

### **Explanatory Note**

The AALCC Secretariat text is identical to Article 30 of the Bio-diversity Convention and Article 16 of the Climate Change Convention. In the event the INC-D decides to conclude annexes as the regional instruments, the procedure for adoption of such regional annexes may be different and this will necessitate redrafting of this article accordingly.

### **Article 19**

#### **Settlement of Disputes**

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.

### **Explanatory Note**

The AALCC Secretariat text is identical to OAU drafting proposal set out in paragraph 142 (A/AC 241/12).

### **Article 20**

#### **Right to Vote**

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

2. Regional economic integration organisations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Convention. Such an organisation shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

### **Explanatory Note**

This is identical to Article 18 of the Climate Change Convention and Article 31 of the Bio-diversity Convention.

### **Article 21**

#### **Depositary**

The Secretary-General of the United Nations shall be the depositary of the Convention, Protocols and annexes adopted in accordance with Articles 16 and 18, respectively.

### **Article 22**

#### **Signature**

This Convention shall be open for signature by States that are Members of the United Nations or of any of its specialized agencies or that are parties to the Statute of the International Court of Justice and by regional economic integration organisation, at New York, during the forty-ninth Session of the General Assembly on \_\_\_\_\_ 1994 and shall remain open for signature until \_\_\_\_\_.

### **Article 23**

#### **Interim Arrangements**

The Secretariat functions referred to in Article 14 will be carried out on an interim basis by the Secretariat established by the General Assembly of the United Nations in its Resolution 47/188 of 22 December 1992, until the completion of the first session of the Conference of Parties.

### **Article 24**

#### **Ratification, Acceptance, Approval or Accession**

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

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

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

**Article 25**  
**Entry into Force**

The Convention shall enter into force on the ninetieth day after the date of deposit of the (thirtieth) (fiftieth) instruments of ratification, acceptance, approval or accession.

For each State or regional economic integration organisation that ratifies, accepts or approves the Convention or accedes therein after the deposit of the (thirtieth) (fiftieth) instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organisation of its instrument of ratification, acceptance, approval or accession.

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

**Article 26**  
**Reservation**

No reservations may be made to the Convention.

**Article 27**  
**Withdrawal**

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

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

Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol or annex to which it is a Party.

**Article 28**  
**Authentic Texts**

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

In witness whereof the undersigned, being duly authorised to that effect, have signed this Convention.

Done at New York this \_\_\_\_\_ 1994.

**B. United Nations Convention on Climate Change and  
Biological Diversity : Follow-Up**

**1. The United Nations Framework Convention on Climate Change :  
Follow-Up**

It will be recalled that at its forty-fifth Session, the General Assembly by its resolution 45/212 of 21st December 1990 established an Intergovernmental Negotiating Committee (INC) to prepare an effective Framework Convention on Climate Change, and any related legal instruments as might be agreed upon, for signature during the United Nations Conference on Environment and Development (UNCED) 1992. The Intergovernmental Negotiating Committee at its fifth session held in New York on the closing day on 9th May 1992, adopted the United Nations Framework Convention on Climate Change. The Convention was opened for signature during the United Nations Conference on Environment and Development held in Rio, from 4th to 14th June 1992 and thereafter at the United Nations Headquarters, New York, from 20 June 1992 to 19 June 1993. As many as 166 States had signed the Convention by that date.

The General Assembly, during its forty-seventh Session considered the Report of the United Nations Conference on Environment and Development (UNCED) as well as the Reports of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change on its work during 1992.

It will be recalled that resolution INC/1992/1 adopted by the Intergovernmental Negotiating Committee on 9th May 1992 mandated the INC to hold its sixth session in Geneva from 7th to 10th December 1992. Further, as envisaged in the Article 21 of the United Nations Framework Convention on Climate Change the interim Secretariat established by the General Assembly in resolution 45/212 would carry out the interim arrangements until the first session of the Conference of the Parties to the Convention.

