

annexes and has been duly authorised, in accordance with its internal procedures to sign, ratify, accept, approve or accede to the instruments concerned.

### Explanatory Note

No attempt has been made to give a complete list of definitions. The AALCC Secretariat is of the view that the definition of desertification as set out in Agenda 21 is appropriate. For the definitions of other terms which may be necessary to be defined in the context of the Convention advice could be sought from World Meteorological Organization and such other organisations engaged in similar work. Some elements of the OAU and the ECA texts have also been included in the AALCC text. The definition of the term "Regional Economic Integration Organisation" is the standard one as set out in Climate Change and Biodiversity Conventions.

### Article 2

#### Principles

- (a) States have, in accordance with the Charter of the United Nations and Principles of International Law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other states or areas beyond the limits of national jurisdiction.
- (b) The Principle of Sovereignty of States shall prevail in all international programmes and measures for combating desertification and mitigate drought.
- (c) The Principle of shared, but differentiated responsibility in promoting and implementing the provisions of the Convention.
- (d) The right to development must be realized in such a way as to satisfy the development and environmental needs of present and future generations.
- (e) States should co-operate in promoting an open international economic system that will facilitate economic growth and sustainable development in all countries, thus enabling particularly those countries which are affected by drought and desertification to take effective action.

### Explanatory Note

It appears that the divergent views on the inclusion of an article on Principles could be narrowed down if the list is precise and the principles to be included are

generally acceptable. The AALCC Secretariat draft text is a tentative one. There are certain principles in the OAU draft (A/Ac.241/12, paragraph 29) which may be considered in this context.

### Article 3

#### Objective

The overall objective of the convention is to promote and strengthen international co-operation to combat desertification and mitigate drought more effectively in the regions affected by such problems. The immediate objectives are : to prevent land degradation and the destruction of ecosystems; to establish a corroborative framework of co-operation and partnership based on mutual interest; to strengthen capacity-building at the local, national, sub-regional and regional levels; and to establish a system to monitor and review the commitments of the parties to the Convention and its other instruments.

### Explanatory Note

Perhaps the AALCC draft may be considered as short and precise. In view of the pending decision on the nature and time-table for the conclusion of regional instruments, it is felt that elaboration of the article on objective could be deferred until a clear view appears on that issue.

### Article 4

#### Commitments

1. The contracting Parties, taking into account their specific national and regional developments priorities, objectives and circumstances, shall:
  - (a) formulate, implement publish and periodically update their national and, where appropriate, regional programmes containing measures to mitigate drought and combat desertification;
  - (b) Develop and strengthen the knowledge base and information for regions prone to desertification and drought, including the economic and social aspects of these ecosystems;
  - (c) Strengthen regional and global systematic observation networks linked to the development of national system for the observation of land degradation and desertification caused both by climatic fluctuations and by human impact and identify priority areas for action;
  - (d) Support the integrated data collection and research work of programmes related to desertification and drought;

- (e) Support national, regional, sub-regional activities in technology development and dissemination, training and programme implementation to arrest dryland degradation;
  - (f) facilitate the mobilization of adequate financial resources for providing technical and financial assistance to developing countries affected by drought and desertification.
2. The Contracting Parties experiencing drought and desertification problems shall :
- (a) Develop comprehensive anti-desertification programmes and integrate them into national development plans and national environmental planning;
  - (b) Develop comprehensive drought preparedness and drought-relief schemes for drought-prone areas and, where necessary, design programmes to cope with environmental refugees;
  - (c) Develop land-use models based on local practices for the improvement of such practices with a view to preventing land degradation;
  - (d) Promote integrated research programmes on the protection, restoration and conservation of water and land resources and land-use management based on traditional approaches, where feasible;
  - (e) Develop and adopt, through appropriate national legislation, and introduce institutionally, new and environmentally sound development-oriented land-use policies;
  - (f) Strengthen national institutional capabilities to develop and implement appropriate programmes to combat desertification and mitigate drought;
  - (g) Co-ordinate and harmonise the implementation of programmes and projects funded by the United Nations Agencies, Inter-governmental and Non-governmental organizations that are directed towards combating desertification and mitigation of drought;
  - (h) Encourage and promote popular participation and environmental education, focussing on desertification control and the management of the effects of drought;
  - (i) Establish mechanisms to ensure that Land-users, particularly women are the main actors in implementing improved land-use, including agroforestry systems, in combating land degradation;

- 3. The Contracting Parties, especially those facing serious drought and desertification shall, in addition to the measures mentioned in Paragraph 2, give priority and mobilize financial, technical, material and human resources to deal with the situation.

