identified by the Commission. Multilateral trade-related measures may be used to support cooperative efforts to ensure that trade in *Dissostichus* spp. and its products does not in any way encourage IUU fishing or otherwise diminish the effectiveness of CCAMLR's conservation measures which are consistent with the United Nations Convention on the Law of the Sea 1982".

#### **Resolution 19/XXI – Flags of Non-Compliance**

"The Commission...urges all Contracting Parties and non-Contracting Parties cooperating with CCAMLR to:

1. Without prejudice to the primacy of the responsibility of the Flag State, to take measures or otherwise cooperate to ensure, to the greatest extent possible, that the nationals subject to their jurisdiction do not support or engage in IUU fishing, including engagement on board FONC (Flags of Non-Compliance) vessels in the CCAMLR Convention Area if this is consistent with their national law.

2. Ensure the full cooperation of their relevant national agencies and industries in implementing the measures adopted by CCAMLR.

3. Develop ways to ensure that the export or transfer of fishing vessels from their State to a FONC State is prohibited.

4. Prohibit the landings and transshipments of fish and fish products from FONC vessels."



## **(2) System of Inspection**

### **Article XXIV**

"1. In order to promote the objective and ensure observance of the provisions of this Convention, the Contracting Parties agree that a system of observation and inspection shall be established.

2. The system of observation and inspection shall be elaborated by the Commission on the basis of the following principles:

(a) Contracting Parties shall co-operate with each other to ensure the effective implementation of the system of observation and inspection, taking account of the existing international practice. This system shall include, *inter alia*, procedures for boarding and inspection by observers and inspectors designated by the Members of the Commission and procedures for flag state prosecution and sanctions on the basis of evidence resulting from such boarding and inspections. A report of such prosecutions and sanctions imposed shall be included in the information referred to in Article XXI of this Convention;

(b) in order to verify compliance with measures adopted under this Convention, observation and inspection shall be carried out on board vessels engaged in scientific research or harvesting of marine living resources in the area to which this Convention applies, through observers and inspectors designated by the Members of the Commission and operating under terms and conditions to be established by the Commission;

(c) designated observers and inspectors shall remain subject to the jurisdiction of the Contracting Party of which they are nationals. They shall report to the Member of the Commission by which they have been designated which in turn shall report to the Commission"....

→ The CCAMLR System of Inspection has been in operation since 1989. Inspections of fishing and fisheries research vessels of CCAMLR Flag States are being carried out regularly by CCAMLR Inspectors designated by Members.

→ In December 2000, the Commission established the Standing Committee on Observation and Inspection (SCOI) to consider and prepare advice to the Commission on all matters related to inspections undertaken and steps taken by Members to enforce compliance with Conservation Measures. In 2002, the Subcommittee was renamed the Standing Committee on Implementation and Compliance (SCIC).

→ In 2004, the Commission agreed on a set of principles required to develop and implement a comparative methodology for assessing compliance with CCAMLR conservation measures. The work on the compliance evaluation procedure has been continued in 2005 and 2006.

## **E. MONTREAL PROTOCOL**

### **Article 4A – Control of Trade with Parties**

"1. Where, after the phase-out date applicable to it for a controlled substance, a Party is unable, despite having taken all practicable steps to comply with its obligation under the Protocol, to cease production of that substance for domestic consumption, other than for uses agreed by the Parties to be essential, it shall ban the export of used, recycled and reclaimed quantities of that substance, other than for the purpose of destruction."

### **Article 8 – Non-compliance**

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

→ In 1992 MOP IV adopted non-compliance procedure and established an Implementation Committee. The functions of the Committee are to receive, consider and report on any submission made by one or more Parties and any information or observations forwarded by the Secretariat in connection with the preparation of a report referred to in Article 12 of the Protocol. After receiving a report by the Committee, the MOP may, taking into consideration the circumstances of the case, decide upon and call for steps to bring about full compliance with the Protocol, including measures to assist a Party's compliance and to further the Protocol's objectives.

→ The Multilateral Fund, discussed above, supports developing countries to implement the Protocol's control measures.



## F. BASEL CONVENTION

→ At COP-6, Parties adopted a decision on the compliance mechanism which sets out a Mechanism for Promoting Implementation and Compliance. The Mechanism is a non-confrontational, flexible and non-binding tool that aims at preventing and solving problems. It will be administered by a Committee composed of 15 members reflecting an equitable geographic representation of the five UN regional groups. Submissions to the Committee may be made by: a Party regarding itself; one Party regarding another Party; or the Secretariat. Submissions regarding compliance are forwarded to the Party in question, who may respond or provide comments. The Committee may provide advice to the Party to facilitate compliance, such as: advice on regulatory regimes; assistance, including financial and technical support; elaboration of voluntary compliance action plans; and/or follow-up arrangements. The Committee may also review general issues of compliance and implementation of the Convention, and may recommend that the COP take additional measures regarding specific cases.

→ At COP-7, Parties approved the Committee's first work programme, for 2005-2006, which instructed to the Committee to, in the exercise of its general review power, identify and analyse difficulties relating to reporting obligations under the Convention, the designation of focal points and competent authorities, and the development of national legislation to effectively implement the Convention. During the biennium 2005-2006, the Committee also provided guidance to the Secretariat in the preparation of a national legislation checklist, aimed at assisting Parties to ensure that they have appropriate implementing legislation in place.

→ The results of the implementation of the work programme for 2005-2006 were reported to COP-8. COP-8 approved the work programme for the Compliance Committee for 2007-2008 which, under the general review power, involved (a) further work on the national reporting, with a view to providing guidance on how national reporting could be improved, given that it underpins the operation of the Convention, and (v) work on the issue of illegal traffic.

→ At COP-9, Parties approved the Committee's work programme, for 2009-2011, which instructed to the Committee to address existing shortcomings and limitations in relation to the lack of specific submissions to the Committee, with a view to developing recommendations for the consideration of COP-10 the Conference of the Parties at its tenth meeting on appropriate actions to address those shortcomings and limitations. The Committee was also instructed to undertake several activities with the goal of improving national reporting as well as the implementation of and compliance with specific obligations under articles 3 (national definition of hazardous wastes) 4, (general obligations), 5 (designation of Competent Authorities and Focal Point) and 6 (transboundary movements between Parties). Since COP-9, the Committee has elaborated a directory of institutions providing training on preventing and combating illegal traffic and a Guidance Manual on improving national reporting.

→ To date, the Committee has received one self submission by Oman and nine submissions by the Secretariat.

→ The next meeting of the Committee is scheduled for 21-23 March 2011.

## G. CBD

### Article 26 – Reports

"Each Contracting Party shall, at intervals to be determined by the COP, present to the COP, reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention".

→ Three rounds of national reports have been organized so far: in 1998, 2001, 2004 and 2009.

→ The CBD does not have a compliance procedure. Formal assessment of Parties or non-parties compliance has not occurred.



## H. CARTAGENA PROTOCOL

### Article 27 – Liability and Redress

The [COP] serving as the [MOP] to this Protocol shall, at its first meeting, adopt a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of [LMOs], analysing and taking due account of the ongoing processes in international law on these matters, and shall endeavour to complete this process within four years."

→ COP-MOP 1 adopted decision BS-I/8 to establish an Open-ended Ad Hoc Working Group of Legal and Technical Experts on Liability and Redress. Among others, the Working Group would analyze issues related to: definition and nature of damage, valuation of damage to biodiversity and to human health, causation, channelling of liability, standard of liability, and standing/right to bring claims.

→ In Decision BS-III/12, COP-MOP3 agreed to convene a meeting of the Working Group before the 4<sup>th</sup> meeting of the COP-MOP, and urged developed country Parties, other Governments and donors to provide voluntary financial contributions to support the participation of developing country Parties and Parties with economies in transition in meetings of the Working Group.

### Article 33 – Monitoring and Reporting

"Each Party shall monitor the implementation of its obligations under this Protocol, and shall, at intervals to be determined by the [COP] serving as the [MOP] to this Protocol, report to the [COP] serving as the [MOP] to this Protocol on measures that it has taken to implement the Protocol".

→ COP-MOP 1 approved a format for the interim national report on implementation of the Protocol (Decision BS-I/9) and agreed on the frequency and timing of such reports (reports to be submitted 12 months prior to the meeting of the COP serving as the MOP to the Protocol at which they will be considered, with a general frequency of every four years but in the initial four-year period an interim report is to be submitted two years after the entry into force of the Protocol).

→ In Decision BS-III/14, COP-MOP 3 adopted the national reporting format, and requested Parties to submit their first regular national report, covering the period between entry into force of the Protocol for each Party and the reporting date, 12 months prior to its fourth meeting.

→ COP-MOP 5 adopted, through its decision BS-V/14, a format for second national reporting and requested Parties to fulfil their reporting obligations under Article 33 and in accordance relevant decisions.

### Article 34 – Compliance

"The [COP] serving as the [MOP] to this Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of this Protocol and to address cases of non-compliance. These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. They shall be separate from, and without prejudice to, the dispute settlement procedures and mechanisms established by Article 27 of the Convention".

→ COP-MOP 1 adopted procedures and mechanisms on compliance under the Protocol (Decision BS-I/7), including a Compliance Committee to meet twice a year with 15 members nominated by Parties and elected by the COP serving as the MOP to the Protocol. These members will serve in their individual capacity.

→ The Committee receives, through the Secretariat, submissions relating to compliance from: any Party with respect to itself; and any Party, which is affected or likely to be affected, with respect to another Party. The COP-MOP may, upon the recommendations of the Compliance Committee, decide upon one or more of the following measures:

- (a) Provide financial and technical assistance;
- (b) issue a caution to the concerned Party;
- (c) request the Executive Secretary to publish cases of non-compliance in the BCH; and
- (d) in cases of repeated non-compliance, take such measures as may be decided by the COP-MOP at its fourth meeting.