The General Assembly by its resolution 47/195 adopted on 22nd December 1992 while endorsing the decision of the INC decided that the Intergovernmental Negotiating Committee should continue to function and prepare for the first session of the Conference of the parties to the Convention. It invited the Intergovernmental Negotiating Committee to implement expeditiously the Plan of preparatory work drawn up at its Sixth Session and to promote a coherent and co-ordinated Programme of activities by competent bodies aimed at supporting the entry into force and effective implementation of the Convention, including

strengthening the capacities of developing and all other countries to prepare for their participation in the Convention. It called upon the organs, organizations and bodies of the United Nations System to involve actively and to initiate and strengthen activities related to climate change.

Following the directives given by the General Assembly, the Intergovernmental Negotiating Committee during the year 1993 held its Seventh and Eighth Sessions in April and August respectively. It discussed organisational and financial matters and substantive issues such as commitments, joint implementation, article 11 concerning financial mechanisms including proposals on policies, programme priorities and eligibility criteria for the financial mechanism.

The Seventh Session of the Intergovernmental Negotiating Committee was held at New York from 15 to 20 March 1993. At its 3rd Plenary Meeting held on 16 March, the INC elected a new Chairman and the officers of the Working Groups I and II to fill the vacancies that had arisen. The Bureau now comprises as follows:

Chairman : Mr. Raul Estrada-Oyuela (Argentina)

Vice-Chairmen : Mr. Ahmed Djoghla (Algeria)  
Mr. Maciej Sadowski (Poland)  
Mr. T.P. Sreenivasan (India)  
Ms. Penelope Wensley (Australia)

Rapporteur : Mr. Maciej Sadowski (Poland)

#### **Working Group I**

Co-Chairmen : Mr. Mohamed M. Ould El Ghaouth (Mauritania)  
Ms. Cornelia Quennet (Germany)

Vice-Chairman : Mr. Edmundo de Alba Alcaraz (Mexico) (in charge of consultations)

#### **Working Group II**

Co-Chairmen : Mr. Nobutoshi Akao (Japan)  
Mr. Robert F. Van Lierop (Vanuatu)

Vice-Chairman : Mr. Tibor Farago (Hungary)

With regard to substantive item entitled "Matters relating to arrangements for the financial mechanism and for technical and financial support to developing country parties", the discussion was focussed on matters relating to the implementation of article 11 as well as to the interim arrangements as envisaged in article 21, paragraph 3 of the Convention. Issues concerning functional linkages between the conference of Parties and the operating entity or entities of

the financial mechanism, as provided in article 11, were examined. In that context the committee took note of the ongoing work related to the restructuring and the replenishment of the Global Environment Facility by the end of 1993. A Preliminary discussion was held on the provisions of guidance to the financial mechanism on policies, programme priorities and eligible criteria, in accordance with article 11, paragraph 1 of the Convention. It was reaffirmed that the financial mechanism would function under the guidance of and be accountable to the conference of parties, which would decide on its policies, programme priorities and eligibility criteria related to the Convention. Further, articles 4, 5 and 6 of the Convention would be a basis from which priorities would be determined. Finally, as to the governance and accountability of the financial mechanism, it was emphasized that it should be equitable and balanced in its representation of all parties within a transparent system of governance as laid down in article 11, paragraph 2 of the Convention.

At its 8th Plenary meeting, the INC took note of the information provided by the Secretariat on the status of signature and ratification of the convention. It expressed its appreciation to those States that had ratified the Convention, and urged other signatories to inform the Secretariat of the expected time of their ratification.

The Eighth Session of the Intergovernmental Negotiating Committee, was held at Geneva from 16th to 27th August 1993. This was the first full session of the INC after the signing of the Convention in Rio in June 1992. Both Working Groups I and II resumed consideration of the item allocated to them. In addition to the statements by the Chairman of the INC and the Executive Secretary, the Executive Director of UNEP, the Secretary-General of the WHO, the Chairman of the participant's Meeting of the Global Environment Facility and the Vice-Chairman of the Commission for sustainable Development addressed the meeting.

The Executive Director of the UNEP, Ms. Elizabeth Dowdeswell, in her statement, pledged full support of the UNEP to the Convention process and gave information about the UNEP's specific activities and assistance in that respect. These, among others, included the development of the methodologies for the measurement and analysis of greenhouse gases the development of guidelines for climate change impacts and adaptation assessment and information exchange.