### Explanatory Note

Since the deliberations on this crucial issue just began at the Geneva Session, it is considered rather premature to draft concrete provisions. Besides the problem concerning its format, it is also not clear as to what type and categories of commitments would emerge from future deliberation. It is the key issue in the Convention and to arrive at any consensus there has to be give and take approach. The AALCC Secretariat draft merely identifies few provisions which need to be considered and elaborated in the light of subsequent developments.

### Article 5

#### Regional and sub-regional co-operation

The contracting Parties shall endeavour to promote:

- (a) Regional and sub-regional co-operation in the areas concerning combating desertification and mitigation of drought;
- (b) Strengthening, and where necessary, establishment of regional and sub-regional centres as well as networks of research monitoring and systematic observation including early warning systems for drought and desertification;
- (c) Exchange of information, experiences and know-how relating to policy and programme alternatives in fields such as land-tenure, resource management and use of indigenous technologies;
- (d) The establishment of modalities for joint effective management and use of shared resources such as grazing lands, rivers and lake basins;
- (e) Mobilization of technical and financial support and resources necessary for the formulation, implementation, follow-up and evaluation of regional and sub-regional plans of actions.

### Article 6

#### Research and Training

The Contracting Parties, taking into account the special needs of developing countries affected by drought and desertification, shall:

- (a) Establish, promote and support research and programmes concerning scientific and technical education and training for monitoring, prevention and control of desertification and mitigation of drought;
- (b) The Conference of the Parties at its first meeting shall determine how to establish a clearing house mechanism to promote and facilitate a standardized system for observing and reporting data, as well as other forms of technical and scientific co-operation.

#### Article 7

##### Technology transfer and co-operation

The Contracting Parties shall facilitate access to and transfer of ecologically-friendly anti-desertification technologies on a fair, equitable and preferential basis by encouraging programmes of co-operation and assistance to the developing countries affected by drought and desertification. Such programmes shall take into account the applicability of technology transfer to local communities and encourage active involvement of the private sector, aiming at the development and transfer of appropriate technologies to combat desertification and mitigate drought.

#### Article 8

##### Capacity building

The Contracting Parties shall :

- (a) establish and maintain programmes for the development and strengthening of national capabilities by supporting scientific education and training for the specific needs of the developing countries particularly in Africa; and
- (b) take all measures to ensure the participation of local populations, particularly women, youth and children.

#### Article 9

##### Education and Public Awareness

The Contracting Parties shall :

- (a) promote and encourage awareness campaigns for combating desertification and mitigate drought through the electronic and print media.
- (b) co-operate in and promote, at the international level the development and exchange of educational and public awareness material on the causes, effects and measures to deal with drought and desertification.

#### Explanatory Note

The texts of these four articles dealing respectively with Regional and Sub-regional co-operation, Research and Training, Technology Transfer and Co-operation and Capacity Building reflect the emerging consensus. The AALCC Secretariat draft is by no means an exhaustive one. Depending upon the text of articles on commitments the substances of these four articles would need to be considered again.

#### Article 10

##### Financial Mechanism

- (a) There shall be a mechanism for the provision of financial resources to developing country parties for the purposes of this Convention on a grant or concessional basis. The mechanism shall function under the authority and guidance of , and be accountable to, the Conference of Parties which shall at its first meeting, decide upon the institutional structure for such a mechanism and determine the policy, strategy, programme priorities and eligibility criteria relating to access to and utilization of such resources. The mechanism so established shall take into account the importance of burden sharing among the parties to the Convention;
- (b) The Contracting Parties may seek financial assistance from the Global Environment Facility (GEF) for the implementation of any programme concerning combating desertification and mitigate drought provided such programmes are related to or lie within the areas identified by the GEF for its financial assistance;
- (c) The Contracting Parties shall be free to seek or provide any financial resources related to the implementation of the provisions of the Convention through bilateral, regional and other multilateral channels.