→ The first meeting of the Compliance Committee was held in March 2005, where its rules of procedures were developed. The Rules were adopted at COP-MOP 2 (Decision BS-II/1).

→ The second meeting of the Compliance Committee was held in February 2006. COP-MOP 3 considered the recommendations made by the Compliance Committee, and adopted decision BS-III/1, which among others, called upon "Parties that still have no appropriate legal and administrative measures in place at the national level to take the necessary measures and specifically to give appropriate attention to the development of national biosafety frameworks" and urged those "Parties that have duly completed the development of



their national biosafety frameworks to take measures necessary, including the allocation of appropriate resources, to make these frameworks operational and effective." The decision also invited "Parties and other Governments with well-developed and functional biosafety frameworks or systems to cooperate and share their practical experiences with those Parties that have a demand in this regard."

## I. NAGOYA PROTOCOL

### Article 25: Monitoring and Reporting

Each Party shall monitor the implementation of its obligations under this Protocol, and shall, at intervals and in the format to be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, report to the Conference of the Parties serving as the meeting of the Parties to this Protocol on measures that it has taken to implement this Protocol.

### Article 24: Procedures and Mechanisms to Promote Compliance with this Protocol

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, consider and approve cooperative procedures and institutional mechanisms to promote compliance with the provisions of this Protocol and to address cases of non-compliance. These procedures and mechanisms shall include provisions to offer advice or assistance, where appropriate. They shall be separate from, and without prejudice to, the dispute settlement procedures and mechanisms under Article 27 of the Convention.

## J. UNFCCC

### Article 13 – Resolution of Questions Regarding Implementation

"The [COP] shall, at its first session, consider the establishment of a multilateral consultative process, available to Parties on their request, for the resolution of questions regarding the implementation of the Convention".

→ Pursuant to Article 13, COP 4 considered the establishment of a Multilateral Consultative Committee (MCC) for the resolution of questions regarding the implementation of the UNFCCC. To date, the Parties have not established such a Committee or adopted a multilateral consultative process. The proposed MCC is to provide advice to Parties and to prevent disputes. The nature of the MCC is to be facilitative, non-judicial, transparent and co-operative. The outcome of the MCC may include recommendations and any measures that the MCC deems suitable for the effective implementation of the Convention.

### Reporting

→ At COP 16, the COP decided to enhance reporting in the national communications of **Parties included in Annex I** to the Convention on mitigation targets and on the provision of financial, technological and capacity-building support to developing country Parties. Developed countries are required to submit annual GHG inventories and inventory reports and biennial reports on their progress in achieving emission reductions, including information on mitigation actions to achieve their quantified economy-wide emissions targets and emission reductions achieved, projected emissions and on the provision of financial, technology and capacity-building support to developing country Parties. Developed countries are required to submit supplementary information on the achievement of quantified economy-wide emission reductions. COP 16 decided to enhance the guidelines for the reporting as well as the guidelines for the review of information in national communications.

COP 16 also decided to enhance reporting in national communications, including inventories, from Parties not included in Annex I to the Convention (**non-Annex I Parties**) on mitigation actions and their effects, and support received; with additional flexibility to be given to the least developed country Parties and small island developing states. The content and frequency of national communications from non-Annex I Parties will not be more onerous than that for Annex I Parties. Non-Annex I Parties are required to submit their national communications to the COP, in accordance with Article 12.1 of the Convention every four years or in accordance with any further decisions on frequency by the COP taking into account a differentiated timetable and the prompt provision of financial resources to cover the agreed full costs incurred by non-Annex I Parties in preparing their national communications. Developing countries, consistent with their capabilities and the level of support provided for reporting, are required also to submit biennial update reports, containing updates of national GHG inventories including a national inventory report and information on mitigation actions, needs and support received. There will be a process for international consultations and analysis of the biennial reports in the Subsidiary Body on Implementation, in a manner that is non-intrusive, non-punitive and respectful of national sovereignty; the international consultations and analysis aim to increase transparency of mitigation actions and their effects.



## K. KYOTO PROTOCOL

### Article 16

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

### Article 18

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

→ A strong compliance system has been developed to facilitate, promote and enforce compliance with the commitments under the Kyoto Protocol: The Compliance Committee consists of an enforcement branch and a facilitative branch.

The enforcement branch is responsible for determining whether an Annex I Party is not in compliance with its emissions targets, the methodological and reporting requirements for greenhouse gas inventories, and the eligibility requirements under the flexibility mechanisms. In case of disagreements between a Party and an expert review team, the enforcement branch shall determine whether to apply adjustments to greenhouse gas inventories or to correct the compilation and accounting database for the accounting of assigned amounts (i.e., a Party's allowable level of emissions over the Protocol's first commitment period (2008-2012)).

The mandate of the facilitative branch is to provide advice and facilitation to Parties in implementing the Protocol and to promote compliance by Parties with their commitments. It is responsible for addressing questions of implementation relating to response measures taken by Annex I Parties aimed at mitigating climate change in a way that minimizes their adverse impacts on developing countries and the use by Annex I Parties of the mechanisms as "supplemental" to domestic action. Furthermore, the facilitative branch may provide "early warning" of potential non-compliance with emissions targets, methodological and reporting commitments relating to greenhouse gas inventories, and commitments on reporting supplementary information in a Party's annual inventory.

[For further information on the Compliance Committee, including on questions of implementation that have been referred to it, please see the compliance home page on the UNFCCC website at: [http://unfccc.int/kyoto\\_protocol/compliance/items/2875.php](http://unfccc.int/kyoto_protocol/compliance/items/2875.php)].

## L. ITTA

### Article 19 – Administrative Account

"...7. If a member has not paid its full contribution to the administrative budget within four months after such contribution becomes due in accordance with paragraph 6 of this article, the Executive Director shall request that member to make payment as quickly as possible. If that member has still not paid its contribution within two months after such request, that member shall be requested to state the reasons for its inability to make payment. If at the expiry of seven months from the due date of contribution, that member has still not paid its contribution, its voting rights shall be suspended until such time as it has paid in full its contribution, unless the Council, by special vote, decides otherwise. If, on the contrary, a member has paid its full contribution to the administrative budget within four months after such contribution becomes due in accordance with paragraph 6 of this article, the member's contribution shall receive a discount as may be established by the Council in the financial rules of the Organization".

### Article 44 – Exclusion

"If the Council decides that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of this Agreement, it may, by special vote, exclude that member from this Agreement. The Council shall immediately so notify the depositary. Six months after the date of the Council's decision, that member shall cease to be a party to this Agreement".



## M. UN FISH STOCKS AGREEMENT

→ **Article 17** of Part IV on "Non-members and Non-participants" provides that a State which is not a member of a RFMO or a participant in an RFMA is not discharged from the obligation to cooperate, in accordance with the Convention and the Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks. It provides that such a State shall not authorize a vessel flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such an organization or arrangement.

→ **Article 18** of Part V on "Duties of the Flag State" requires the flag State to ensure that vessels flying its flag comply with subregional and regional conservation and management measures. It shall authorize vessels flying its flag to fish on the high seas only where it is able to exercise effective control over such vessels. To this end, a flag State is obligated to take measures vis-à-vis fishing vessels flying its flag that can ensure such control, including the establishment of a national record of fishing vessels authorized to fish on the high seas; prohibition of high seas fishing without the necessary authorization; requirement of permits for high seas fishing; prohibition of unauthorized fishing in areas under the national jurisdiction of other States; requirements for marking of fishing vessels and fishing gear in accordance with FAO Standard Specifications for the Marking and Identification of Fishing Vessels; obligation of reporting relevant fisheries data; implementation of observer programmes and national inspection schemes; implementation of vessel monitoring systems; regulation of transshipment; and an obligation for the flag State to ensure compatibility of the national monitoring, control and surveillance system with existing subregional, regional or global systems.

→ Part VI on "Compliance and Enforcement" (Articles 19-23) contains several provisions on compliance and enforcement, which involve compliance and enforcement by the flag State, the port State, as well as a subregional and regional cooperative enforcement scheme that may involve non-flag State enforcement.

### **Article 19 – Compliance and enforcement by the flag State**

"1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

- (a) enforce such measures irrespective of where violations occur;
- (b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;
- (c) require any vessel flying its flag to give information to the investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;
- (d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and
- (e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, *inter alia*, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels ...".

### **Article 20 – International cooperation in enforcement**

→ Provides that States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.



**Article 21 – Subregional and regional cooperation in enforcement**

→ Provides a subregional and regional cooperative scheme in enforcement that may involve boarding and inspection by non-flag State inspectors within the framework of an RFMO/A

**Article 22 – Basic procedures for boarding and inspection pursuant to article 21**

→ Provides for the basic procedures to be followed by duly authorized inspectors from an inspecting State in case of boarding and inspection.

**Article 23 – Measures taken by a port State**

→ Provides for enforcement measures, which may be taken by a port State, whenever fishing vessels are voluntarily in its ports or at its offshore terminals. Such measures may include inspection of documents, fishing gear and catch on board fishing vessels, and prohibition of landings and transshipments if national regulations exist to this effect.

**N. ROTTERDAM CONVENTION****Article 17 – Non-compliance**

"The COP shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for treatment of Parties found to be in non-compliance".

→ The COP has been discussing the non-compliance mechanisms required under Article 17 since its first meeting in 2004. At its third meeting in October 2006, the Parties established a working group to further discuss the mechanisms and procedures for non-compliance but no consensus was reached on the text.<sup>10</sup> The Parties agreed to use the draft text that resulted from the working group as the basis for further work at the fourth meeting of the COP.