The Chairman of the IPCC informed the meeting that his organization would complete a special report by November 1994 which would address the issues for consideration at the first session of the Conference of the Parties to the Convention. He also informed the meeting that the Second full assessment report by the IPCC would be completed in late 1995.

The Chairman of the GEF briefed the meeting on the progress in the GEF regarding its restructuring and replenishment. While assuring GEF's support to the Convention he pointed out that the GEF would not be the sole source of funding for the implementation of the Convention.

The Vice-Chairman of the Commission for sustainable Development recognised the interest of the Commission in promoting the harmonization of the activities of other relevant agencies and forums, including the INC for climate change.

At the first and second plenary meetings, the Committee took note of the national communications submitted to the Secretariat by the representatives of Germany, Japan, Ireland, New Zealand, Norway, Italy and Czech Republic. This was in conformity with the request made by the General Assembly in its resolution 47/195, paragraph 4, by which it invited signatories of the Convention to communicate to the head of the interim Secretariat, as soon as feasible, information regarding measures consistent with the provisions of the Convention, pending its entry into force.

Working Group I took up the matters relating to commitments. The discussion was focussed on four issues which included: (a) methodologies for calculations inventories of emissions and removal of greenhouse gases, (b) criteria for joint implementation, (c) first review of information communicated by each party included in Annex I of the Convention and (d) the roles of the subsidiary bodies established by the Convention.

Working Group I held preliminary discussions on issues concerning methodologies for calculations/inventories of emissions and removal of greenhouse gases. The Intergovernmental Panel on Climate Change (IPCC) has been closely co-operating with the INC in developing guidelines on this matter. During the discussions while there was great appreciation of the work of the IPCC, some delegations stressed the need for effective participation of the developing countries in this process. Several delegations recognised the need for refining and further developing methodologies for sources and sinks of all greenhouse gases in all economic sectors as envisaged in Article 3.3 of the Convention. It was observed that the guidelines for national inventories should take into account the uncertainty in climatic change and ensure transparency, comparability and consistency. It was hoped that prior to INC's ninth Session, the IPCC would be able to provide more detailed information about the progress on this matter as it would help the INC to make its recommendations to the Conference of Parties for consideration at the first session.

With regard to criteria for Joint Implementation as provided in article 4.3 of the Convention, all States Parties to the Convention are committed to prepare

national inventories of emission by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. Such commitments could be met either individually or jointly. Since the industrialized countries are mainly responsible for climate change, the idea of joint implementation would be more relevant in their context and they must take the lead in this regard. A Preliminary discussion on this concept was held in Working Group I.

In view of the complex nature of the issues, the Working Group I decided to hold further discussion during the INC's ninth Session. In the meantime, the Secretariat was requested to provide further documentation on this issue, including a list of possible criteria, taking into account the views expressed and submissions by the Member States.

Working Group I held a preliminary discussion on the item concerning 'first review of information communicated by each party included in Annex I of the Convention.' The Working Group took note of the information provided by the group of countries and an organization included in Annex I of the Convention. It was recognised that preparation of guidelines for communication of national information will be a useful step. As envisaged in the Convention, such national communications would be reviewed by the Conference of Parties, it was agreed that the future task should include: (i) a thorough analysis of national communications; and (ii) a compilation and synthesis of the information provided by the parties in their national communications, including the overall effects of policies and measures. With regard to the first task, the Report of the INC's eighth Session in its para 62 outlines that, it should include "verifying methodologies used; comparing national data with authoritative international sources; noting the inclusion or absence of information and data, as well as their quality reviewing projections of emission by sources and removals by sinks and the assumptions on which those projections were based; and assessing the comprehensiveness and effectiveness of claimed mitigation and adaptation measures, as well as evaluating national impacts of climate change". (A/AC.237/41, para 62).