#### Explanatory Note

INC-D Negotiators will find this issue as the toughest one. The divergence of views between the developed and developing countries in regard to financial resources is too wide. If it becomes possible to involve GEF with this Convention, it will be a real breakthrough. There is no indication whether the developed countries would be prepared to extend generous financial assistance to implement the lofty provisions in the Conventions. The AALCC Secretariat, keeping this reality in view, has followed the guidelines established in the Biodiversity Convention (Article 20) in preparing the text of this article.

## Article 11

### Co-ordination and co-operation

The Contracting Parties shall take measures to promote efficient co-ordination and co-operation at all levels.

#### Explanatory Note

The AALCC Secretariat is not sure whether such a provision is necessary. However, this theme is the basic purpose of the Convention. Since the compilation (A/Ac 241/12) contained such a provision (paragraph 108) and there was some discussions on this issue during the Geneva Session, the inclusion of such a provision in general terms may be considered useful.

## Article 12

### Relationship with other Conventions

- (a) The Contracting Parties recognise the close link that exists between the realization of the objectives of this Convention and those pursued by other legal instruments particularly the Framework Convention on Climate Change and the Convention on Biodiversity.
- (b) In this regard, the provisions of this Convention shall be complementary to and in no manner affect the rights and the obligations of the Parties inherent in any international legal instrument related to objectives of this Convention.

#### Explanatory Note

The objective of the proposed Convention on combating desertification is in many ways, close to other environmental Conventions particularly, the Climate Change and the Biodiversity Conventions. In order to recognise and strengthen such relationship, it would be useful to stipulate a provision to this effect.

## Article 13

### Conference of the Parties

- (i) A Conference of the Parties is hereby established.
- (ii) The Conference of the Parties as the supreme decision-making body within this Convention shall keep under regular review the implementation of the Convention and of any related instruments that the Conference of the Parties may adopt. It shall make, within its mandate, the decisions necessary to promote the effective implementation of the Convention. To this end, it shall :

- (a) Periodically examine the commitments of the Parties and the institutional arrangements under the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge;
  - (b) Promote and facilitate the exchange of information on measures adopted by the parties to implement the Convention, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention; and adopt such measures as necessary for the successful implementation of the objectives of the Convention;
  - (c) Agree upon and adopt, by consensus, rules of procedure and financial rules for itself and for any subsidiary bodies; and
  - (d) Exercise such other functions as required for the achievement of the objectives of the Convention as well as other functions assigned to it under this Convention.
- (iii) The first Session of the Conference of the Parties shall be convened by the *Ad Hoc* Secretariat referred to in Article 23 and shall take place not later than one year after the entry into force of the Convention. Thereafter, ordinary sessions of the Conference of the Parties shall be held every year unless otherwise decided by the Conference of the Parties.
  - (iv) Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at written request of any party, supported by one-third of the membership of the Conference, within two months of the request being communicated to the Parties by the Secretariat.
  - (v) The United Nations, its specialized agencies as well as any State member thereof or observers thereto not Party to the Convention, may be admitted by the Conference of the Parties as observers. Anybody or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may request to be so admitted unless at least one-third of the Parties present object. The admission and participation of observers shall be subject to the rules of Procedure adopted by the Conference of the Parties.

#### Explanatory Note

The AALCC Secretariat draft is based on OAU draft paragraph 116 (A/Ac 241/12).

**Article 14**  
**Secretariat**

- (i) A Secretariat is hereby established.
- (ii) The functions of the Secretariat shall be :
  - (a) To make arrangements for sessions of the Conference of the Parties and its subsidiary bodies established under the Convention and to provide them with services as required;
  - (b) To compile and transmit reports submitted to it;
  - (c) To facilitate assistance to the Parties, particularly the affected Parties, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;
  - (d) To prepare reports on its activities and present them to the Conference of the Parties;
  - (e) To ensure the necessary co-ordination with the Secretariats of other relevant international bodies;
  - (f) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its function; and
  - (g) To perform other Secretariat functions specified in the Convention and in any of its protocols and annexes and such other functions as may be determined by the Conference of the Parties.
- (iii) The Conference of the Parties, at its first session, shall designate a permanent secretariat and make arrangements for its functions.