→ At the fourth meeting of the COP in October 2008, the Parties convened to further consider for adoption the procedures and institutional mechanisms on non-compliance required under Article 17 based on the draft text (Decision RC-4/7):

"The COP (...)

1. *Decides* to consider further at its next ordinary meeting for adoption the procedures and institutional mechanisms on non-compliance required under article 17 of the Convention;
2. *Decides* also that the draft text contained in the annex to the present decision shall be the basis for its further work on the procedures and institutional mechanisms at its fifth meeting [in June 2011]."

**O. STOCKHOLM CONVENTION****Article 15 – Reporting**

→ Sets out a reporting mechanism on the implementation of the Convention.

**Article 16 – Effectiveness evaluation**

→ Requests the COP to evaluate the effectiveness of the Convention.

**Article 17 – Non-compliance**

"The [COP] shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for the treatment of Parties found to be in non-compliance".

→ At its first meeting in 2005, the COP decided to convene an open-ended ad hoc working group on non-compliance (OEWG NC) to consider procedures and institutional mechanisms on non-compliance under Article 17 of the Convention. The working group recommended the establishment of a compliance committee which is responsible for

<sup>10</sup> The issues that are particularly contentious include: membership, open versus closed meetings, the decision-making process, triggers for the non-compliance procedure, and possible measures to address non-compliance.



reviewing submissions made by one or more Parties and/or the Secretariat.

→ At its second meeting in 2006, the COP agreed to convene a second meeting of the OEWG NC prior to its third meeting in order to further consider the procedures and mechanisms on non-compliance.

→ At the third meeting of the COP, the Parties convened to negotiate further and to consider for adoption, at its fourth meeting, the procedures and institutional mechanisms on non-compliance required under article 17 of the Convention and on the basis of its Decision SC-3/20.

→ At the fourth meeting of the COP, the Parties adopted Decision SC-4/33 on further examination of the procedures and institutional mechanisms on non-compliance at the fifth meeting of the COP in April 2011

## V. DISPUTES

MEA	Relevant Provision	Any dispute?
A. IPPC	<p><b>Article XIII – Settlement of disputes</b></p> <p>"1. If there is any dispute regarding the interpretation or application of this Convention, or if a contracting party considers that any action by another contracting party is in conflict with the obligations of the latter under Articles V and VII of this Convention, especially regarding the basis of prohibiting or restricting the imports of plants, plant products or other regulated articles coming from its territories, the contracting parties concerned shall consult among themselves as soon as possible with a view to resolving the dispute.</p> <p>2. If the dispute cannot be resolved by the means referred to in paragraph 1, the contracting party or parties concerned may request the FAO Director-General to appoint a committee of experts to consider the question in dispute, in accordance with rules and procedures that may be established by the Commission.</p> <p>3. This Committee shall include representatives designated by each contracting party concerned. The Committee shall consider the question in dispute, taking into account all documents and other forms of evidence submitted by the contracting parties concerned. The Committee shall prepare a report on the technical aspects of the dispute for the purpose of seeking its resolution. The preparation of the report and its approval shall be according to rules and procedures established by the Commission, and it shall be transmitted by the Director-General to the contracting parties concerned. The report may also be submitted, upon its request, to the competent body of the international organization responsible for resolving trade disputes.</p> <p>4. The contracting parties agree that the recommendations of such a committee, while not binding in character, will become the basis for renewed consideration by the contracting parties concerned of the matter out of which the disagreement arose.</p> <p>5. The contracting parties concerned shall share the expenses of the experts.</p> <p>6. The provisions of this Article shall be complementary to and not in derogation of the dispute settlement procedures provided for in other international agreements dealing with trade matters".</p> <p>→ The Interim Commission established the Subsidiary Body on Dispute Settlement (SBDS) in 2001. The first meeting was held in April 2003. The SBDS is composed of seven experts, one from each of the seven FAO geographic regions. The role of the SBDS is to assist the IPPC Secretariat in helping contracting parties select a suitable dispute settlement system. The SBDS developed a Dispute Settlement Manual in 2006 to facilitate the implementation of the Convention's dispute settlement rules and procedures.</p> <p>→ The IPPC Dispute Settlement System Manual is available on the IPPC website at:  <a href="https://www.ippc.int/index.php?id=1110798&amp;tx_publication_pi1[showUid]=144307&amp;frompage=13412&amp;type=publication&amp;subtype=&amp;L=0#item">https://www.ippc.int/index.php?id=1110798&amp;tx_publication_pi1[showUid]=144307&amp;frompage=13412&amp;type=publication&amp;subtype=&amp;L=0#item</a></p>	No formal disputes, but many resolved in informal discussions.



MEA	Relevant Provision	Any dispute?
B. ICCAT	→ No provisions	No
C. CITES	<b>Article XVIII – Resolution of Disputes</b> "1. Any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of the present Convention shall be subject to negotiation between the Parties involved in the dispute. 2. If the dispute can not be resolved in accordance with paragraph 1 of this Article, the Parties may, by mutual consent, submit the dispute to arbitration, in particular that of the Permanent Court of Arbitration at The Hague, and the Parties submitting the dispute shall be bound by the arbitral decision".	No
D. CCAMLR	<b>Article XXV</b> "1. If any dispute arises between two or more of the Contracting Parties concerning the interpretation or application of this Convention, those Contracting Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice. 2. Any dispute of this character not so resolved shall, with the consent in each case of all Parties to the dispute, be referred for settlement to the ICJ or to arbitration; but failure to reach agreement on reference to the International Court or to arbitration shall not absolve Parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 above. 3. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this Convention".	No
E. MONTREAL PROTOCOL	→ Article 11 of the Vienna Convention for the Protection of the Ozone Layer applies to the Montreal Protocol and its amendments with regard to dispute settlement. <b>Vienna Convention: Article 11 – Settlement of disputes</b> "1. In the event of a dispute between Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation. 2. If the parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party. 3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory: (a) Arbitration in accordance with procedures to be adopted by the [COP] at its first ordinary meeting; (b) Submission of the dispute to the [ICJ]. 4. If the parties have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with paragraph 5 below unless the parties otherwise agree. 5. A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall be composed of an equal number of members appointed by each party concerned and a chairman chosen jointly by the members appointed by each party. The commission shall render a final and recommendatory award, which the parties shall consider in good faith. 6. The provisions of this Article shall apply with respect to any protocol except as provided in the protocol concerned".	No



MEA	Relevant Provision	Any dispute?
F. BASEL CONVENTION	<p><b>Article 20 – Settlement of Disputes</b></p> <p>"1. In case of a dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any protocol thereto, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.</p> <p>2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute, if the Parties to the dispute agree, shall be submitted to the [ICJ] or to arbitration under the conditions set out in Annex VI on Arbitration. However, failure to reach common agreement on submission of the dispute to the ICJ or to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by the means referred to in paragraph 1.</p> <p>3. When ratifying, accepting, approving, formally confirming or acceding to this Convention, or at any time thereafter, a State or political and/or economic integration organization may declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:</p> <p>(a) submission of the dispute to the [ICJ]; and/or</p> <p>(b) arbitration in accordance with the procedures set out in Annex VI.</p> <p>Such declaration shall be notified in writing to the Secretariat which shall communicate it to the Parties".</p> <p>→ In the event that arbitration is the chosen method (Annex VI), the tribunal is to draw up its own rules of procedure and render its decision in accordance with international law and with the provisions of the Convention. It may take all appropriate measures to establish the facts of the dispute and shall render a decision within a specified time limit. The award of the arbitral tribunal shall be accompanied by a statement of reasons and be final and binding on the Parties to the dispute.</p>	No
G. CBD	<p><b>Article 27 – Settlement of Disputes</b></p> <p>"1. In the event of a dispute between Contracting Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.</p> <p>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.</p> <p>3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:</p> <p>(a) Arbitration in accordance with the procedure laid down in Part 1 of Annex II;</p> <p>(b) Submission of the dispute to the [ICJ].</p> <p>4. If the parties to the dispute have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with Part 2 of Annex II unless the parties otherwise agree.</p> <p>5. The provisions of this Article shall apply with respect to any protocol except as otherwise provided in the protocol concerned".</p> <p>→ The procedures for arbitration are set out in Part 1 of Annex II. The award of the arbitral tribunal is binding on the parties to the dispute. In the event of a conflict between two Parties, the arbitral provisions provide for the standard three-member panel, as described under the Montreal Protocol and the Basel Convention. If more Parties are involved, Parties "in the same interest" are to nominate a "common" arbitrator.</p> <p>→ If the dispute is not submitted to arbitration or the ICJ because either the Parties have not chosen a procedure, or each has chosen a different procedure, the dispute must be submitted to conciliation. Conciliation does not lead to a binding decision, unless the Parties</p>	No