Articles 9 and 10 envisage establishment of two subsidiary bodies namely (i) subsidiary body for scientific and technological advice and (ii) subsidiary body for implementation. Working Group I during the discussion on the item "The roles of the Subsidiary Bodies established by the Convention", recognised the important role of these two Subsidiary Bodies in the implementation of the convention. After a preliminary discussion, it was agreed that the Secretariat would prepare documentations clarifying the respective roles of the subsidiary bodies, the relationship between them and their relationship with other bodies, including the IPCC. Other issues which need to be examined related to the timing of the convening of the meetings of the subsidiary bodies and technical Secretariat

support, including human and financial resource implications. All these issues will be discussed at the INC's ninth Session.

Working Group II during INC's eighth Session resumed consideration of "matters relating to arrangements for the financial mechanism and for technical and financial support to developing country parties". The discussion was centred on four issues related to the implementation of article 11. These issues were: (a) policies, eligibility criteria and programme priorities; (b) modalities for the functioning of operational linkages between the conference of the parties and the operating entity of the financial mechanism; (c) approaches to the determination of "agreed full incremental costs" and (d) elements relevant to the funding needs.

With regard to "policies, eligibility criteria and programme priorities", it was recognised that the conference of parties, the supreme body of the Convention will decide on these matters. It was agreed that only developing countries that are parties to the Convention would be eligible to receive funding upon entry into force of the Convention. Further, priority would be given to the funding of agreed full costs (or agreed full incremental costs) incurred by the developing country parties as laid down in article 12.1 and other relevant commitments under the convention.

With regard to modalities for the functioning of operational linkages between the conference of the parties and the operating entity of the financial mechanism, the following preliminary conclusions were reached:

- (i) The Conference of the Parties, (COP) the supreme body of the Convention, and the entity or entities entrusted with the operation of the financial mechanism, shall agree upon arrangements to give effect to the provisions of paragraphs 1 and 2 of Article 11 through the operational linkages which are discussed below:
- (ii) In line with Article 11.1 of the Convention, the COP will, after each of its sessions, communicate to the governing body of the operating entity relevant policy guidance for implementation and action by that governing body, which shall accordingly ensure the conformity of the entity's work with the guidance of the COP. Guidance from the COP will address issues relating to policies, programme priorities and eligibility criteria, as well as possible relevant aspects of the activities of the operating entity that are related to the Convention;
- (iii) The governing body of the operating entity has the responsibility of ensuring that funded projects related to the Convention are in conformity with the policies, eligibility criteria and programme priorities established by the

COP. It will report regularly to the COP on its activities related to the Convention and the conformity of these activities with the guidance received from the COP;

- (iv) Regular reports by the Chairman or secretariat of the operating entity to its governing body will be made available to the COP through its secretariat. Other official documentation of the operating entity should also be made available to the COP through its Secretariat;
- (v) In addition, the COP should receive and review at each of its sessions a report from the governing body of the operating entity which should include specific information on how it has applied the guidance and decisions of the COP in its work related to the Convention. This report should be of a substantive nature and incorporate the programme of future activities of this entity in the areas covered by the Convention and an analysis on how the entity, in its operations, implemented the policies, eligibility criteria and programme priorities related to the Convention established by the COP. In particular, a synthesis of the different projects under implementation and a listing of the projects approved in the areas covered by the Convention, as well as a financial report including accounting and evaluation of its activities in the implementation of the Convention, indicating the availability of resources, should be included;
- (vi) In order to meet the requirements of its accountability to the COP, reports submitted by the governing body of the operating entity should cover all its activities carried out in implementing the Convention, whether decisions on such activities are made by the governing body of the operating entity or by bodies operating under its auspices for the implementation of its programme. To this end, it shall make such arrangements with such bodies as might be necessary regarding the disclosure of information;
- (vii) The funding decisions for specific projects should be agreed between the developing country Party concerned and the operating entity in conformity with policy guidance from the COP. However, if any Party considers that a decision regarding one of the specific projects does not comply with the policies, eligibility criteria and programme priorities established by the COP in the context of the Convention, the COP should analyse the observations presented and take decisions on the basis of compliance with such policies, eligibility criteria and programme priorities. In the event that the COP considers that this specific project decision does not comply with the policies, eligibility criteria and programme priorities established by the COP, it may ask the governing body of the operating entity for further clarification on the specific project decision and in due time ask for a reconsideration of that decision;