**Explanatory Note**

The source of the AALCC draft text is the OAU draft (Paragraph 120, A/AC 241/12) which is identical to Article 8 of the Climate Change Convention.

**Article 15**  
**Scientific and Technological Council**

- (a) A Scientific and Technological Council is hereby established as a subsidiary organ of the Conference of the Parties. It shall be made up of 10 Members appointed by the Conference of the Parties for a renewable period of three years.
- (b) At the request and under the supervision of the Conference of the Parties,

provide scientific and technical opinion on all issues that might assist the Conference of the Parties in promoting and pursuing the objectives of the Convention;

- (c) Co-operate with relevant and competent international organisations and Agencies as may be determined by the Conference of Parties;
- (d) Submit its activity reports to the Conference of the Parties.

**Explanatory Note**

The AALCC Secretariat text is based on the OAU text in paragraph 124 (a) (A/AC 241/12). During the discussions in Geneva Session it was suggested that the Convention instead of proliferating institutions, should strengthen the existing institutions. However it has been suggested that the regime established by Convention should operate independently. At some stage it would be inevitable that new institutions will have to be established particularly for promoting research and monitoring implementation of the Convention. The Convention should provide for such eventuality. To begin with, as and when the Convention comes into force, a Scientific and Technological Council comprising 10 members nominated by the COP from different regions might be the only additional institution. The UNEP has played a significant catalytic role in this field. It could be entrusted with major responsibilities for promoting research, data collection and public awareness programmes. In this context, Inter Agency Co-operation and co-ordination among the United Nations Agencies and various international and non-governmental organisations is of equal importance. Besides avoiding duplication, such combined effort could render useful assistance to the Scientific and Technological Council in taking a concerted approach.

**Article 16**

**Adoption of Protocols**

- (a) The Conference of the Parties, may, at any of its regular sessions, adopt protocols to the Convention.
- (b) The text of any protocol that is proposed shall be communicated to the parties by the Secretariat at least six months before the session.
- (c) The rules governing the entry into force of a protocol shall be laid down in the protocol itself.
- (d) Only the parties to the Convention may be parties to a protocol.
- (e) Only the parties to a protocol shall take decisions under that protocol.
- (f) No state nor any regional economic integration organization may become

a party to a protocol without being or simultaneously becoming a party to the Convention.

### Explanatory Note

The AALCC Secretariat text is based on the text set out in paragraph 133 (A/AC 241/12)

### Article 17

#### Amendments

- (a) Amendments to this Convention may be proposed by any Contracting Party. Amendments to any protocol may be proposed by any Party to that Protocol.
- (b) Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the parties to the Protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties to the instrument in question by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories to this Convention for information.
- (c) The Parties shall make every effort to reach agreement on any proposed amendment to the 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.
- (d) 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 a 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.

- (e) For the purposes of this Article, Parties present and voting means parties present and casting an affirmative or negative vote.

### Article 18

#### Adoption and Amendment of Annexes

- (i) The annexes to this Convention or to any protocol shall form an integral part of the Convention or such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto.
- (ii) Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of annexes to this Convention or of annexes to any protocol:
  - (a) Annexes to this Convention or to any protocol shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs (b), (c) and (d).
  - (b) Any Party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is a Party shall so notify the Depositary, in writing, within one year from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous declaration of objection and the annexes shall thereupon enter into force for that party.
  - (c) On the expiry of one year from the date of the communication of the adoption by the Depositary, the annex shall enter into force for all Parties, to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provisions of sub-paragraph (b) above.
  - (d) The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to any protocol.
  - (e) If an additional annex or an amendment to an annex is related to an amendment to this Convention or to any protocol, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention or to the protocol concerned enters into force.