MEA	Relevant Provision	Any dispute?
	agree otherwise, but the proposals for resolution of the dispute must be considered in good faith. The procedures for the five-member conciliation commission are set out in Part 2 of Annex II.	
H. CARTAGENA PROTOCOL	→ According to Article 27(5) of the CBD and 32 of the Protocol, the dispute settlement provisions of the CBD in Article 27 apply to the Protocol	No
I. NAGOYA PROTOCOL	<b>No provisions</b>	<b>No</b>
J. UNFCCC	<p><b>Article 14 – Settlement of Disputes</b></p> <p>"1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the Convention, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.</p> <p>2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Convention, it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:</p> <p>(a) Submission of the dispute to the [ICJ], and/or</p> <p>(b) Arbitration in accordance with procedures to be adopted by the [COP] as soon as practicable, in an annex on arbitration.</p> <p>A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b) above. ...</p> <p>5. Subject to the operation of paragraph 2 above, if after twelve months following notification by one Party to another that a dispute exists between them, the Parties concerned have not been able to settle their dispute through the means mentioned in paragraph 1 above, the dispute shall be submitted, at the request of any of the parties to the dispute, to conciliation.</p> <p>6. A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall be composed of an equal number of members appointed by each party concerned and a chairman chosen jointly by the members appointed by each party. The commission shall render a recommendatory award, which the parties shall consider in good faith.</p> <p>7. Additional procedures relating to conciliation shall be adopted by the COP, as soon as practicable, in an annex on conciliation.</p> <p>8. The provisions of this Article shall apply to any related legal instrument which the COP may adopt, unless the instrument provides otherwise".</p>	No
K. KYOTO PROTOCOL	<p><b>Article 19</b></p> <p>"The provisions of Article 14 of the Convention on settlement of disputes shall apply <i>mutatis mutandis</i> to this Protocol".</p>	No
L. ITTA	<p><b>Article 31 – Complaints and disputes</b></p> <p>"Any complaint that a member has failed to fulfil its obligations under this Agreement and any dispute concerning the interpretation or application of this Agreement shall be referred to the Council for decision. Decisions of the Council on these matters shall be final and binding".</p>	No
M. UN FISH STOCKS	→ Part VIII on Peaceful Settlement of Disputes (Articles 27-32) contains provisions for the peaceful settlement of disputes arising out of the implementation of the Agreement.	No



MEA	Relevant Provision	Any dispute?
AGREEMENT	<p><b>Article 27 – Obligation to settle disputes by peaceful means</b>  "States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice".</p> <p><b>Article 28 – Prevention of disputes</b>  "States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and expeditious decision-making procedures within subregional and regional fisheries management organizations and arrangements and shall strengthen existing decision-making procedures as necessary".</p> <p><b>Article 29 – Disputes of a technical nature</b>  "Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes".</p> <p><b>Article 30 – Procedures for the settlement of disputes</b>  → Stipulates that the procedures for the settlement of disputes set out in Part XV of UNCLOS apply <i>mutatis mutandis</i> to any dispute between State Parties to the Agreement concerning the interpretation or application of the Agreement, whether or not they are also Parties to UNCLOS. The procedures also apply <i>mutatis mutandis</i> to any dispute between State Parties to the Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.</p> <p><b>Article 31 – Provisional measures</b>  "1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.  2. Without prejudice to article 290 of the Convention, the court or tribunal to which the dispute has been submitted under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in article 7, paragraph 5, and article 16, paragraph 2.  3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding article 290, paragraph 5, of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State".</p> <p><b>→ The relevant provisions of UNCLOS</b></p> <ul style="list-style-type: none"> <li>– Part XV of UNCLOS requires that State Parties to the Convention settle any dispute between them concerning the interpretation or application of the Convention by all peaceful means referred to in the UN Charter.</li> <li>– Where no settlement has been reached by recourse to procedures entailing non-binding decisions under Part XV, Section 1, the dispute shall be submitted at the request of any party, to the compulsory procedures entailing binding decisions provided for in Section 2 of Part XV.</li> <li>– Article 287 lists the following courts or tribunals as means for the settlement of disputes under Section 2: <ul style="list-style-type: none"> <li>– ITLOS (established in accordance with Annex VI of the Convention) including the Seabed Disputes Chamber;</li> </ul> </li> </ul>	



MEA	Relevant Provision	Any dispute?
	<ul style="list-style-type: none"> <li>- the ICJ;</li> <li>- an arbitral tribunal constituted in accordance with Annex VII of the Convention;</li> <li>- a special arbitral tribunal constituted in accordance with Annex VIII for one or more of the categories of disputes specified therein.</li> <li>- The jurisdiction of ITLOS comprises all disputes and all applications submitted to it in accordance with UNCLOS and all matters specifically provided for in any other agreement, which confers jurisdiction to the Tribunal.</li> <li>- Part XV, Section 3 on limitations and exceptions to the applicability of Section 2 stipulates in Article 297, paragraph 3 that disputes relating to the sovereign rights of the coastal State relating to the living resources in the EEZ, or the exercise of such rights in that zone, are excluded from the compulsory procedures entailing binding decisions provided for in Part XV, Section 2.</li> </ul> <p>Where no settlement has been reached by recourse to Part XV, Section 1, such disputes shall be submitted to the compulsory conciliation procedure established under Annex V, Section 2 of UNCLOS. Under such a procedure, only the submission to the proceedings is compulsory since the report of the commission of conciliation, including its conclusions or recommendations, remains non-binding upon the Parties to the dispute.</p>	
N. ROTTERDAM CONVENTION	<p><b>Article 20 – Settlement of disputes</b></p> <p>"1. Parties shall settle any dispute between them concerning the interpretation or application of this Convention through negotiation or other peaceful means of their own choice.</p> <p>2. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:</p> <p style="padding-left: 40px;">(a) Arbitration in accordance with procedures to be adopted by the [COP] in an annex as soon as practicable; and</p> <p style="padding-left: 40px;">(b) Submission of the dispute to the [ICJ].</p> <p>3. A Party that is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraph 2 (a).</p> <p>4. A declaration made pursuant to paragraph 2 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.</p> <p>5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the [ICJ] unless the parties to the dispute otherwise agree.</p> <p>6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the [COP] no later than the second meeting of the Conference".</p> <p>→ In Decision RC-1/11, COP 1 established rules for the settlement of disputes:</p> <ul style="list-style-type: none"> <li>- In cases of Arbitration under Article 20 paragraphs 1-5, an Arbitration Tribunal shall be established, consisting of three</li> </ul>	No



MEA	Relevant Provision	Any dispute?
	<p>members, which renders a decision within five months of being fully constituted. The decision is binding between the Parties to the dispute and Parties intervening under Article 10, insofar as it relates to matters in respect of which that Party intervened. The award shall be without appeal unless the Parties to the dispute have agreed in advance to an appellate procedure.</p> <ul style="list-style-type: none"> <li>– In cases of conciliation under Article 20 paragraph 6, a conciliation commission shall be established composed of five members. It shall take its decision by majority vote of its members and shall render a report for the resolution within 12 months of being established.</li> </ul>	
O. STOCKHOLM CONVENTION	<p><b>Article 18 – Settlement of disputes</b></p> <p>"1. Parties shall settle any dispute between them concerning the interpretation or application of this Convention through negotiation or other peaceful means of their own choice.</p> <p>2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:</p> <ul style="list-style-type: none"> <li>(a) Arbitration in accordance with procedures to be adopted by the [COP] in an annex as soon as practicable;</li> <li>(b) Submission of the dispute to the [ICJ].</li> </ul> <p>3. A Party that is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraph 2 (a).</p> <p>4. A declaration made pursuant to paragraph 2 or paragraph 3 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the depositary.</p> <p>5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the [ICJ] unless the parties to the dispute otherwise agree.</p> <p>6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the [COP] no later than at its second meeting".</p>	No



## VI. PROVISIONS FOR NON-PARTIES

### A. IPPC

#### **Article XVIII – Non -contracting parties**

"The contracting parties shall encourage any state or member organization of FAO, not a party to this Convention, to accept this Convention, and shall encourage any non-contracting party to apply phytosanitary measures consistent with the provisions of this Convention and any international standards adopted hereunder".

### B. ICCAT

→ In 1997, the Commission adopted a Resolution urging non-contracting parties, entities or fishing entities known to be fishing in the Convention area for species under ICCAT competence to either become Contracting Parties to the Convention or to attain status as a "Cooperating Party, Entity, or Fishing Entity" (Resolution 97-17-- Becoming a Cooperating Party, Entity or Fishing Entity). Such status requires the firm commitment to provide the same data that Contracting Parties are required to submit and to respect the Commission's management recommendations. Such status is granted for one-year periods and is subject to annual review. In 1999, Chinese Taipei and Mexico were granted Cooperating Status. In 2001, the Philippines was also granted Cooperating Status. Cooperating Status was granted to Guyana in 2003 and to the Netherlands Antilles in 2004. In 2002, Mexico became a member of ICCAT. In 2004, the Philippines became a member of ICCAT. This 1997 resolution was substituted by a Resolution 01-17 in 2002, and later by Recommendation 03-20 in 2003.

#### **Recommendation 03-20 on Criteria for Attaining the Status of Cooperating Non-Contracting Party, Entity or Fishing Entity (Entered into Force on June 19, 2004)**

"... 1. Each year, the Executive Secretary of ICCAT shall contact all non-Contracting Parties, Entities, or Fishing Entities known to be fishing in the Convention area for species under ICCAT competence to urge them to become a Contracting Party to ICCAT or to attain the status of a Cooperating non-Contracting Party, Entity or Fishing Entity. In doing so, the Executive Secretary shall provide a copy of all relevant Recommendations and Resolutions adopted by the Commission.

2. Any non-Contracting Party, Entity, or Fishing Entity that seeks to be accorded the status of a Cooperating non-Contracting Party, Entity or Fishing Entity shall apply to the Executive Secretary. Requests must be received by the Executive Secretary no later than ninety (90) days in advance of an ICCAT annual meeting, to be considered at that meeting.

3. Non-Contracting Parties, Entities or Fishing Entities requesting the status of Cooperating non-Contracting Party, Entity or Fishing Entity shall provide the following information in order to have this status considered by the Commission:

- a) where available, data on its historical fisheries in the Convention area, including nominal catches, number/type of vessels, name of fishing vessels, fishing effort and fishing areas;
- b) all the data that Contracting Parties have to submit to ICCAT based on the Recommendations adopted by ICCAT;
- c) details on current fishing presence in the Convention area, number of vessels and vessel characteristics and;
- d) information on any research programs it may have conducted in the Convention area and the information and the results of this research.

4. An applicant for Cooperating non-Contracting Party, Entity or Fishing Entity Status shall also:

- a) confirm its commitment to respect the Commission's conservation and management measures and;
- b) inform ICCAT of the measures it takes to ensure compliance by its vessels with ICCAT conservation and management measures .

5. The Commission's Permanent Working Group for the Improvement of ICCAT Statistics and Conservation Measures (hereinafter PWG) shall be responsible for reviewing requests for Cooperating Status and for recommending to the Commission whether or not an applicant should receive Cooperating Status. In this review, the PWG shall also consider information regarding the applicant available from other Regional Fisheries Management Organizations (RFMOs) as well as data submission of the applicant to the Commission. Caution shall be used so as not to introduce into the Convention area the excessive fishing capacity of other regions or IUU fishing activities in granting Cooperating Status to the applicant.

6. Cooperating non-Contracting Parties, Entities or Fishing Entity status shall be annually reviewed and renewed unless revoked by the Commission due to non-compliance with ICCAT conservation and management measures....".



## C. CITES

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

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

### Resolution Conf. 9.5 (Rev. CoP15) – Trade with States not party to the Convention

"... *Recommends* that:

- a) permits and certificates issued by States not party to the Convention not be accepted by Parties unless they contain:
  - i) the name, stamp and signature of a competent issuing authority;
  - ii) sufficient identification of the species concerned for the purposes of the Convention;
  - iii) certification of the origin of the specimen concerned including the export permit number from the country of origin, or justification for omitting such certification;
  - iv) in the case of export of specimens of a species included in Appendix I or II, certification to the effect that the competent scientific institution has advised that the export will not be detrimental to the survival of the species (in case of doubt a copy of such advice should be required) and that the specimens were not obtained in contravention of the laws of the State of export;
  - v) in the case of re-export, certification to the effect that the competent authority of the country of origin has issued an export document that substantially meets the requirements of Article VI of the Convention; and
  - vi) in the case of export or re-export of live specimens, certification to the effect that they will be transported in a manner that will minimize the risk of injury, damage to health or cruel treatment;
- b) Parties accept documentation from States not party to the Convention only if details of the competent authorities and scientific institutions of such States are included in the most recent updated list of the Secretariat or after consultation with the Secretariat;
- c) the recommendations above also apply to specimens in transit destined for or coming from States not party to the Convention, including specimens in transit between such States;
- d) particular attention be given to the inspection of specimens in transit exported or re-exported from, and/or destined for States not party to the Convention and to the inspection of documentation for such specimens;
- e) Parties authorize import from and export or re-export to States not party to the Convention of specimens of wild origin of Appendix-I species only in special cases where it benefits the conservation of the species or provides for the welfare of the specimens, and only after consultation with the Secretariat;
- f) Parties allow import from States not party to the Convention of captive-bred and artificially propagated specimens of Appendix-I species only after favourable advice from the Secretariat; and
- g) Parties communicate to the Secretariat any inconsistencies in trade involving States not party to the Convention;.

Instructs the Secretariat to seek, every two years, information on, and to include in its Directory, details of the designated competent authorities, scientific institutions and enforcement authorities of non-party States that were communicated by these States, together with the date on which the details were received";

→ The following non-parties have provided the information requested by Resolution Conf. 9.5 (Rev. CoP15) (i.e. proof that comparable documentation is being issued by competent authorities): Andorra; Angola; Bahrain; Cook Islands; Democratic People's Republic of Korea; Haiti; Iraq; Kiribati; Lebanon; Marshall Islands; Federated States of Micronesia; Niue; Tajikistan; and Tonga.

→ China is a Party to CITES. Hong Kong SAR, China, however, has its own CITES Management Authority and Scientific Authority. Macao SAR, China also has its own Management Authority.

→ Key non-parties currently in the process of adhering to the Convention include: Angola; Bahrain; Lebanon; and Turkmenistan.



## D. CCAMLR

### Article X

"1. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels which, in the opinion of the Commission, affects the implementation of the objective of this Convention"....

#### **Conservation Measure 10-07 (2009) – Scheme to Promote Compliance by Non-Contracting Party Vessels with CCAMLR Conservation Measures**

"...1. The Contracting Parties request non-Contracting Parties to cooperate fully with the Commission with a view to ensuring that the effectiveness of CCAMLR conservation measures is not undermined.

2. At each annual meeting the Commission shall identify those non-Contracting Parties whose vessels are engaged in IUU fishing activities in the Convention Area that threaten to undermine the effectiveness of CCAMLR conservation measures, and shall establish a list of such vessels (NCP-IUU Vessel List), in accordance with the procedures and criteria set out hereafter....

4. A non-Contracting Party vessel which has been sighted engaging in fishing activities in the Convention Area or which has been denied port access, landing or transshipment in accordance with Conservation Measure 10-03 is presumed to be undermining the effectiveness of CCAMLR conservation measures. In the case of any transshipment activities involving a sighted non-Contracting Party vessel inside or outside the Convention Area, the presumption of undermining the effectiveness of CCAMLR conservation measures applies to any other non-Contracting Party vessel which has engaged in such activities with that vessel.

5. When a non-Contracting Party vessel referred to in paragraph 4 enters a port of any Contracting Party, it shall be inspected by authorised Contracting Party officials in accordance with Conservation Measure 10-03 and shall not be allowed to land or tranship any fish species subject to CCAMLR conservation measures it might be holding on board unless the vessel establishes that the fish were caught in compliance with all relevant CCAMLR conservation measures and requirements under this Convention.

6. A Contracting Party which sights a non-Contracting Party vessel engaging in fishing activities in the Convention Area or denies a non-Contracting Party port access, landing or transshipment under paragraph 5 shall attempt to inform the vessel that it is presumed to be undermining the effectiveness of CCAMLR conservation measures, and that this information will be distributed to the Executive Secretary, all Contracting Parties and the Flag State of the vessel.

7. Information regarding such sightings or denial of port access, landings or transshipments, and the result of all inspections conducted in the ports of Contracting Parties, and any subsequent action shall be transmitted within one business day to the Commission in accordance with Article XXII of the Convention. The Executive Secretary shall transmit this information to all Contracting Parties, within one business day of receiving it, and to the Flag State of the vessel concerned as soon as possible and to appropriate regional fisheries organisations. At this time, the Executive Secretary shall, in consultation with the Chair of the Commission, request the Flag State concerned that, where appropriate, measures be taken in accordance with its applicable laws and regulations to ensure that the vessel desists from any activities that undermine the effectiveness of CCAMLR conservation measures, and that the Flag State report back to CCAMLR on the results of such enquiries and/or on the measures it has taken in respect of the vessel....

9. In order for a non-Contracting Party's vessel to be included in the NCP-IUU Vessel List, there must be evidence, gathered in accordance with paragraphs 3 and 8, that the vessel has:

- (i) been sighted engaging in fishing activities in the CCAMLR Convention Area; or
- (ii) been denied port access, landing or transshipment in accordance with Conservation Measure 10-03; or
- (iii) transhipped or participated in joint fishing operations with, supported or resupplied other vessels identified by CCAMLR as carrying out IUU fishing activities (i.e. vessels on the NCP-IUU Vessel List or the CP-IUU Vessel List established under Conservation Measure 10-06); or
- (iv) failed to provide, when required under Conservation Measure 10-05, a valid catch document for *Dissostichus* spp.; or
- (v) engaged in fishing activities in a manner that undermines the attainment of the objectives of the Convention...; or
- (vi) engaged in fishing activities contrary to any other CCAMLR conservation measures in a manner that undermines the attainment of the objectives of the Convention according to Article XXII of the Convention....

18. SCIC shall recommend that the Commission should remove a vessel from the NCP-IUU Vessel List if the non-Contracting Party proves that:

- (i) the vessel did not take part in the activities described in paragraph 9 which led to the inclusion of the vessel in the NCP-IUU Vessel List; or



- (ii) it has taken effective action in response to the activities in question, including prosecution and imposition of sanctions of adequate severity; or
  - (iii) the vessel has changed ownership including beneficial ownership if known to be distinct from the registered ownership and that the new owner can establish the previous owner no longer has any legal, financial, or real interests in the vessel, or exercises control over it and that the new owner has not participated in IUU fishing; or
  - (iv) it has taken measures considered sufficient to ensure the granting of the right to the vessel to fly its flag will not result in IUU fishing....
21. On approval of the NCP-IUU Vessel List, the Commission shall request non- Contracting Parties whose vessels appear thereon to take all necessary measures to address these activities, including if necessary, the withdrawal of the registration or of the fishing licences of these vessels, the nullification of the relevant catch documents and denial of further access to the CDS, and to inform the Commission of the measures taken in this respect.
22. Contracting Parties shall take all necessary measures, to the extent possible in accordance with their applicable laws and regulations, in order that:
- (i) the issuance of a licence to vessels on the NCP-IUU Vessel List to fish in waters under their fisheries jurisdiction is prohibited;
  - (ii) fishing vessels, support vessels, refuel vessels, mother-ships and cargo vessels flying their flag do not in any way assist vessels on the NCP-IUU Vessel List by participating in any transshipment or joint fishing operations, supporting or resupplying such vessels;
  - (iii) vessels on the NCP-IUU Vessel List should be denied access to ports unless for the purpose of enforcement action or for reasons of *force majeure* or for rendering assistance to vessels, or persons on those vessels, in danger or distress. Vessels allowed entry to port are to be inspected in accordance with relevant conservation measures;
  - (iv) where port access is granted to such vessels:
    - (a) documentation and other information, including DCDs where relevant are examined, with a view to verifying the area in which the catch was taken; and where the origin cannot be adequately verified, the catch is detained or any landing or transshipment of the catch is refused; and
    - (b) where possible
      - i. in the event catch is found to be taken in contravention of CCAMLR conservation measures, catch is confiscated;
      - ii. all support to such vessels, including non-emergency refuelling, resupplying and repairs is prohibited.
  - (v) the chartering of vessels on the NCP-IUU Vessel List is prohibited;
  - (vi) granting of their flag to vessels on the NCP-IUU Vessel List is refused;
  - (vii) imports, exports and re-exports of *Dissostichus* spp. from vessels on the NCP-IUU Vessel List are prohibited;
  - (viii) 'Export or Re-export Government Authority Validation' is not certified when the shipment (of *Dissostichus* spp.) is declared to have been caught by any vessel on the NCP-IUU Vessel List;
  - (ix) importers, transporters and other sectors concerned are encouraged to refrain from dealing with and from transshipping of fish caught by vessels on the NCP-IUU Vessel List;
  - (x) any appropriate information which is suitably documented is collected and submitted to the Executive Secretary, to be forwarded to Contracting Parties and non-Contracting Parties, entities or fishing entities cooperating with the Commission by participating in the CDS, with the aim of detecting, controlling and preventing the importation or exportation of, and other trade-related activities relating to, catches from vessels on the NCP-IUU Vessel List intended to circumvent this conservation measure.
30. The Commission shall decide appropriate measures to be taken in respect to *Dissostichus* spp. so as to address these issues with those identified non-Contracting Parties. In this respect, Contracting Parties may cooperate to adopt appropriate multilaterally agreed trade-related measures, consistent with their obligations as members of the World Trade Organization, that may be necessary to prevent, deter and eliminate the IUU activities identified by the Commission. Multilateral trade-related measures may be used to support cooperative efforts to ensure that trade in *Dissostichus* spp. and its products does not in any way encourage IUU fishing or otherwise diminish the effectiveness of CCAMLR's conservation measures which are consistent with the United Nations Convention on the Law of the Sea 1982."
- Policy to Enhance Cooperation between CCAMLR and Non-Contracting Parties** (as adopted in 1998 at CCAMLR-XVII and amended in 2006 at CCAMLR-XXV)
- "I. The Executive Secretary is requested to develop a list of non-Contracting Parties implicated in IUU fishing and or trade either after the adoption of this policy or during the three years prior, which has undermined the effectiveness of CCAMLR conservation measures.
- II. The Chairman of the Commission shall write to the Minister for Foreign Affairs of each non-Contracting Party included in the abovementioned list explaining how IUU fishing



undermines the effectiveness of CCAMLR conservation measures. The letter, as appropriate, will:

- (a) invite and encourage non-Contracting Parties to attend as observers at meetings of the Commission in order to improve their understanding of the work of the Commission and the effects of IUU fishing;
- (b) encourage non-Contracting Parties to accede to the Convention;
- (c) inform non-Contracting Parties of the development and implementation of the CCAMLR Catch Documentation Scheme for *Dissostichus* spp. and provide them with a copy of the conservation measure and the explanatory memorandum;
- (d) encourage non-Contracting Parties to participate in the CCAMLR Catch Documentation Scheme and draw their attention to the consequences for them of not participating;
- (e) request non-Contracting Parties to prevent their flag vessels from fishing in the Convention Area in a manner which undermines the effectiveness of measures adopted by CCAMLR to ensure conservation and sustainably managed fisheries;
- (f) if their flag vessels are involved in IUU fishing, request non-Contracting Parties to provide information to the CCAMLR Secretariat on their vessels' activities, including catch and effort data;
- (g) seek the assistance of non-Contracting Parties in investigating the activities of their flag vessels suspected of being involved in IUU fishing, including inspecting such vessels when they next reach port;
- (h) request non-Contracting Parties to report to the CCAMLR Secretariat on landings and transshipments in their ports in accordance with the format specified in Attachment A; and
- (i) request non-Contracting Parties to deny landing or transshipments in their ports for fish harvested in CCAMLR waters not taken in compliance with CCAMLR conservation measures and requirements under the Convention."

#### E. MONTREAL PROTOCOL

→ See Article 4 (in Section II above).

→ According to Article 4:8, trade restrictions do not apply if a non-party is in compliance with the Protocol.

#### F. BASEL CONVENTION

##### **Article 4 – General Obligations**

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

##### **Article 7 – Transboundary Movement from a Party through States which are not Parties**

"Paragraph 1 of Article 6 of the Convention shall apply *mutatis mutandis* to transboundary movement of hazardous wastes or other wastes from a Party through a State or States which are not Parties".

##### **Article 11 – Bilateral, Multilateral and Regional Agreements**

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

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 and those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention".

→ Parties can consent to transboundary movements with non-parties provided the provisions in the Convention are met.



G. CBD
<p>→ There are no articles that deal directly with the rights of non-parties. According to rules of procedure of the COP, meetings of the Convention are open to non-parties as observers.</p> <p>→ A few non-parties have submitted reports on measures taken to implement the CBD: Brunei Darussalam has submitted a "Report on Implementation of Programme of Work for the Global Taxonomy Initiative,"and the United States has submitted a "Voluntary Report on Implementation of Expanded Programme of Work on Forests."</p>
H. CARTAGENA PROTOCOL
<p><b>Article 24 – Non-Parties</b></p> <p>"1. Transboundary movements of [LMOs] between Parties and non-Parties shall be consistent with the objective of this Protocol. The Parties may enter into bilateral, regional and multilateral agreements and arrangements with non-Parties regarding such transboundary movements.</p> <p>2. The Parties shall encourage non-Parties to adhere to this Protocol and to contribute appropriate information to the [BCH] on [LMOs] released in, or moved into or out of, areas within their national jurisdictions".</p> <p>→ In Decision BS-I/11 COP-MOP 1 adopted a guidance on the transboundary movement of LMOs between Parties and non-Parties. According to this, in exporting LMOs to non-Parties, Parties should ensure prior notification and risk assessment and assist non-Parties to make informed decisions on the imports of LMOs. Parties should also apply their domestic regulatory framework to imports of LMOs from non-Parties, protect confidential information received from non-Parties and monitor transboundary movements of LMOs between Parties and non-Parties. Non-Parties are encouraged to ratify the Protocol, cooperate with Parties to achieve the Protocol's objective, adhere to the provisions of the Protocol on a voluntary basis, make available to the Biosafety Clearing-House information required under the Protocol and participate in capacity-building activities.</p>
I. NAGOYA PROTOCOL
<p><b>Article 18ter: Non-Parties</b></p> <p>The Parties shall encourage non-Parties to adhere to this Protocol and to contribute appropriate information to the Access and Benefit-sharing Clearing-House.</p>
J. UNFCCC
No provisions
K. KYOTO PROTOCOL
No provisions
L. ITTA
<p>No provisions</p> <p>→ According to the ITTO Secretariat, all States that are considered key players are members, except the Russian Federation.</p> <p>→ Non-member stakeholders have established two advisory groups to facilitate their participation in the Council and to provide input to the Council's decision-making process. These are the Trade Advisory Group and the Civil Society Advisory Group.</p>
M. UN FISH STOCKS AGREEMENT
<p><b>Article 33 – Non-parties to this Agreement</b></p> <p>"1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.</p> <p>2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of non-parties which undermine the effective implementation of this Agreement".</p>



N. ROTTERDAM CONVENTION

**Article 10 – Obligations in relation to imports of chemicals listed in Annex III**

"...9. A Party that, pursuant to paragraphs 2 and 4 above and paragraph 2 of Article 11, takes a decision not to consent to import of a chemical or to consent to its import only under specified conditions shall, if it has not already done so, simultaneously prohibit or make subject to the same conditions:

(a) Import of the chemical from any source ...".

O. STOCKHOLM CONVENTION

**Article 3 – Measures to reduce or eliminate releases from intentional production and use**

"(...)2. Each Party shall take measures to ensure: (...)

(b) That a chemical listed in Annex A for which any production or use specific exemption is in effect or a chemical listed in Annex B for which any production or use specific exemption or acceptable purpose is in effect, taking into account any relevant provisions in existing international prior informed consent instruments, is exported only:

(i) For the purpose of environmentally sound disposal as set forth in paragraph 1 (d) of Article 6;

(ii) To a Party which is permitted to use that chemical under Annex A or Annex B; or

(iii) To **a State not Party** to this Convention which has provided an annual certification to the exporting Party. Such certification shall specify the intended use of the chemical and include a statement that, with respect to that chemical, the importing State is committed to:

a. Protect human health and the environment by taking the necessary measures to minimize or prevent releases;

b. Comply with the provisions of paragraph 1 of Article 6; and

c. Comply, where appropriate, with the provisions of paragraph 2 of Part II of Annex B.

The certification shall also include any appropriate supporting documentation, such as legislation, regulatory instruments, or administrative or policy guidelines. The exporting Party shall transmit the certification to the Secretariat within sixty days of receipt (...)."



# ANNEX 1 – MEMBERSHIP IN WTO AND MEAS – COMPARATIVE TABLE

Parties	IPPC,1997	ICCAT	CITES	CITES, Bonn Amendment	CITES, Gaborone Amendment	CCAMLR	Vienna Convention	Montreal Protocol (MP)	MP - London Amendment	MP - Copenhagen Amendment	MP - Montreal Amendment	MP - Beijing Amendment	Basel Convention	Basel Convention Ban Amendment	Basel Convention Protocol on Liability	CBD	Biosafety Protocol	UNFCCC	Kyoto Protocol	ITTA	UN Fish Stocks Agreement	Rotterdam Convention	Stockholm Convention
WTO Members																							
Albania	1	1	1	1			1	1	1	1	1	1	1	1		1	1	1	1			1	1
Angola		1					1	1								1	1	1	1				1
Antigua and Barbuda	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1			1	1
Argentina	1		1	1	1	1	1	1	1	1	1	1	1			1		1	1			1	1
Armenia	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Australia	1		1	1	1	1	1	1	1	1	1	1	1			1		1	1	1	1	1	1
Austria	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Bahrain	1						1	1	1	1	1		1	1		1		1	1				1
Bangladesh	1		1				1	1	1	1	1	1	1			1	1	1	1				1
Barbados	1	1	1	1	1		1	1	1	1	1	1	1			1	1	1	1		1		1
Belgium	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Belize	1	1	1	1	1		1	1	1	1	1	1	1			1	1	1	1		1	1	1
Benin	1		1				1	1	1	1	1	1	1			1	1	1	1			1	1
Plurinational State of Bolivia	1		1		1		1	1	1	1	1		1	1		1	1	1	1	1		1	1
Botswana	1		1	1	1		1	1	1	1			1	1	1	1	1	1	1			1	1
Brazil	1	1	1	1	1	1	1	1	1	1	1	1	1			1	1	1	1	1	1	1	1
Brunei Darussalam			1	1	1		1	1	1	1	1	1	1	1		1		1	1				
Bulgaria	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Burkina Faso	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1			1	1
Burundi	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Cambodia	1		1	1			1	1	1	1	1	1	1			1	1	1	1	1			1



Parties	IPPC,1997	ICCAT	CITES	CITES, Bonn Amendment	CITES, Gaborone Amendment	CCAMLR	Vienna Convention	Montreal Protocol (MP)	MP - London Amendment	MP - Copenhagen Amendment	MP - Montreal Amendment	MP - Beijing Amendment	Basel Convention	Basel Convention Ban Amendment	Basel Convention Protocol on Liability	CBD	Biosafety Protocol	UNFCCC	Kyoto Protocol	ITTA	UN Fish Stocks Agreement	Rotterdam Convention	Stockholm Convention
Cameroon	1		1				1	1	1	1	1	1	1			1	1	1	1	1		1	1
Canada	1	1	1	1	1	1	1	1	1	1	1	1	1			1		1	1	1	1	1	1
Cape Verde	1	1	1	1	1		1	1	1	1	1		1			1	1	1	1			1	1
Central African Republic	1		1				1	1	1	1	1	1	1			1	1	1	1	1			1
Chad	1		1	1			1	1	1	1	1		1			1	1	1	1			1	1
Chile	1		1	1	1	1	1	1	1	1	1	1	1	1		1		1	1			1	1
China	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1		1	1
Colombia	1		1	1	1		1	1	1	1	1	1	1		1	1	1	1	1	1		1	1
Congo	1		1		1		1	1	1	1	1	1			1	1	1	1	1	1		1	1
Costa Rica	1		1				1	1	1	1	1	1	1			1	1	1	1		1	1	1
Côte d'Ivoire	1	1	1	1			1	1	1	1			1			1		1	1	1		1	1
Croatia	1	1	1	1	1		1	1	1	1	1	1	1			1	1	1	1			1	1
Cuba	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Cyprus	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Czech Republic	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Democratic Republic of the Congo			1				1	1	1	1	1	1	1		1	1	1	1	1	1		1	1
Denmark	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Djibouti	1		1	1			1	1	1	1	1		1			1	1	1	1			1	1
Dominica	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Dominican Republic	1		1				1	1	1	1	1	1	1			1	1	1	1			1	1
Ecuador	1		1	1			1	1	1	1	1		1	1		1	1	1	1	1		1	1
Egypt	1	1	1	1	1		1	1	1	1	1	1	1	1		1	1	1	1	1			1
El Salvador	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1



Parties	IPPC,1997	ICCAT	CITES	CITES, Bonn Amendment	CITES, Gaborone Amendment	CCAMLR	Vienna Convention	Montreal Protocol (MP)	MP - London Amendment	MP - Copenhagen Amendment	MP - Montreal Amendment	MP - Beijing Amendment	Basel Convention	Basel Convention Ban Amendment	Basel Convention Protocol on Liability	CBD	Biosafety Protocol	UNFCCC	Kyoto Protocol	ITTA	UN Fish Stocks Agreement	Rotterdam Convention	Stockholm Convention
Estonia	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
European Union	1	1				1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Fiji	1		1	1	1		1	1	1	1	1	1				1	1	1	1	1	1		1
Finland	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Former Yugoslav Republic of Macedonia (FYROM)	1		1	1			1	1	1	1	1	1	1	1		1	1	1	1			1	1
France	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Gabon	1	1	1	1			1	1	1	1	1	1				1	1	1		1		1	1
Gambia			1				1	1	1	1	1	1	1	1		1	1	1	1			1	1
Georgia	1		1	1			1	1	1	1	1		1			1	1	1	1			1	1
Germany	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Ghana	1	1	1		1		1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1
Greece	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Grenada	1		1	1	1		1	1	1	1	1	1				1	1	1	1				
Guatemala	1	1	1				1	1	1	1	1	1	1			1	1	1	1	1		1	1
Guinea	1	1	1				1	1	1				1			1	1	1	1		1	1	1
Guinea-Bissau	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Guyana	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1	1		1	1
Haiti	1						1	1	1	1	1					1		1	1				
Honduras	1	1	1				1	1	1	1	1	1	1			1	1	1	1	1			1
Hong Kong, China																							
Hungary	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Iceland	1	1	1	1	1		1	1	1	1	1	1	1			1		1	1		1		1



Parties	IPPC,1997	ICCAT	CITES	CITES, Bonn Amendment	CITES, Gaborone Amendment	CCAMLR	Vienna Convention	Montreal Protocol (MP)	MP - London Amendment	MP - Copenhagen Amendment	MP - Montreal Amendment	MP - Beijing Amendment	Basel Convention	Basel Convention Ban Amendment	Basel Convention Protocol on Liability	CBD	Biosafety Protocol	UNFCCC	Kyoto Protocol	ITTA	UN Fish Stocks Agreement	Rotterdam Convention	Stockholm Convention
India	1		1	1	1	1	1	1	1	1	1	1	1			1	1	1	1	1	1	1	
Indonesia	1		1	1			1	1	1	1	1	1	1	1		1	1	1	1	1	1		1
Ireland	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Israel	1		1				1	1	1	1	1	1	1			1		1	1				
Italy	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	
Jamaica	1		1	1			1	1	1	1	1	1	1			1		1	1			1	1
Japan	1	1	1	1		1	1	1	1	1	1	1	1			1	1	1	1	1	1	1	1
Jordan	1		1	1			1	1	1	1	1	1	1	1		1	1	1	1			1	1
Kenya	1		1	1	1		1	1	1	1	1		1	1		1	1	1	1		1	1	1
Korea, Republic of	1	1	1	1	1	1	1	1	1	1	1	1	1			1	1	1	1	1	1	1	1
Kuwait	1		1	1			1	1	1	1	1	1	1	1		1		1	1			1	1
Kyrgyzstan	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Latvia	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Lesotho			1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Liechtenstein			1	1	1		1	1	1	1	1	1	1	1		1		1	1			1	1
Lithuania	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Luxembourg	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Macao, China																							
Madagascar	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1			1	1
Malawi	1		1		1		1	1	1	1	1	1	1			1	1	1	1			1	1
Malaysia	1		1				1	1	1	1	1	1	1	1		1	1	1	1	1		1	
Maldives	1						1	1	1	1	1	1	1			1	1	1	1		1	1	1
Mali	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1			1	1
Malta	1		1	1			1	1	1	1	1	1	1			1	1	1	1		1		
Mauritania	1	1	1	1			1	1	1	1	1		1			1	1	1	1			1	1
Mauritius	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1		1	1	1



Parties	IPPC,1997	ICCAT	CITES	CITES, Bonn Amendment	CITES, Gaborone Amendment	CCAMLR	Vienna Convention	Montreal Protocol (MP)	MP - London Amendment	MP - Copenhagen Amendment	MP - Montreal Amendment	MP - Beijing Amendment	Basel Convention	Basel Convention Ban Amendment	Basel Convention Protocol on Liability	CBD	Biosafety Protocol	UNFCCC	Kyoto Protocol	ITTA	UN Fish Stocks Agreement	Rotterdam Convention	Stockholm Convention
Mexico	1	1	1	1	1		1	1	1	1	1	1	1			1	1	1	1	1		1	1
Moldova	1		1	1	1		1	1	1	1	1		1	1		1	1	1	1			1	1
Mongolia	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Morocco	1	1	1	1	1		1	1	1	1			1	1		1		1	1				1
Mozambique	1		1				1	1	1	1	1	1	1			1	1	1	1		1	1	1
Myanmar	1		1	1			1	1	1	1						1	1	1	1	1			1
Namibia	1	1	1	1		1	1	1	1	1	1	1	1			1	1	1	1		1	1	1
Nepal	1		1	1			1	1	1				1			1		1	1	1		1	1
Netherlands	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
New Zealand	1		1	1	1	1	1	1	1	1	1	1	1			1	1	1	1	1	1	1	1
Nicaragua	1	1	1				1	1	1	1			1			1	1	1	1			1	1
Niger	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1			1	1
Nigeria	1	1	1	1			1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Norway	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Oman	1		1	1			1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Pakistan	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Panama	1	1	1	1			1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Papua New Guinea	1		1	1			1	1	1	1			1			1	1	1	1	1	1		1
Paraguay	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1			1	1
Peru	1		1	1	1	1	1	1	1	1	1		1			1	1	1	1	1		1	1
Philippines	1	1	1		1		1	1	1	1	1	1	1			1	1	1	1	1		1	1
Poland	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Portugal	1		1		1		1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Qatar	1		1	1			1	1	1	1	1	1	1	1		1	1	1	1			1	1
Romania	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Rwanda	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1			1	1



Parties	IPPC,1997	ICCAT	CITES	CITES, Bonn Amendment	CITES, Gaborone Amendment	CCAMLR	Vienna Convention	Montreal Protocol (MP)	MP - London Amendment	MP - Copenhagen Amendment	MP - Montreal Amendment	MP - Beijing Amendment	Basel Convention	Basel Convention Ban Amendment	Basel Convention Protocol on Liability	CBD	Biosafety Protocol	UNFCCC	Kyoto Protocol	ITTA	UN Fish Stocks Agreement	Rotterdam Convention	Stockholm Convention
Saint Kitts and Nevis	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1				1
Saint Lucia	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1		1
Saint Vincent and the Grenadines	1	1	1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
The Kingdom of Saudi Arabia	1		1	1			1	1	1	1			1			1	1	1	1			1	
Senegal	1	1	1	1	1		1	1	1	1	1	1	1			1	1	1	1		1	1	1
Sierra Leone	1	1	1	1			1	1	1	1	1	1				1		1	1				1
Singapore	1		1				1	1	1	1	1	1	1			1		1	1			1	1
Slovakia	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Slovenia	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Solomon Islands	1		1	1	1		1	1	1	1	1					1	1	1	1		1		1
South Africa	1	1	1	1		1	1	1	1	1	1	1	1			1	1	1	1		1	1	1
Spain	1		1		1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Sri Lanka	1		1		1		1	1	1	1	1	1	1	1		1	1	1	1		1	1	1
Suriname	1		1	1			1	1	1	1	1	1				1	1	1	1	1		1	
Swaziland	1		1	1			1	1	1	1	1	1	1			1	1	1	1				1
Sweden	1		1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
Switzerland	1		1	1	1		1	1	1	1	1	1	1	1		1	1	1	1	1		1	1
Chinese Taipei																							
Tanzania	1		1		1		1	1	1	1	1	1	1	1		1	1	1	1			1	1
Thailand	1		1				1	1	1	1	1	1	1			1	1	1	1	1		1	1
Togo	1		1	1	1		1	1	1	1	1	1	1		1	1	1	1	1	1		1	1
Tonga	1						1	1	1	1	1	1	1			1	1	1	1		1	1	1



Parties	IPPC,1997	ICCAT	CITES	CITES, Bonn Amendment	CITES, Gaborone Amendment	CCAMLR	Vienna Convention	Montreal Protocol (MP)	MP - London Amendment	MP - Copenhagen Amendment	MP - Montreal Amendment	MP - Beijing Amendment	Basel Convention	Basel Convention Ban Amendment	Basel Convention Protocol on Liability	CBD	Biosafety Protocol	UNFCCC	Kyoto Protocol	ITTA	UN Fish Stocks Agreement	Rotterdam Convention	Stockholm Convention
Trinidad and Tobago	1	1	1	1	1		1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	
Tunisia	1	1	1	1			1	1	1	1	1	1	1	1		1	1	1	1			1	
Turkey	1	1	1	1			1	1	1	1	1	1	1	1		1	1	1	1			1	
Uganda	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1			1	1
Ukraine	1		1	1		1	1	1	1	1	1	1	1			1	1	1	1		1	1	1
United Arab Emirates	1		1	1			1	1	1	1	1	1	1			1		1	1			1	1
United Kingdom of Great Britain and Northern Ireland	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1	1	1	1	1	1	1	1
United States of America	1	1	1	1		1	1	1	1	1	1	1	1			1		1		1	1		
Uruguay	1	1	1	1	1	1	1	1	1	1	1	1	1	1		1		1	1		1	1	1
Bolivarian Republic of Venezuela	1	1	1		1		1	1	1	1	1	1	1			1	1	1	1	1		1	1
Vietnam	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1
Zambia	1		1				1	1	1	1	1	1	1			1	1	1	1				1
Zimbabwe			1	1	1		1	1	1	1						1	1	1	1				
Total Number of WTO Members party to the MEA	143	41	144	115	80	31	150	150	148	147	139	127	139	62	6	151	130	150	149	58	62	121	139



Parties	IPPC,1997	ICCAT	CITES	CITES, Bonn Amendment	CITES, Gaborone Amendment	CCAMLR	Vienna Convention	Montreal Protocol (MP)	MP - London Amendment	MP - Copenhagen Amendment	MP - Montreal Amendment	MP - Beijing Amendment	Basel Convention	Basel Convention Ban Amendment	Basel Convention Protocol on Liability	CBD	Biosafety Protocol	UNFCCC	Kyoto Protocol	ITTA	UN Fish Stocks Agreement	Rotterdam Convention	Stockholm Convention
<b>Non-WTO Members</b>																							
Afghanistan			1				1	1	1	1	1	1	1			1		1					
Algeria	1	1	1				1	1	1	1	1	1	1			1	1	1	1				1
Andorra							1	1	1	1	1	1	1	1									
Azerbaijan	1		1	1			1	1	1	1	1		1			1	1	1	1				1
Bahamas	1		1				1	1	1	1	1	1	1			1	1	1	1		1		
Belarus	1		1	1			1	1	1	1	1	1	1			1	1	1	1				1
Bhutan	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1				
Bosnia and Herzegovina	1		1	1			1	1	1	1	1		1			1	1	1	1			1	1
Comoros	1		1	1			1	1	1	1	1	1	1			1	1	1	1				1
Cook Islands	1					1	1	1	1	1	1	1	1	1		1		1	1		1	1	1
Democratic People's Republic of Korea	1						1	1	1	1	1	1	1			1	1	1	1			1	1
Equatorial Guinea	1	1	1	1			1	1	1	1	1	1	1			1		1	1			1	
Eritrea	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1			1	1
Ethiopia	1		1	1			1	1	1	1	1	1	1	1	1	1	1	1				1	1
Holy See (Vatican)							1	1	1	1	1	1											
Iran	1		1	1			1	1	1	1	1		1			1	1	1	1		1	1	1
Iraq	1						1	1	1	1	1	1						1	1				
Kazakhstan			1	1			1	1	1				1			1	1	1	1			1	1
Kiribati							1	1	1	1	1	1	1			1	1	1	1		1		1
Lao People's Democratic Republic	1		1	1			1	1	1	1	1	1	1			1	1	1	1			1	1



Parties	IPPC,1997	ICCAT	CITES	CITES, Bonn Amendment	CITES, Gaborone Amendment	CCAMLR	Vienna Convention	Montreal Protocol (MP)	MP - London Amendment	MP - Copenhagen Amendment	MP - Montreal Amendment	MP - Beijing Amendment	Basel Convention	Basel Convention Ban Amendment	Basel Convention Protocol on Liability	CBD	Biosafety Protocol	UNFCCC	Kyoto Protocol	ITTA	UN Fish Stocks Agreement	Rotterdam Convention	Stockholm Convention
Lebanon	1						1	1	1	1	1	1	1			1		1	1		1	1	1
Liberia	1		1				1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Libyan Arab Jamahiriya	1	1	1	1			1	1	1	1			1			1	1	1	1		1	1	1
Marshall Islands							1	1	1	1	1	1	1			1	1	1	1		1	1	1
Micronesia, Federated States of	1						1	1	1	1	1	1	1			1		1	1		1		1
Monaco			1	1	1		1	1	1	1	1	1	1			1		1	1		1		1
Montenegro	1		1	1			1	1	1	1	1	1	1	1		1	1	1	1				1
Nauru							1	1	1	1	1	1	1			1	1	1	1		1		1
Niue	1						1	1	1	1	1	1				1	1	1	1		1		1
Palau	1		1	1	1		1	1	1	1	1	1				1	1	1	1		1		
Russian Federation	1	1	1	1		1	1	1	1	1	1	1	1			1		1	1		1		
Samoa	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1		1	1	1
San Marino			1	1			1	1	1	1	1	1				1		1	1				
Sao Tome and Principe	1	1	1	1			1	1	1	1	1	1				1		1	1				1
Serbia	1		1	1			1	1	1	1	1	1	1	1		1	1	1	1			1	1
Seychelles	1		1	1	1		1	1	1	1	1	1	1			1	1	1	1		1		1
Somalia			1				1	1	1	1	1	1	1				1		1			1	1
Sudan	1		1				1	1	1	1	1	1	1			1	1	1	1			1	1
Syrian Arab Republic	1	1	1	1			1	1	1	1	1		1	1	1	1	1	1	1			1	1
Tajikistan	1						1	1	1	1	1	1				1	1	1	1				1
Timor-Leste							1	1	1	1	1	1				1		1	1				
Turkmenistan							1	1	1	1	1	1	1			1	1	1	1				



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Tuvalu	1						1	1	1	1	1	1				1		1	1		1		1
Uzbekistan			1	1	1		1	1	1	1	1	1	1			1		1	1				
Vanuatu	1	1	1	1		1	1	1	1	1						1		1	1	1			1
Yemen	1		1	1			1	1	1	1	1	1	1		1	1	1	1	1			1	1



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Total Number of non-WTO Members party to the MEA	34	7	31	26	7	3	46	46	47	45	43	39	36	7	4	42	30	44	44	2	15	19	33
Total Number of MEA Members	177	48	175	141	87	34	196	196	195	192	182	166	175	69	10	193	160	194	193	60	77	140	172